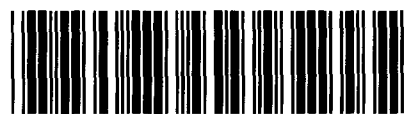




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Item Number: 178

Addendum StartPage: 0

SOAH DOCKET NO. 473-16-5296.WS
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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

§ BEFORE THE STATE OFFICE
§ PUBLIC UTILITY COMMISSION
§ FILING CLERK
§ OF
§ ADMINISTRATIVE HEARINGS
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GREEN VALLEY'S REPLY TO EXCEPTIONS
TO THE PROPOSAL FOR DECISION – PHASE 2

I.	PROCEDURAL HISTORY AND JURISDICTION	2
II.	SUMMARY OF ALJ'S RECOMMENDATIONS ON PHASE 2 ISSUES	2
III.	RESOLVED ISSUES 1, 4a, 4b, AND 6-8	2
IV.	CONTESTED ISSUES NOS. 2-4; SUFFICIENCY OF NOTICE OF INTENT, TIMING OF APPLICATION FILING, AND ADMINISTRATIVE COMPLETENESS	3
A.	Issue 2: Sufficiency of the Notice of Intent	3
B.	Issue 3: 180-Day Waiting Period between Notice of Intent and Filing of Application	3
C.	Issue 4: Administrative Completeness of the Application under 16 Texas Administrative Code § 24.8	3
V.	CONTESTED ISSUE 5: PUBLIC DRINKING WATER SYSTEM COMPLIANCE	3
VI.	RECOMMENDATION	4
VII.	FINDINGS OF FACT	4
VIII.	CONCLUSIONS OF LAW	4
IX.	ORDERING PARAGRAPHS	5
X.	CONCLUSION	5

178

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APPLICATION OF THE CITY OF	§	BEFORE THE STATE OFFICE
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AREA AND TO DECERTIFY	§	OF
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SPECIAL UTILITY DISTRICT'S	§	ADMINISTRATIVE HEARINGS
SEWER CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	
GUADALUPE COUNTY	§	

**GREEN VALLEY'S REPLY TO EXCEPTIONS
TO THE PROPOSAL FOR DECISION – PHASE 2**

COMES NOW Green Valley Special Utility District (“Green Valley”) and submits its Reply to Exceptions to the Proposal for Decision – Phase 2 (“PFD”). Pursuant to Commission Advising and Docketing Management’s November 27, 2017 letter to the parties, this Reply to Exceptions is timely filed. In support, Green Valley shows as follows:

I. PROCEDURAL HISTORY AND JURISDICTION

In its Exceptions, Green Valley addressed its request that the Commission include additional Findings of Fact regarding Green Valley’s filings and the Commission’s decisions on the jurisdictional issue of whether 7 U.S.C. § 1926(b) prohibits the Commission from considering and granting the City of Cibolo’s (“Cibolo”) application in this docket.

II. SUMMARY OF ALJ’S RECOMMENDATIONS ON PHASE 2 ISSUES

Green Valley’s Exceptions addressed its objections to the ALJ’s recommendations on Phase 2 issues.

III. RESOLVED ISSUES 1, 4a, 4b, AND 6-8

Green Valley’s Exceptions to the Phase 2 PFD fully addressed Green Valley’s continuing objections to the Commission’s underlying Phase 1 determinations, which now serve as the improper basis for the PFD’s recommendations regarding Issues 4a and 8.

IV. CONTESTED ISSUES NOS. 2-4; SUFFICIENCY OF NOTICE OF INTENT, TIMING OF APPLICATION FILING, AND ADMINISTRATIVE COMPLETENESS

A. Issue 2: Sufficiency of the Notice of Intent

Green Valley briefed its objections to the PFD's discussion and findings regarding Cibolo's notice of intent in its Exceptions.

B. Issue 3: 180-Day Waiting Period between Notice of Intent and Filing of Application

Green Valley's Exceptions addressed its position that the 180-day period between Cibolo's filing a notice of intent and application has not run because the notice of intent was defective.

C. Issue 4: Administrative Completeness of the Application under 16 Texas Administrative Code § 24.8

Green Valley's Exceptions addressed its objection to the PFD's recommended finding of administrative completeness.

V. CONTESTED ISSUE 5: PUBLIC DRINKING WATER SYSTEM COMPLIANCE

No party excepted to the PFD's recommended finding that Cibolo demonstrated compliance with the TCEQ's minimum requirements for public drinking water systems. Green Valley's Exceptions sought to clarify that the only relevant inquiry is limited to the absence of active violations according to TCEQ. Other details reflected in the proposed findings of fact such as Cibolo's designation as "superior" are irrelevant. The PUC requirements in effect at the time of Cibolo's application specifically required a TCEQ affirmative finding that the applicant demonstrates compliance with the TCEQ's minimum requirements.¹

¹ 16 TAC § 24.120(n) (*repealed, replaced* effective May 28, 2017 by 16 TAC § 24.120(h)(4)). TWC § 13.255(m) and new 16 TAC § 24.120 continue to require that the applicant demonstrate compliance with the TCEQ minimum requirements for public drinking water systems, amended 2017).

VI. RECOMMENDATION

Green Valley's Exceptions detailed its objections to the PFD's recommendation that the Commission adopt the PFD's proposed findings of fact, conclusions of law and ordering paragraphs.

VII. FINDINGS OF FACT

Green Valley raised its objections to the PFD's recommended findings of fact in its Exceptions. While no other party filed exceptions to this section of the PFD, Cibolo proposed additional proposed findings, which Green Valley briefly addresses as follows:

Cibolo Proposed Finding of Fact 35I:

While Green Valley does not except to inclusion of a finding of fact reflecting that the Commission Staff made a recommendation on administrative completeness, Cibolo's proposed Finding of Fact No. 35I contains an incorrect date. The Commission Staff made its recommendation on August 24, 2017, rather than August 24, 2016, as proposed by Cibolo. For completeness, if the Commission agrees to incorporate Cibolo's proposed new finding, Green Valley requests that the following additional finding be added as well:

35J. On August 31, 2017, Green valley submitted a response disagreeing with Commission Staff's recommendation on administrative completeness.

Cibolo Proposed Finding of Fact No. 57:

Subject to Green Valley's Exceptions related to the sufficiency of notice, Green Valley does not except to Cibolo's proposed clarification to the PFD's recommended Finding of Fact No. 57.

VIII. CONCLUSIONS OF LAW

Green Valley fully addressed its objections to the PFD's recommended conclusions of law in its Exceptions. Green Valley opposes Cibolo's proposed additional Conclusion of Law No.

19A on the ground that 16 TAC § 24.120 speaks for itself and no explanation or description is necessary, particularly where Green Valley did not except to the PFD's determination regarding which version of 16 TAC § 24.120 is applicable to Cibolo's application and this proceeding.

IX. ORDERING PARAGRAPHS

Green Valley's Exceptions addressed Green Valley's objection to the PFD's proposed Ordering Paragraph No. 1. With regard to Cibolo's suggested new ordering paragraphs, Green Valley objects to Cibolo's proposed new Ordering Paragraph Nos. 1 through 3 for the reasons set forth in its Exceptions to the PFD's adoption of first phase Commission determinations from the Interim Order. Green Valley further objects to suggested Ordering Paragraph Nos. 1 through 3 on the ground that they are not properly "ordering paragraphs." With regard to Cibolo's proposed Ordering Paragraph No. 4, Green Valley does not know what transcript Cibolo is referencing. To Green Valley's knowledge there is no outstanding transcript that has not already been paid for according to the agreement of the parties.

X. CONCLUSION

Green Valley respectfully requests that the Commission decline to adopt the Proposal for Decision – Phase 2's analysis, findings of fact, conclusions of law and ordering paragraphs that are inconsistent with these Exceptions. Green Valley further requests that the revisions and additional findings, conclusions and ordering paragraphs suggested by Cibolo be rejected consistent with this Reply to Exceptions. Green Valley further requests that the Commission deny Cibolo's Application and grant Green valley such other relief to which it is justly entitled.

Respectfully submitted,

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**ATTORNEYS FOR GREEN VALLEY
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CERTIFICATE OF SERVICE

I hereby CERTIFY that on December 7, 2017, a true and complete copy of the above was sent by the method indicated to counsel of record at the following addresses in accordance with P.U.C. PROC. R. 22.74:

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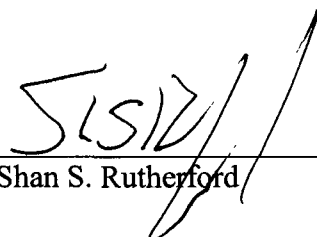
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