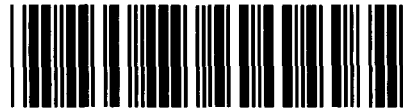




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APPLICATION OF WOLFE AIRPARK § BEFORE THE STATE OFFICE
CIVIC CLUB, INC. TO OBTAIN A §
WATER CERTIFICATE OF § OF
CONVENIENCE AND NECESSITY IN §
BRAZORIA COUNTY § ADMINISTRATIVE HEARINGS

**COMMISSION STAFF'S RESPONSE TO INTERVENOR'S
MOTION TO REQUIRE ENGINEER'S STUDY AND TO
REFER APPLICANT TO CRIMINAL INVESTIGATION**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest and files this Commission Staff's Response to Intervenor's Motion to Require Engineer's Study and to Refer Applicant to Criminal Investigation, and would show the following:

I. BACKGROUND

On April 26, 2018, a hearing on the merits was held at the State Office of Administrative Hearings (SOAH) regarding Wolfe Airpark's (Wolfe) application for a water certificate of convenience and necessity. On July 25, 2018, intervenor Joe Walker (Walker) filed a pleading entitled Motion to Require Engineer's Study and to Refer Applicant to Criminal Investigation.¹

II. DISCUSSION

Staff respectfully requests for SOAH administrative law judges (ALJ) to find that the subject matter of Walker's motion addresses issues that lie outside the scope of the proceeding.

First, Walker requests for the ALJs to find that the water system at issue in the CCN application does not match the original plans for the system, and for a study to be performed by a professional engineer.² However, this is not a factor relevant to the analysis of whether a CCN should be approved.³

¹ Motion to Require Engineer's Study and to Refer Applicant to Criminal Investigation (July 25, 2018) (Motion).

² Motion at 1.

³ See Texas Water Code (TWC) § 13.241 and Title 16 Texas Administrative Code (TAC) § 24.102.

Additionally, Walker requests for the ALJs to refer this matter for a criminal investigation, because “the magnitude of false statements in the Application for CCN is so vast as to indicate a criminal prosecution investigation is indicated.”⁴ The ALJ in this case is the arbiter of fact disputes, and thus it is the ALJ who will determine which facts are more likely for the relevant issues in the case. If Walker is alleging criminal activities not relevant to the issue to the granting of a CCN, this case is not the proper forum.

III. CONCLUSION

Staff respectfully requests for SOAH ALJs to find that the subject matter of Walker’s motion addresses issues that lie outside the scope of the proceeding.

⁴ Motion at 3.

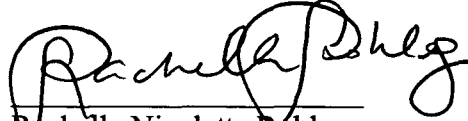
Date: July 30, 2018

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Stephen Mack
Managing Attorney

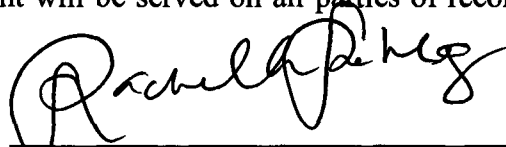


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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on July 30, 2018 in accordance with 16 TAC § 22.74.



Rachelle Nicolette Robles