



Control Number: 45702



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RECEIVED

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

PUBLIC UTILITY COMMISSION

2016 JUN 22 PM 2: 16

PUBLIC UTILITY COMMISSION,
OF TEXAS FILING CLERK

**GREEN VALLEY SPECIAL UTILITY DISTRICT'S REPLY TO TEXAS MUNICIPAL
 LEAGUE COMMENTS REGARDING ORDER REQUESTING BRIEFING**

COMES NOW, Green Valley Special Utility District ("GVSUD" or the "District") and files this Reply to Texas Municipal League Comments Regarding Order Requesting Briefing filed in the above-referenced docket subject to GVSUD's Plea to the Jurisdiction and Motion to Dismiss previously filed. In support, GVSUD would show as follows.

I. Introduction

On May 27, 2016, the Commission ordered briefs due June 6, 2016 and reply briefs due June 14, 2016 on two threshold legal/policy issues:

- (1) May the Commission deny a municipality's application seeking single certification under Texas Water Code (TWC) § 13.255 solely on the basis that a retail public utility that holds a CCN for all or part of the requested area is also a holder of a federal loan made under section 1926(a) of the Federal Consolidated Farm and Rural Development Act? In answering this issue, please address whether the Commission has authority to determine whether a federal statute preempts state law.
- (2) Must a municipality seeking single certification under TWC § 13.255 demonstrate compliance with the TCEQ's minimum requirements for public drinking water systems even if the certification sought is solely to provide sewer service?¹

The Texas Municipal League ("TML") has not sought or received party status in this matter. Yet, TML filed a set of "Comments" on June 14, 2016 presumably in response to the Commission's

¹ Order Requesting Briefing on Threshold Legal/Policy Issues (May 27, 2016).

order permitting “any interested party” to file briefs addressing the aforementioned issues.² GVSUD submits the Commission should not consider TML’s comments because they were not timely filed on June 6, 2016. In the alternative, if the Commission elects to consider TML’s comments solely addressing Issue #1, GVSUD respectfully requests the Commission also consider this reply.

II. Reply to TML’s § 1926 Comments

GVSUD hereby incorporates by reference its prior briefing in reply to TML’s comments regarding 7 U.S.C.A. §1926 preemption.³ TML parrots Cibolo’s unfounded position that the Commission can and should act without regard to federal law in TWC § 13.255 cases.⁴ The case law discussions in the GVSUD and Commission Staff briefs point to the opposite conclusion.

GVSUD also refutes TML’s incorrect characterization of GVSUD’s position.⁵ In particular, GVSUD’s has not stated in any of its briefing that “[w]e provide no sewer service whatsoever” or that “we can’t.”⁶ In fact, GVSUD’s position is precisely the opposite. GVSUD is not attempting to “avail itself of 1926(b) protection without having to prove the facts and law required to do so.”⁷ GVSUD submits that it meets the requirements for protection both factually and legally. GVSUD’s position may be assessed by the Commission in an administrative evidentiary hearing or by a federal court. However, in the interest of judicial economy, federal court is the most appropriate venue.

² TML cites no specific authority as the basis for its filing.

³ See Item No. 30 (GVSUD’s Brief on Threshold Legal/Policy Issues) and Item No. 35 (GVSUD’s Reply Brief on Legal/Policy Issues).

⁴ Comments of the Texas Municipal League Regarding Order Requesting Briefing, at 2 (June 14, 2016).

⁵ *Id.*

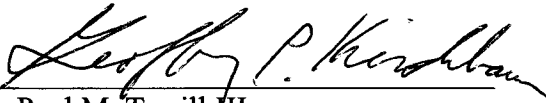
⁶ *Id.*

⁷ *Id.*

Conclusion and Prayer

The District prays that the Commission dismiss or deny the City of Cibolo's TWC § 13.255 application, relieve the District of all further associated deadlines, and grant the District all other and further relief to which it is justly entitled at law or in equity.

Respectfully submitted,

By: 

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**ATTORNEYS FOR GREEN VALLEY SPECIAL
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CERTIFICATE OF SERVICE

I hereby CERTIFY that on June 22, 2016, 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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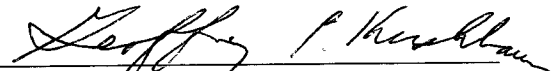
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