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LANDOWNERS' PETITION TO §  
AMENDMANVILLEWATERSUPPLY §  
CORPORATION'S CERTIFICATE OF §  
CONVENIENCE AND NECESSITY IN §  
TRAVIS COUNTYBYEXPEDITED §  
RELEASE §

PUBLIC UTILITY COMMISSION,  
PUBLIC UTILITY COMMISSION  
FILING CLERK

OF TEXAS

**RESPONSE OF MANVILLE WATER SUPPLY CORPORATION TO  
LANDOWNERS' FIRST OBJECTION TO MANVILLE WATER  
SUPPLY CORPORATION'S PETITION IN INTERVENTION**

Comes now, MANVILLE WATER SUPPLY CORPORATION, a member owned non-profit retail public utility and holder of the Certificate of Convenience and Necessity sought herein to be amended by Expedited Release of the Property that is the subject of this proceeding, and files this it's Response to the Landowners' Objection to its Petition in Intervention.

**I. Background**

The statement of the background of this proceeding contained in the Landowners' First Objection to Manville Water Supply Corporation's Petition in Intervention is essentially correct.

Manville would show that, inexplicably, the undersigned attorney received a copy of Order No. 1 herein for the first time on October 12, 2017, and promptly filed its Petition in Intervention.

As is made clear in the General Appearance and Petition in Intervention of Manville Water Supply Corporation, Manville offers no statutory reason why the Expedited Release should not be granted, and in that respect does not oppose the efforts of the Landowners' for Expedited Release, given that the statute offers no applicable basis for objection.

Manville suggests that the late filing of the Petition in Intervention is of no consequence and will not serve to delay this proceeding because, as is noted in Order No. 2 herein, "Petitions are not considered filed until a determination of administrative completeness is made, thus, at this time the petition is not considered filed with the Commission." Having been found administratively incomplete, Landowners' Petition is to this date not yet filed. Manville's response to an unfiled Petition cannot be said to be late.

**II. Intervention**

Given that Manville's does not offer any reason why the Expedited Release should not be granted, its purpose for seeking Intervenor status is limited. Maville seeks only to protect its right to statutory compensation. Compensation need not necessarily be determined in this proceeding. Indeed, it is unlikely that a contested compensation proceeding can be resolved within the tight statutory time-frame of an Expedited Release proceeding. While both the Water Code, Section 13.254, and the Rules of

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the Commission protect the right to compensation to the divested utility, and charge the Commission with establishing that compensation, the applicable law does not stipulate when the Commission must make that determination. It merely provides that compensation shall be determined "at the time another public utility seeks to provide service" (TWC 13.254c). Given that no other utility has committed to provide service to the property, the compensation issue must be reserved for another day. Jurisdiction of the issue could be retained pending such an event, and the issue could be addressed in this proceeding after the conclusion of the Expedited Release. Or it could be addressed in a subsequent proceeding. Manville has no particular preference, but cares only that its right to assert compensation be preserved. Neither approach will delay the Expedited Release application (if it ever becomes appropriately filed), and there is no reason Manville should not participate as an Intervenor to the limited extent that it asserts an interest in the proceeding.

### **III. Process**

Manville agrees with the Landowners that Manville bears the burden of proof of establishing the existence of any useless or valueless property, and the amount of compensation owed. Manville further asserts that the compensation issue can and must be addressed at some point after the Expedited Release process is concluded and at the time "another retail public utility seeks to provide service. While no commitment to serve has been made by another utility, both Manville and the Landowners are in negotiations and discussions with at least one such possible utility. It is thus part and parcel of the current proceeding, but it is not subject to the statutory sixty day time for decision.

Manville asks that it be permitted to intervene in this proceeding for the purpose of protecting its right to compensation. As to the Expedited Release portion of the proceeding, Manville does not and has not requested that the sixty day deadline be extended, as the statute does not provide for an extension. As noted in Order No. 2, however, the period does not begin to run until the Landowners file an administratively complete application, which has not happened. Accordingly, no delay will result and there is no reason why Manville should not be allowed to intervene and participate.

**MOELLER LAW OFFICES**

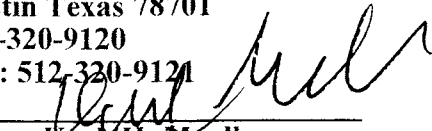
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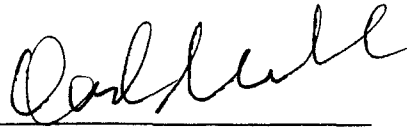
  
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**Certificate of Service**

**A true copy of this document was served on all parties of record on this 19<sup>th</sup> day of October, 2017 in accordance with 16 TX Admin Code Section 22.74.**

  
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