

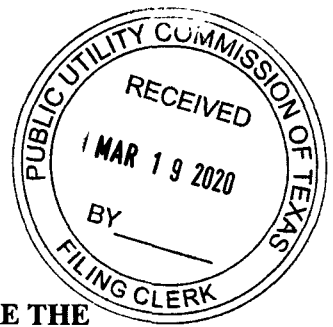


Control Number: 48350



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DOCKET NO. 48350

APPLICATION OF THE CITY OF  
DAYTON FOR CERTIFICATES OF  
CONVENIENCE AND NECESSITY IN  
LIBERTY AND HARRIS COUNTIES

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§  
§

BEFORE THE  
PUBLIC UTILITY COMMISSION  
OF TEXAS

**AGREED MOTION TO ADOPT AN PROCEDURAL SCHEDULE AND TO ALLOW  
SERVICE BY ELECTRONIC MAIL**

COME NOW, the City of Dayton (the “City”) and Staff (“Staff”) of the Public Utility Commission of Texas (“Commission”) (collectively, the “Parties”), and file this Agreed Motion to Adopt a Procedural Schedule and to Allow Service by Electronic Mail in the above-referenced Docket.

**I. BACKGROUND**

On May 8, 2018, the City filed an application (“Application”) to obtain water and sewer Certificates of Convenience and Necessity (“CCNs”) in Liberty and Harris Counties. On June 18, 2018, the City mailed notice of the Application to neighboring systems, landowners, customers, and cities. The City received nearly 40 landowner requests to exclude property from the requested CCN service areas (each, an “Opt-Out Request”), prompting it to file revised maps and digital data with the Commission on October 19, 2018. At that time, and because a number of the Opt-Out Requests received by the City do not meet the requirements of Texas Water Code § 13.246(h) or 16 Tex. Admin. Code (“TAC”) § 24.227(h) (each, a “Nonconforming Opt-Out Request”), the City believed it had correctly modified the area requested in its Application to address the Opt-Out Requests.

Nevertheless, Aqua Texas, Inc. d/b/a Aqua Texas (“Aqua”) intervened in this Docket, and the Application was referred to the State Office of Administrative Hearings for a contested case hearing. The City and Aqua quickly reached a settlement on their disputed issues, and Aqua filed

a Motion to Withdraw its intervention and protest on May 13, 2019 (which was approved on June 5, 2019).

On February 10, 2020, this case was remanded to the Commission for final processing as an uncontested matter. The Administrative Law Judge (“ALJ”) issued Order No. 10 in this Docket on March 13, 2020, requiring Commission Staff to file a recommendation on how to proceed and a proposed procedural schedule on or before March 23, 2020. From March 16, 2020 through March 18, 2020, the Parties corresponded and agreed on the procedural schedule below. Therefore, this pleading is timely filed.

## II. MOTION TO ADOPT A PROCEDURAL SCHEDULE

The Parties move that the ALJ adopt the following Agreed Procedural Schedule:

Event	Date
Deadline for the City to file signed affidavits of supplemental notice to landowners who submitted Nonconforming Opt-Out Requests, along with copies of the additional notice sent.	March 25, 2020
Deadline for the City to file revised mapping and digital data in response to supplemented Opt-Out Requests.	April 27, 2020
Deadline for Commission Staff to file a recommendation on the sufficiency of the City’s mapping revisions and propose a procedural schedule for final processing of the Application.	May 4, 2020

Counsel for the City has conferred with counsel for Commission Staff regarding this Agreed Procedural Schedule and represents that Commission Staff supports the filing.

## III. MOTION TO ALLOW SERVICE BY ELECTRONIC MAIL

Pursuant to 16 TAC § 22.74(c), the presiding officer may require service by email on motion of a party. On March 16, 2020, the Commission issued an Order Suspending Rules in Docket No. 50664, Issues Related to the State Disaster for the Coronavirus Disease 2019. The Order stated in relevant part that “all parties must file any pleading or document with the

Commission solely through the Interchange on the Commission's website and provide notice, by email, to all other parties that the pleading or document has been filed with the Commission, unless otherwise ordered by the presiding officer." Accordingly, the Parties request that the [Commission/SOAH] ALJ issue an order requiring service by electronic mail in this docket. The Parties further request that the Order direct any party to this proceeding who has not previously provided an email address to file a notice informing the parties of the email address to be used for service. Counsel for the City has conferred with counsel for Commission Staff regarding this Motion and represents that Commission Staff supports it.

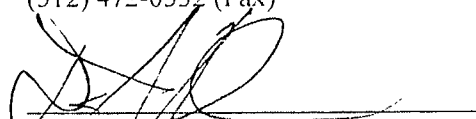
#### IV. PRAYER

WHEREFORE, PREMISES CONSIDERED, the Parties respectfully request that the ALJ issue an order adopting the agreed procedural schedule and allowing service by electronic mail, as proposed above.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE &  
TOWNSEND, P.C.**

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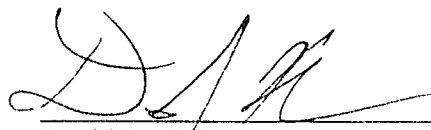
  
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**ATTORNEYS FOR THE CITY OF DAYTON**

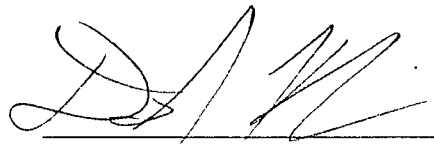
**CERTIFICATE OF SERVICE**

I hereby certify that, unless otherwise ordered by the presiding officer, a true and correct copy of the foregoing document was transmitted by electronic mail to the parties of record on this 19th day of March, 2020, in accordance with the Order Suspending Rules issued in Docket No. 50664.

  
\_\_\_\_\_  
David J. Klein

**CERTIFICATE OF CONFERENCE**

The undersigned counsel certifies that he has conferred with Commission Staff's legal counsel regarding this filing and that such counsel agrees to the relief requested herein.

  
\_\_\_\_\_  
David J. Klein