



Control Number: 47518



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**DOCKET NO. 47518**

**LANDOWNERS' PETITION TO  
AMEND MANVILLE WATER SUPPLY  
CORPORATION'S CERTIFICATE OF  
CONVENIENCE AND NECESSITY IN  
TRAVIS COUNTY BY EXPEDITED  
RELEASE**

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**PUBLIC UTILITY COMMISSION**

**OF TEXAS**

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

Kimbro Road Estates, LP, Sky Village Kimbro Estates, LLC, Alma Juanita Champion Meier, William Clark Meier, and Carolyn Juanita Fauber ("Landowners") files this Objection to Manville Water Supply Corporation's ("Manville") Petition in Intervention, and in support thereof shows as follows:

**I. BACKGROUND**

On August 16, 2017, Landowners filed a petition for release of contiguous real property from Manville's Certificate of Convenience and Necessity ("CCN") for Water Service with the Public Utility Commission of Texas ("Commission"). On August 18, 2017, the Commission issued Order No. 1. That Order required "Manville WSC and other affected persons to file a written protest or motion to intervene and file comments on the petition" by September 15, 2017. Manville filed its Petition in Intervention on October 12, 2017. Pursuant to P.U.C. PROC. R. 22.78, this Objection is timely filed.

**II. OBJECTIONS TO INTERVENTION**

**A. Manville's Petition in Intervention is untimely.**

Manville filed its Petition in Intervention on October 12, 2017—27 days after the deadline established by the Commission in Order No. 1. Manville's Petition in Intervention is untimely, and Manville offered no good cause for its failure to file the motion within the time prescribed. *See*

P.U.C. PROC. R. 22.104(d)(1)(B). Given Manville's lack of good cause for the untimely filing of its Petition in Intervention, the Petition should be denied.

**B. Manville's intervention does not serve the public interest as Manville's requested relief is either statutorily required in this proceeding or required to be the subject of a separate, subsequent proceeding.**

Manville's stated purpose for its Petition in Intervention is to "establish[] its right to reasonable compensation for its lost service area" and that "alternative retail service by other utilities . . . be barred pending payment of said compensation." But Texas law and the Commission's substantive rules require the Commission to consider these issues during this proceeding. *See* TEX. WATER CODE §§ 13.254(a-6), (d), and (e); P.U.C. PROC. R. 24.113(n)(6) (Commission required to identify property rendered useless or valueless by petition for expedited release), 24.113(o) (procedure for determining compensation for property rendered useless or valueless), and 24.113(o)(1) (retail public utility cannot service released area until compensation determined under 24.113(o) is paid to former CCN holder). And, importantly, Texas law dictates that the amount of monetary compensation due to the former CCN holder "shall be determined at the time another public utility seeks to provide service," not in the decertification proceeding. *See* TEX. WATER CODE § 13.254(e). Accordingly, Manville's Petition in Intervention should be denied.

**C. Manville's failure to timely intervene results in a presumption that there is no useless or valueless property as a result of this petition for expedited release.**

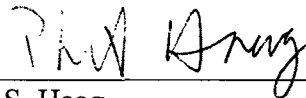
Pursuant to P.U.C. SUBST. R. 24.113(n)(3), Manville's failure to intervene by the intervention deadline established in Order No. 1 creates "a rebuttable presumption that there is no useless or valueless property." If Manville is permitted to intervene, the Landowners respectfully request that: (1) Manville bear the burden of establishing the existence of any useless or valueless property; (2) the appropriate compensation for any such property be determined in a subsequent proceeding, "at the time another retail public utility seeks to provide service" to the decertified

area, as required by TEX. WATER CODE § 13.254(e); and (3) the Commission not extend TEX. WATER CODE § 13.254(a-6)'s 60-day deadline.

\* \* \*

The Landowners object to Manville's Petition in Intervention as it is untimely and was filed solely to "protect" rights already protected by Texas law and the Commission's substantive rules. Thus, the Landowners request that Manville's Petition in Intervention be denied. If Manville is permitted to intervene, the Landowners request that (1) Manville bear the burden of establishing the existence of any useless or valueless property; (2) the appropriate compensation for any such property be determined in a subsequent proceeding, "at the time another retail public utility seeks to provide service" to the decertified area, as required by TEX. WATER CODE § 13.254(e); and (3) the Commission not extend TEX. WATER CODE § 13.254(a-6)'s 60-day deadline.

Respectfully submitted,



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**ATTORNEYS FOR LANDOWNERS**

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of this document was served on all parties of record on this, the 18<sup>th</sup> day of October, 2017 in accordance with 16 TEX. ADMIN. CODE § 22.74.

  
Philip S. Haag