



Control Number: 45702



Item Number: 145

Addendum StartPage: 0

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

RECEIVED
2017 AUG -3 PM 2:42
PUBLIC UTILITY COMMISSION
CLERK

APPLICATION OF THE CITY OF	§	BEFORE THE STATE OFFICE
CIBOLO FOR SINGLE	§	
CERTIFICATION IN INCORPORATED	§	
AREA AND TO DECERTIFY	§	
PORTIONS OF GREEN VALLEY	§	OF
SPECIAL UTILITY DISTRICT'S	§	
SEWER CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	
GUADALUPE COUNTY	§	ADMINISTRATIVE HEARINGS

JOINT LIST OF ISSUES

COMES NOW the City of Cibolo (the "City"), by and through its undersigned attorneys of record, and files this Joint List of Issues ("List of Issues") and would respectfully show the following:

I. BACKGROUND

On March 8, 2016, the City filed its application at the Public Utility Commission ("Commission") under TWC § 13.255 (the "Application") to grant the City single sewer certification over certain, specific tracts of land that are currently within the City's corporate limits and that are also within the boundaries of Green Valley Special Utility District's ("GVSUD") sewer certificate of convenience and necessity ("CCN") No. 20973. On June 29, 2017, the Commission issued an Interim Order finding that no property of GVSUD would be rendered useless or valueless by the decertification sought by the City in the Application and referring this matter back to SOAH to address the second-phase issues in this case. On July 20, 2017, the Administrative Law Judge ("ALJ") issued SOAH Order No. 11, requiring the parties to

145

confer and to file a joint list of issues to be addressed in this second phase by August 3, 2017.¹ Thus, this List of Issues is timely filed.

II. ISSUES REFERRED BY COMMISSION

Based on the Commission's Preliminary Order filed in this matter on July 1, 2016, and its Supplemental Preliminary Order filed on July 20, 2016, the following issues to be addressed in this second phase of the contested case hearing are the following:

1. Is the area for which the City of Cibolo seeks single certification currently within the certified service area of a retail public utility?
2. If so, did Cibolo provide written notice to the retail public utility of Cibolo's intent to provide service to the area for which Cibolo seeks certification? TWC § 13.255(b) and 16 TAC § 24.120(b).
3. If so, did Cibolo wait more than 180 days after providing the written notice before Cibolo filed its application with the Commission? TWC § 13.255(c) and 16 TAC § 24.120(c).
4. Is Cibolo's application administratively complete pursuant to 16 TAC § 24.8? In making this determination, the following questions should be addressed:
 - a. Has Cibolo demonstrated that no retail public utility facilities will be rendered useless or valueless to the retail public utility? TWC § 13.255(c) and 16 TAC § 24.120(c). If not, has Cibolo included in its application all appraisals required under TWC § 13.255(1) and 16 TAC § 24.120(m)?
 - b. Is Cibolo requesting the transfer of specified property of a retail public utility? TWC § 13.255(c) and 16 TAC § 24.120(c). If so, has Cibolo included in its

¹ On July 20, 2017 GVSUD filed an Unopposed Motion for Continuance requesting the July 20, 2017 deadline set in SOAH Order No. 10 be extended until August 3, 2017.

application all appraisals required under TWC § 13.255(1) and 16 TAC § 24.120(m)?

5. Has Cibolo demonstrated that its public-drinking-water systems comply with TCEQ's minimum requirements for public-drinking-water system? TWC § 13.255(m) and 16 TAC § 24.120(m).
6. Has the retail public utility submitted to the Commission a written list with the names and addresses of any lienholders and the amount of the retail public utility's debt, if any? 16 TAC § 24.120(b)(1).
7. If any lienholders exist, has the retail public utility notified the lienholders of this decertification process consistent with 16 TAC § 24.120(b)(2)?
8. What is the adequate and just compensation to be paid to the retail public utility for any of its facilities that will be useless or valueless to it or that Cibolo requests be transferred? TWC §§ 13.255(c), (g), (g-1), and (1) and 16 TAC § 21.120(c), (g), (h), and (m).

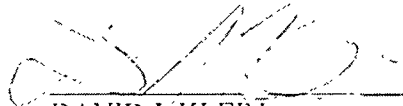
III. OTHER ISSUES

At this point, after conferring with counsel for the Commission, it is the City and Commission's position that no other issues should be addressed in this second phase of this matter. However, after conferring with counsel for GVSUD, it is GVSUD's position that the ALJ should also consider whether the Commission has jurisdiction over this Application, if GVSUD has a loan with the United States Department of Agriculture under 7 U.S.C. § 1926. The City opposes GVSUD's position.

Respectfully submitted.

**LLOYD GOSSELINK ROCHELLE
& TOWNSEND, P.C.**

816 Congress Avenue, Suite 1900
Austin, Texas 78701
(512) 322-5800
(512) 472-0532 (Fax)



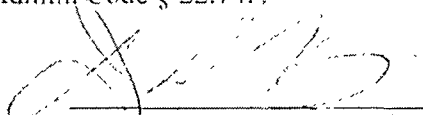
DAVID J. KLEIN
State Bar No. 24041257
dklein@lglawfirm.com

ASHLEIGH K. ACEVEDO
State Bar No. 24097273
aacevedo@lglawfirm.com

ATTORNEYS FOR THE CITY OF CIBOLO

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was transmitted by fax, hand-delivery and/or regular, first class mail on this 3rd day of August, 2017 to the parties of record, in accordance with 16 Tex. Admin. Code § 22.74.



David J. Klein