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PUBLIC UTILITY COMMISSION
OF TEXAS
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APPLICATION OF CITY OF §
CIBOLO FOR SINGLE §
CERTIFICATION IN §
INCORPORATED AREA AND TO §
DECERTIFY PORTIONS OF GREEN §
VALLEY SPECIAL UTILITY §
DISTRICT'S SEWER CERTIFICATE §
OF CONVENIENCE AND §
NECESSITY IN GUADALUPE §
COUNTY §

PUBLIC UTILITY COMMISSION

COMMISSION STAFF'S RESPONSE TO GREEN VALLEY'S EXCEPTIONS

COMES NOW the Commission Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Response to Green Valley Special Utility District's (Green Valley) exceptions, the deadline for which is May 22, 2017. Therefore, this response is timely filed.

I. Introduction

The State Office of Administrative Hearings (SOAH) Administrative Law Judge (ALJ) correctly determined that Green Valley does not have any property rendered useless or valueless by this proceeding. When asked to identify all property rendered useless or valueless,¹ Green Valley was only able to identify "spent money" and lost future revenues, neither of which is a form of property.² Green Valley failed to identify any property received from its spent money that has been rendered useless or valueless; consequently, Green Valley is not entitled to any compensation under the process outlined in Tex. Water Code § 13.255 (West 2016) (TWC).

Green Valley filed numerous exceptions to the Proposal for Decision (PFD),³ all of which should be rejected as discussed below.

¹ Tr. 9:21-10:6 (Request by the ALJ for Green Valley to identify the property rendered useless or valueless by this proceeding.)

² Agreed Stipulations at 2-3 (Feb. 9, 2016) (Responding to the ALJ's request for a specific list of property rendered useless or valueless by this proceeding.)

³ Green Valley Special Utility District's Exceptions to the Proposal for Decision (May 12, 2017) (Green Valley's Exceptions).

II. Argument

A. Celina Order

Green Valley excepts to the PFD's reliance on the Commission's order in *City of Celina's Notice of Intent to Provide Water and Sewer Service to Area Decertified from Aqua Texas, Inc. in Denton County (City of Celina)*.⁴ Green Valley specifically contends that because the Commission's order has not yet become final under Tex. Gov't Code § 2001.144 (West 2016) and is subject to appeal.⁵ Green Valley provides no legal support for this claim; consequently, Green Valley's exception should be ignored.

B. Burden of Proof

Green Valley excepts to the PFD's determination that the City of Cibolo met its burden of proof in this proceeding.⁶ However, Green Valley definitively stated that the only "property" rendered useless or values by this proceeding is spent money and future revenues from future customers.⁷ As neither are property, the City of Cibolo successfully showed that no property of Green Valley was rendered useless or valueless by this proceeding.

C. TWC Provisions Regarding Property Rendered Useless or Valueless

Green Valley argues the PFD errs by failing to consider the United States and Texas Constitutions when interpreting the relevant portions of the Texas Water Code.⁸ Green Valley contends that this failure results in an "unlawful regulatory taking" of its "property that will be lost upon decertification."⁹ This is not the case. As Green Valley is not losing any actual property, it cannot suffer from a regulatory taking of property.

⁴ Green Valley's Exceptions at 4-5 (discussing *City of Celina*, Docket 45848, Order (Apr. 13, 2017)).

⁵ Green Valley's Exceptions at 4-5.

⁶ *Id.* at 5.

⁷ Joint Stipulation at 2-3.

⁸ Green Valley's Exceptions at 6-7.

⁹ *Id.* at 6.

D. Definition of Property

Green Valley excepts to the PFDs determination that spent money is not property.¹⁰ Money is the property of its holder, and once spent, that of the recipient. While expenditures might be useful in valuing property, the expenditures themselves are merely spent money, and therefore no longer the property of the spender.

E. Definition of “Useless” or “Valueless”

Green Valley excepts to the PFD’s determination that the entirety of an identified property interest must be useless and of no value for the property to be considered useless or valueless.¹¹ Staff supports the PFD. The terms valueless and useless are not specifically defined in the Texas Water Code; thus, they are to be interpreted using their ordinary meaning.¹² Valueless means “being of no value.”¹³ Thus, something which still retains some value is not valueless, even it has been “devalued”—having its value lessened. Similarly, “useless” is defined as “having, or being of, no use.”¹⁴ Thus, if a property has some use, it has not been rendered useless.

IV. Conclusion

For the reasons discussed above, Staff respectfully requests that the Commission reject Green Valley’s exceptions to the PFD.

¹⁰ Green Valley’s Exceptions at 7-10, 16-20.

¹¹ Green Valley at 10-6

¹² Tex. Gov. Code Ann. § 312.002 (West 2013).

¹³ Webster’s Revised Unabridged Dictionary (1913).

¹⁴ *Id.*

Dated: May 22, 2017

Respectfully Submitted,

PUBLIC UTILITY COMMISSION
LEGAL DIVISION

Margaret Uhlig Pemberton
Division Director

Karen S. Hubbard
Managing Attorney

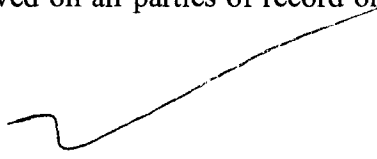


Landon J. Lill
State Bar No. 24092700
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7228
(512) 936-7268 (facsimile)
Landon.Lill@puc.texas.gov

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on May 22, 2017, in accordance with P.U.C. Procedural Rule 22.74.



Landon J. Lill