



Control Number: 45702



Item Number: 140

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**PUC DOCKET NO. 45702  
SOAH DOCKET NO. 473-16-5296.WS**

**APPLICATION OF THE 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  
OF TEXAS**

2017 JUN 29 PM 4:02  
PUBLIC UTILITY COMMISSION  
FILING CLERK

**INTERIM ORDER**

This interim order addresses some of the compensation issues related to the application of the City of Cibolo, under Texas Water Code (TWC) § 13.255, for single certification in an incorporated area and to decertify incorporated area from Green Valley Special Utility District's sewer certificate of convenience and necessity in Guadalupe County. As requested in the Commission's supplemental preliminary order, the State Office of Administrative Hearings (SOAH) administrative law judge addressed only three issues in the first phase of this proceeding.<sup>1</sup> The SOAH administrative law judge concluded that no property would be rendered useless or valueless to Green Valley by the decertification; Cibolo had not requested that any property be transferred to it; and Green Valley's existing appraisal is not limited to valuing property that the decertification will render useless or valueless, but Cibolo's existing appraisal is. The Commission adopts the proposal for decision issued by the SOAH administrative law judge regarding these first-phase issues, including findings of fact and conclusions of law and sends the matter back to SOAH to address the remaining issues in this proceeding. After a proposal for decision is issued regarding the remaining issues, the Commission will issue a final order that includes the matters discussed in this interim order.

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<sup>1</sup> Supplemental Preliminary Order at 4-5, Issues 9-11 (July 20, 2016); *see also* SOAH Order No. 2 at 1 (Aug. 19, 2016).

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## **I. Discussion**

### **A. Texas Water Code § 13.255**

TWC § 13.255 governs single certification in an area incorporated or annexed by a municipality that is currently in the certificated service area of certain types of entities, including a special utility district organized under chapter 65 of the Texas Water Code, such as Green Valley.<sup>2</sup>

Under TWC § 13.255(a), a municipality and a special utility district that provides water or sewer service to all or part of an area that is annexed or incorporated by the municipality may agree in writing that all or part of the area may be served by a municipally-owned utility, a franchised utility, or the special utility district. If such a written agreement is not executed within 180 days after the municipality notified the special utility district of the municipality's intent to provide service to the annexed or incorporated area, and the municipality still intends to serve the area, the municipality must file an application for single certification with the Commission.<sup>3</sup> The Commission is required to grant the municipality's application, with one exception not relevant here.<sup>4</sup>

The Commission's duties in a proceeding under TWC § 13.255 include determining what property of the special utility district, if any, would be rendered useless or valueless to the special utility district as a result of single certification to the municipality and what monetary amount is just and adequate to compensate the special utility district for such property.<sup>5</sup> If the municipality has requested that property of the special utility district be transferred to the municipality, the Commission must also determine the just and adequate compensation for the to-be-transferred property (transferred property), and an award for damages to property that will continue to be owned by the special utility district (impaired property).<sup>6</sup> The statute also sets forth a process for

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<sup>2</sup> Texas Water Code (TWC) § 13.255(j) (West 2008 & Supp. 2016).

<sup>3</sup> TWC § 13.255(b).

<sup>4</sup> TWC § 13.255(c), (m).

<sup>5</sup> TWC § 13.255(c).

<sup>6</sup> *Id.*

appraising such useless or valueless, transferred, or impaired property.<sup>7</sup> Moreover, the determination of compensation in certain filed appraisals is binding on the Commission.<sup>8</sup>

As part of the transfer of jurisdiction over certificates of convenience and necessity (CCNs) for retail water or sewer service from the Texas Commission on Environmental Quality (TCEQ), the Commission inherited TCEQ's rules and process for handling applications under Texas Water Code § 13.255. At TCEQ, there was no TCEQ determination of what property would be rendered useless or valueless, transferred, or impaired before the parties filed their appraisals. As a result, if more than one appraisal was required under the process set forth in Texas Water Code § 13.255(l), those appraisals could differ greatly, both in the property analyzed and the compensation that the appraisers determined.

In another case, *Zipp Road*, former Commission Chairman Nelson filed a memo discussing the difficulties that the Commission faced with implementing the valuation process in a different, but somewhat similar CCN-amendment-related proceeding under TWC § 13.254.<sup>9</sup> She noted that the determination of what property was rendered useless or valueless would likely be a fact-intensive question.<sup>10</sup> She also observed that the Commission, who is specifically tasked with determining useless or valueless property, should make that determination before parties agree on an appraiser or select their own appraisers.<sup>11</sup> The Commission agreed and referred the *Zipp Road* proceeding to SOAH.<sup>12</sup>

In this proceeding, the Commission noted its decision to refer the *Zipp Road* proceeding to SOAH.<sup>13</sup> The Commission concluded that its reasoning for referring valuation proceedings under TWC § 13.254 to SOAH equally applies to proceedings under TWC § 13.255: the Commission is bound to comply with applicable law; and determining what property, if any, is rendered useless

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<sup>7</sup> TWC § 13.255(l).

<sup>8</sup> *Id.*

<sup>9</sup> *Zipp Road Utility Company LLC's Notice of Intent to Provide Sewer Service to Area Decertified from Guadalupe-Blanco River Authority in Guadalupe County (Zipp Road)*, Docket No. 45679, Memorandum from Chairman Donna L. Nelson (June 28, 2016).

<sup>10</sup> *Zipp Road*, Docket No. 45679, Memorandum from Chairman Donna L. Nelson at 1.

<sup>11</sup> *Id.*

<sup>12</sup> *Zipp Road*, Docket No. 45679, Preliminary Order (July 20, 2016).

<sup>13</sup> Supplemental Preliminary Order at 1-2 (July 20, 2016).

and valueless by decertification will likely be fact intensive, lending itself to the contested-case process at SOAH.<sup>14</sup> (The Commission also noted that, under TWC § 13.255(c), the Commission must also determine the adequate and just compensation to be paid for transferred property.)<sup>15</sup>

Although not binding on this proceeding, the Commission notes that after referring the *Zipp Road* proceeding and this proceeding to SOAH, the Commission adopted new rules regarding proceedings under Texas Water Code §§ 13.254 and 13.255.<sup>16</sup> Under those new rules, proceedings under section 13.255 will be referred to SOAH when appropriate to determine whether there is any useless or valueless, transferred, or impaired property, as was done in this matter.<sup>17</sup>

#### **B. Phased Proceeding and Referral of Remaining Issues**

In its supplemental preliminary order, the Commission divided this matter into two phases and directed SOAH to address three issues during phase one: what property, if any, would be rendered useless or valueless to Green Valley by the decertification; what property, if any, Cibolo had requested be transferred to it; and whether the existing appraisals are limited to valuing property determined to have been rendered useless or valueless and property that Cibolo has requested be transferred.<sup>18</sup>

The presiding SOAH administrative law judge issued a proposal for decision on those three phase-one issues on April 28, 2017. On May 30, 2017, after considering parties' exceptions and replies to exceptions to the proposal for decision, the SOAH administrative law judge issued a letter making modifications to the proposal for decision. The SOAH administrative law judge's changes are reflected in this interim order as changes to findings of fact 18 and 51, new findings of fact 53A through 53D, changes to conclusions of law 11 and 14, and new conclusion of law 20.

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<sup>14</sup> *Id.* at 2.

<sup>15</sup> *Id.* at 3.

<sup>16</sup> *Project to Amend 16 Tex. Admin. Code Section 24.113 Relating to Revocation or Amendment of a Water or Sewer Certificate and Section 24.120 Relating to Single Certification in Incorporated or Annexed Areas*, Project No. 46151, Order Adopting the Repeal of § 24.113 and § 24.120 and New § 24.113 and § 24.120 Adopted at the May 4, 2017 Open Meeting (May 4, 2017).

<sup>17</sup> *Id.*

<sup>18</sup> Supplemental Preliminary Order at 4-5.

The Commission notes that previously it identified other issues to be addressed in this proceeding, *i.e.* the phase-two issues.<sup>19</sup> It appears that some of these issues may remain contested.<sup>20</sup> Therefore, in this interim order, the Commission incorporates by reference its preliminary order issued in this proceeding in order to identify remaining issues or areas to be addressed,<sup>21</sup> and sends this matter back to SOAH to issue a proposal for decision, if necessary, to resolve any issues that are contested by the parties.

After conclusion of the second phase, the Commission will issue a final order that addresses all issues, including the findings of fact and conclusions of law adopted in this interim order.

## **II. Commission Determination**

The Commission adopts the proposal for decision. In adopting the proposal for decision, the Commission determines that Green Valley does not have any property that will be rendered useless or valueless as a result of the decertification requested by Cibolo in this case. Furthermore, Cibolo did not request the transfer of any Green Valley property. Therefore, because there is no property that requires valuation under TWC § 13.255, appraisals are not necessary.

In addition to changes made to reflect the SOAH administrative law judge's changes in her letter dated May 30, 2017, the Commission also makes minor changes to findings of fact and conclusions of law for such matters as capitalization, punctuation, style, grammar, and clarity.

The Commission adopts the following findings of fact and conclusions of law:

## **III. Findings of Fact**

### **Procedural History**

1. On August 18, 2015, the City of Cibolo provided notice to Green Valley Special Utility District of its intent to provide sewer service to portions of land within the corporate limits of Cibolo.

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<sup>19</sup> Preliminary Order at 5-6, Issues 1-8.

<sup>20</sup> *See e.g.* Green Valley's Exceptions to the Proposal for Decision at 2, stating, "Given Valley excepts to the PFD's statement that the adequacy of notice of the application is not contested, but that is a second hearing issue." (May 12, 2017).

<sup>21</sup> Preliminary Order at 5-6, Issues 1-8; Tex. Gov't Code Ann. § 2003.049(c) (West 2016).

2. On March 8, 2016, Cibolo filed at the Commission an application under Texas Water Code (TWC) § 13.255 relating to certificates of convenience and necessity (CCNs) to provide wastewater utility service in Guadalupe County. The Application requests single sewer certification and decertification of 1,694 acres of area (decertification area) to which Green Valley holds sewer CCN No. 20973.
3. Notice of the application was published in the March 25, 2016 issue of the *Texas Register*.
4. On April 12, 2016, a Commission administrative law judge (ALJ) issued an order finding the application materially deficient, requiring Cibolo to serve Green Valley with notice of the application, and establishing deadlines for filings by Cibolo and the Commission staff regarding those matters.
5. On April 13, 2016, Cibolo served Green Valley with a copy of the application.
6. On April 22, 2016, Green Valley filed a motion to intervene. On April 28, 2016, a Commission ALJ granted the motion.
7. On April 29, 2016, Green Valley filed a plea to the jurisdiction and motion to dismiss.
8. On May 11, 2016, Cibolo filed its designation of Jack E. Stowe, Jr., of NewGen Strategies & Solutions, LLC as its independent appraiser.
9. On May 12, 2016, Green Valley filed a pleading arguing that Cibolo's designation of its appraiser was premature because the Commission had not yet made a determination of administrative completeness and other events had not yet occurred.
10. On May 13, 2016, a Commission ALJ issued an order setting a May 13, 2016 deadline for the parties to indicate whether they had reached agreement on an independent appraiser.
11. On May 27, 2016, the Commission issued an order requesting that the parties brief threshold issues, including matters raised in Green Valley's plea to the jurisdiction.
12. On May 27, 2016, the parties filed documents stating that they failed to agree on the appointment of an independent appraiser.
13. On June 2, 2016, Green Valley filed an emergency motion to abate based on its May 27, 2016 filing of a lawsuit in Cause No. 1:16-cv-00627, *Green Valley Special Utility*

*District v. City of Cibolo, Texas*, before the United States District Court for the Western District of Texas.

14. On June 3, 2016, the Commission ALJ issued Order No. 5, denying Green Valley's motion to abate and establishing a deadline for Green Valley to appoint an independent appraiser.
15. On June 6, 2016, Cibolo, Green Valley, and Staff filed briefs on threshold issues in response to the Commission's May 27, 2016 order.
16. On June 7, 2016, Green Valley filed its designation of Joshua Korman of KOR Realty Consultants, LLC d/b/a KOR Group as its independent appraiser.
17. On June 14, 2016, a Commission ALJ issued Order No. 6, establishing deadlines relating to the appraisers meeting in an effort to agree on compensation under TWC § 13.255. On June 22, 2016, the ALJ issued an order revising the deadlines.
18. On June 22, 2016, Cibolo filed a sur-reply to Green Valley's plea to the jurisdiction and motion to dismiss.
19. On June 28, 2016, Cibolo and Green Valley filed their appraisals.
20. On June 30, 2016, the Commission issued its preliminary order, ruling on threshold issues and listing issues 1 through 8 to be addressed in this case.
21. On July 20, 2016, the Commission filed its supplemental preliminary order, establishing a phased process, concluding that administrative completeness and certain other issues would not be addressed until after the first phase, and listing issues 9 through 11 to be addressed in the first phase. Those three issues are:
  9. What property, if any, will be rendered useless or valueless to Green Valley by the decertification sought by Cibolo in this proceeding? TWC § 13.255(c).
  10. What property of Green Valley, if any, has Cibolo requested to be transferred to it? TWC § 13.255(c).
  11. Are the existing appraisals limited to valuing the property that has been determined to have been rendered useless or valueless by decertification and the property that Cibolo has requested be transferred?



22. On July 26, 2016, the Commission referred the case to the State Office of Administrative Hearings (SOAH), requesting the assignment of a SOAH ALJ to conduct a hearing and issue a proposal for decision, if necessary.
23. Pursuant to the supplemental preliminary order and an agreement the parties reached at an August 17, 2016 prehearing conference, SOAH Order No. 2 provided that the first phase of this case will address issues 9 through 11. SOAH Order No. 2 also assigned the burden of proof to Cibolo.
24. On September 2, 2016, the parties filed an agreed proposed procedural schedule, which was adopted in SOAH Order No. 3, issued September 9, 2016.
25. SOAH Order Nos. 1, 2, and 3, the preliminary order, and the supplemental preliminary order provide a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statute and rules involved; and a short, plain statement of the factual matters asserted.
26. On November 8, 2016, Cibolo filed a motion for partial summary decision.
27. On November 22, 2016, SOAH Order No. 5 was issued, concluding that: (1) the Commission did not refer to SOAH the issue of whether Cibolo's appraisal is an appraisal required under TWC § 13.255(1) and 16 Texas Administrative Code (TAC) § 24.120(m); and (2) for purposes of issue 11, the ALJ would assume that Cibolo's appraisal is an existing appraisal.
28. On December 9, 2016, SOAH Order No. 7 was issued, granting in part and denying in part Cibolo's motion for partial summary decision. The order granted the motion with respect to issue 10 and denied it with respect to issue 9. Regarding issue 10, the order accepted the parties' agreement that Cibolo has not requested Green Valley to transfer any Green Valley property to Cibolo.
29. SOAH Order No. 7 also stated that as the party with the burden of proof, Cibolo has the burden of persuasion, which never shifts, and the burden of production, and that if Cibolo makes a *prima facie* case that Green Valley has no property that the decertification will

render useless or valueless to Green Valley, the burden of production shifts to Green Valley to show that it has such property.

30. As a result of SOAH Order No. 7, the contested issues remaining in this first phase are:
9. What property, if any, will be rendered useless or valueless to Green Valley by the decertification sought by Cibolo in this proceeding? TWC § 13.255(c).
  11. Are the existing appraisals limited to valuing the property that has been determined to have been rendered useless or valueless by decertification?
31. On January 17, 2017, the hearing on the merits was held at SOAH's hearing facility in Austin, Texas. Cibolo, Green Valley, and Staff appeared through their attorneys.
32. On February 9, 2017, the parties filed agreed stipulations regarding the procedural history, the parties' contentions, and certain facts.
33. The record closed on February 28, 2017, when the parties filed their reply briefs and Cibolo and Green Valley filed proposed findings of fact and conclusions of law.
34. In its proposed findings of fact and conclusions of law, Cibolo proposed that it and Green Valley split evenly the costs of the transcript at the rate for non-expedited service, and that Cibolo pay all additional costs to obtain the transcript on an expedited basis. Green Valley did not address that issue.
35. Cibolo's proposal regarding the cost of the transcript is reasonable and should be adopted.

**Issue No. 9: What Green Valley Property, If Any, Will the Decertification Render Useless or Valueless to Green Valley?**

36. Green Valley obtained its sewer CCN in October 2005. The decertification area is approximately 1,694 acres, or 2.2%, of Green Valley's 76,000-acre sewer CCN area.
37. The decertification area is within the corporate limits of Cibolo, and is generally bounded on the south by U.S. Interstate Highway 10; on the west by Cibolo Creek; on the north by Lower Seguin Road, Hackerville Road, and Arizpe Road; and on the east by the court-decreed extraterritorial jurisdiction boundary of Cibolo and the City of Marion, as well as the boundaries of Guadalupe County Appraisal District parcels numbered 70979 and 71064.

38. As stated in the agreed stipulations, Green Valley contends that the following items are its property that the decertification will render useless or valueless to Green Valley:
- a. dollars expended by Green Valley for engineering and planning to implement Green Valley's 2006 wastewater master plan allocable to the decertification area;
  - b. dollars expended by Green Valley to obtain a Texas pollutant-discharge-elimination system permit from the Texas Commission on Environmental Quality (TCEQ) allocable to the decertification area;
  - c. dollars expended by Green Valley to purchase an approximately 65-acre tract of land allocable to the decertification area;
  - d. dollars expended by Green Valley for legal fees and appraiser expenses in this docket; and
  - e. lost expected net revenues allocable to the decertification area.
39. As stated in the agreed stipulations, Cibolo contends that Green Valley has no property that the decertification will render useless or valueless to Green Valley. Staff agrees with that position.
40. Green Valley has not adopted either retail sewer rates or sewer-impact fees.
41. Green Valley does not have any wastewater infrastructure in the decertification area.
42. Green Valley does not have any retail wastewater customers in the decertification area.
43. Green Valley does not have a Texas pollutant-discharge-elimination system permit to construct or operate a wastewater-treatment plant.
44. On April 1, 2015, Green Valley filed at TCEQ an application for a pollutant-discharge-elimination system permit.
45. In 2016, the TCEQ executive director issued a draft pollutant-discharge-elimination system permit to Green Valley and the TCEQ Commissioners referred the matter to SOAH for a contested case hearing on several issues. The TCEQ executive director disagreed with Cibolo's position that Green Valley's pollutant-discharge-elimination system permit application was inconsistent with Cibolo Creek Municipal Authority's status as the regional wastewater provider. The hearing in that case is set for September 12 through 14, 2017.

46. The estimated construction schedule in Green Valley's pollutant-discharge-elimination system permit application contemplates phased construction of the wastewater-treatment facility, with the final phase being constructed in 2044. The schedule allows Green Valley to reevaluate whether it needs more capacity before constructing the additional phases.
47. Green Valley does not have, and has not applied for, TCEQ approval of designs for a wastewater-collection system or a wastewater-treatment facility.
48. Green Valley purchased the approximately 65-acre tract of land in order to construct a wastewater treatment plant on it. The land is currently undeveloped.
49. The decertification will not affect Green Valley's ability to sell the approximately 65-acre tract of land or to use it for a wastewater treatment plant to serve the rest of its sewer CCN area.
50. Green Valley's 2006 wastewater master plan is a high-level planning document that does not address specific areas, but rather discusses Green Valley's sewer CCN area as a whole. It would require substantial updates in order to be used.
51. Green Valley concedes that the decertification will not result in the dollars it expended on the 2006 wastewater master plan, a pollutant-discharge-elimination system permit (if obtained), or the approximately 65-acre tract of land having no use or value to Green Valley.
52. The evidence does not show that Green Valley's decertification from 2.2% of its sewer CCN area will (1) reduce the usefulness or value of money Green Valley expended on the 2006 wastewater master plan, a pollutant-discharge-elimination system permit (if obtained), or the approximately 65-acre tract of land; or (2) reduce the usefulness or value of such expended money or expected net revenues by approximately 2.2%.
53. None of the items is Green Valley property that the decertification will render useless or valueless to Green Valley.
- 53A. Green Valley is not a party to any wholesale-wastewater-treatment agreements that are currently in effect.

- 53B. Green Valley has not submitted to TCEQ designs for a wastewater-treatment facility or wastewater-collection system and does not have final approval from TCEQ for such a facility or system.
- 53C. As of January 17, 2017, Green Valley had no existing retail sewer customers within the boundary of its sewer CCN.
- 53D. Green Valley will have to go through the permitting process and make the associated expenditures in order to obtain a pollutant-discharge-elimination system permit, regardless of whether the decertification area is decertified from Green Valley.

**Issue No. 10: What Green Valley Property, If Any, Has Cibolo Requested Be Transferred to Cibolo?**

54. Cibolo has not requested that Green Valley transfer any Green Valley property to Cibolo.

**Issue No. 11: Are the Existing Appraisals Limited to Valuing Green Valley Property that the Decertification Will Render Useless or Valueless?**

55. Cibolo's existing appraisal is limited to valuing Green Valley property that will be rendered useless or valueless by the decertification because it concludes that Green Valley has no such property.
56. Green Valley's existing appraisal is not limited to valuing Green Valley property that will be rendered useless or valueless by the decertification.

**IV. Conclusions of Law**

1. Cibolo and Green Valley are retail public utilities as defined in TWC § 13.002(19).
2. The Commission has jurisdiction and authority over this case under TWC §§ 13.041 and 13.255(c).
3. SOAH has jurisdiction over matters related to the hearing of this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law, pursuant to Texas Government Code §§ 2001.058 and 2003.049.
4. Notice of the hearing was provided in compliance with Texas Government Code § 2001.052 and 16 TAC § 24.106.

5. As the applicant, Cibolo has the burden of proof in this case, including the burden of persuasion, which never shifts. Through its direct case, Cibolo made a *prima facie* showing that Green Valley has no property that the decertification will render useless or valueless. As a result, the burden of production shifted from Cibolo to Green Valley to show that it has such property. 16 TAC § 24.12; 1 TAC § 155.427.
6. TWC § 13.255(c) provides that the Commission shall grant single certification to the municipality. TWC § 13.255(c) further provides that the Commission shall determine whether single certification as requested by the municipality would result in property of a retail public utility being rendered useless or valueless to the retail public utility, and if so, shall determine in its order the monetary amount that is adequate and just to compensate the retail public utility for such property.
7. As used in TWC § 13.255(c), the words “property,” “useless” and “valueless” should be given their ordinary or plain meaning. Tex. Gov’t Code §§ 311.011, .002; *Tex. Dept. of Protective & Reg. Svcs. v. Mega Child Care, Inc.*, 145 S.W.3d 170, 177 (Tex. 2004); *State v. Pub. Util. Comm’n of Texas*, 883 S.W.2d 190, 200 (Tex. 1994).
8. The word “property” in TWC § 13.255 includes all property, real and personal, and tangible or intangible. *City of Celina’s Notice of Intent to Provide Water and Sewer Service to Area Decertified from Aqua Texas, Inc. in Denton County*, PUC Docket No. 45848, SOAH Docket No. 473-16-5011.WS, Order (April 13, 2017) (*Celina Order*), Conclusion of Law No. 10.
9. TWC § 13.255(g) sets forth factors for the Commission to consider if a retail public utility decertified as a result of single certification has personal property that is rendered useless or valueless by the decertification. The factors the Commission shall consider to ensure that the compensation to the retail public utility is just and adequate at a minimum include: the impact on the existing indebtedness of the retail public utility and its ability to repay that debt; the value of the service facilities of the retail public utility located within the area in question; the amount of any expenditures for planning, design, or construction of service facilities outside the incorporated or annexed area that are allocable to service to the area in question; the amount of the retail public utility’s contractual obligations allocable to the

area in question; any demonstrated impairment of service or increase of cost to consumers of the retail public utility remaining after the single certification; the impact on future revenues lost from existing customers; necessary and reasonable legal expenses and professional fees; factors relevant to maintaining the current financial integrity of the retail public utility; and other relevant factors.

10. The factors listed in TWC § 13.255(g) are limited to determining the value of personal property, if any, rendered useless or valueless by the decertification and are not themselves property interests. TWC § 13.255(c) and (g); *Celina* Order Conclusion of Law No. 8A.
11. A CCN is not property and thus loss of CCN area is not itself a loss of property. 16 TAC §§ 24.113(a) and 24.116; TWC § 13.255(c); *Celina* Order Conclusion of Law No. 11.
12. Expenditures are not property. TWC § 13.255(c); *Celina* Order Conclusion of Law No. 7A.
13. Green Valley's expenditures on permitting, planning, and design activities to provide wastewater service are not property. TWC § 13.255(c); *Celina* Order Conclusion of Law No. 7B.
14. Green Valley's expenditures on reasonable and necessary legal expenses and professional fees, including, but not limited to appraisal expenses, incurred in this docket are not property. TWC § 13.255(c); *Celina* Order Conclusion of Law No. 7C.
15. TWC § 13.255(g) limits recovery for the impact on future revenues to losses from existing customers. Green Valley's lost future revenues from currently non-existing customers are not property and are not compensable under TWC § 13.255(c) and (g). TWC § 13.255(c) and (g); *Celina* Order Conclusion of Law No. 19.
16. As used in TWC § 13.255(c), "useless" means having or being of no use and "valueless" means having no monetary worth.
17. There is no property of Green Valley that will be rendered useless or valueless to Green Valley by the decertification sought by Cibolo in this matter. TWC § 13.255(c).
18. Cibolo's appraisal is limited to property that will be rendered useless or valueless by the decertification. TWC § 13.255(c) and (g).

19. Green Valley's appraisal is not limited to property that will be rendered useless or valueless by decertification. TWC § 13.255(c) and (g).
20. Green Valley's expenditures to purchase the approximately 65-acre tract of land are not property. TWC § 13.255(c); *Celina* Order Conclusion of Law No. 7A.

#### V. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission adopts the proposal for decision to the extent consistent with this interim order.
2. The Commission returns this matter to SOAH to address the phase-two issues and prepare a proposal for decision, if necessary, for consideration by the Commission.
3. Cibolo and Green Valley shall split evenly the costs for the hearing transcript at the rate for non-expedited service, and Cibolo shall pay for all of the additional costs to obtain the transcript on an expedited basis.

Signed at Austin, Texas the 29<sup>th</sup> day of June 2017.

#### PUBLIC UTILITY COMMISSION OF TEXAS

  
KENNETH W. ANDERSON, JR., COMMISSIONER

  
BRANDY MARTY MARQUEZ, COMMISSIONER