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DOCKET NO. 48109

**APPLICATION OF R.F. GROUP SAN
ANTONIO LLC TO OBTAIN
CERTIFICATES OF CONVENIENCE
AND NECESSITY IN BEXAR
COUNTY**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

2018 OCT -5 AM 9:15
PUBLIC UTILITY COMMISSION
FILED CLERK

COMMISSION STAFF'S SECOND MOTION TO DISMISS

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and in response to Order No. 4, files this second Motion to Dismiss. In support thereof, Staff shows the following:

I. BACKGROUND

On February 26, 2018, R.F. Group San Antonio LLC (Applicant) filed an application to obtain a water and sewer Certificate of Convenience and Necessity (CCN) in Bexar County. The total service area requested includes approximately 6 acres and 0 current customers.

On April 2, 2018, the Commission administrative law judge (ALJ) issued Order No. 2, finding the application deficient and requiring Applicant to file a supplement to cure the deficiencies by April 27, 2018. No such supplement was ever filed.

On May 29, 2018, the ALJ issued Order No. 3, finding the application deficient and requiring Applicant to file a supplement to cure the deficiencies by June 15, 2018. No such supplement was filed.

On August 21, 2018, the ALJ issued Order No. 4, finding the application deficient and requiring Applicant to file a supplement to cure the deficiencies by September 4, 2018. No such supplement was filed.

II. RECOMMENDATION TO DISMISS

Pursuant to 16 Texas Administrative Code (TAC) § 22.181(d)(6) Staff may recommend that the commission dismiss the application for “failure to prosecute.” The Applicant did not file anything in the docket after its initial February 28, 2018 application despite being ordered by the ALJ on April 2, 2018, May 29, 2018, and August 21, 2018 to file a supplement to cure the deficiencies.

Additionally, pursuant to 16 TAC § 22.181(d)(7) Staff may recommend that the

commission dismiss the application for “failure to amend an application such that it is sufficient after repeated determinations that the application is insufficient.” The ALJ’s Order No. 2, 3, and 4 all determined that the application was deficient.

Because the Applicant “fail[ed] to prosecute” by not filing a supplement to cure the deficiencies as ordered by the ALJ in both Order. No. 2, 3, and 4, and failed to amend its application after “repeated determinations” by the ALJ that the application was insufficient, Staff recommends that the application be dismissed without prejudice.

III. CONCLUSION

For the reasons discussed above, Staff respectfully recommends that the application be dismissed without prejudice.

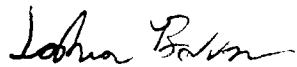
Dated: October ⁵~~4~~, 2018

Respectfully Submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Margaret Uhlig Pemberton
Division Director

Katherine Lengieza Gross
Managing Attorney

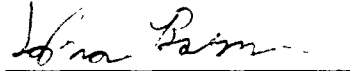


Joshua Adam Barron
State Bar No. 24087146
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7235
(512) 936-7268 (facsimile)
Joshua.Barron@puc.texas.gov

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on October 4⁵, 2018, in accordance with 16 TAC § 22.74.

A handwritten signature in black ink, appearing to read "Joshua Barron", written over a horizontal line.

Joshua Adam Barron