



Control Number: 48714



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August 14, 2019

Via FedEx. Express Tracking No. 8139 1314 4097

Attention Filing Clerk

Public Utilities Commission of Texas
1701 North Congress Avenue
Austin, Texas 78711-3326

RE: Docket No. 48714 - Application Of The City Of Edinburg Public Utility
Commission To Amend A Certificate Of Convenience And Necessity Under
Water Code §13.255 And Decertify A Portion Of North Alamo Water Supply
Corporation's Service Area In Hidalgo County

Dear Clerk:

Enclosed, please find the original and ten (10) copies of the City of Edinburg's
EXCEPTIONS TO PROPOSAL FOR DECISION in connection with the referenced
Application of the City of Edinburg Public Utility Commission to Amend a Certificate
of Convenience and Necessity Under Water Code §13.255 and Decertify a Portion
of North Alamo Water Supply Corporation's Service Area In Hidalgo County. The
Motion was filed in the PUC filing system under Tracking No. VNGEUMAZ.

Should you have any questions or require additional information in connection with
this filing, please contact our offices at your earliest convenience.

Thank you for your attention to this matter.

Sincerely,

/s/Omar Ochoa

Omar Ochoa
City Attorney

cc: Richard W. Fryer
Attorney for North Alamo Water Supply Corporation

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24

PUC DOCKET NO. 48714

**APPLICATION OF THE CITY OF EDINBURG
TO AMEND A CERTIFICATE OF
CONVENIENCE AND NECESSITY UNDER
WATER CODE §13.255 AND DECERTIFY
A PORTION OF NORTH ALAMO WATER
SUPPLY CORPORATION'S SERVICE AREA IN
HIDALGO COUNTY**

**§ PUBLIC UTILITY COMMISSION
§
§ OF TEXAS
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§**

THE CITY OF EDINBURG'S EXCEPTIONS TO THE PROPOSAL FOR DECISION

TO THE HONORABLE COMMISSION:

COMES NOW, CITY OF EDINBURG, Petitioner, in the above-entitled and numbered cause, and files this its **EXCEPTIONS TO THE PROPOSAL FOR DECISION**, and would show unto the Court as follows:

The City of Edinburg requests that the Commission modify the Administrative Law Judge's ("ALJ") proposal to dismiss the City's application for a water certificate of convenience and necessity ("CCN"). The City filed a motion for extension of time on July 25, 2019, prior to the ALJ's deadline for a response to Order No. 8. Thus, there is a mistake in the ALJ's findings of fact, and the City requests an opportunity for that motion for extension to be considered. In addition, the City has been diligent in its attempt amend its cure deficiencies in its application.

Additional Facts

Generally, the City does not dispute the findings of fact provided by the ALJ. However, the City can provide further context to explain the delay. On September 26, 2018, the City filed an application to amend its water CCN number 12106 to incorporate areas it currently serves and to decertify a portion of North Alamo Water Company's water CCN number 10553 in Hidalgo County. The requested area consists of 218.71 acres.

On November 6, 2018, the ALJ found that application to be administratively incomplete. Specifically, the Staff determined that the maps and digital data submitted were deficient because the hard copy maps did not correspond to the same number of requested areas provided in the digital data. A portion of the requested area for a certain tract included uncertificated areas and an area already certificated to the City. The Staff asked that the City revise the maps and digital data by removing uncertificated service areas and areas already certificated to the City.

In Order No. 3 on November 6, 2018, the ALJ ordered the City to cure deficiencies by December 13, 2018. But the City didn't respond. The ALJ issued Order No. 4 on January 15,

2019 establishing a deadline to cure by February 11, 2019. Unfortunately, the City did not realize it was receiving faxes from the ALJ until January 24, 2019. Those faxes were being routed to an electronic server that was not regularly monitored. In addition, between September 26, 2018, when the City submitted its application, and January 24, 2019, when the City discovered the faxes, the City had hired a new City Manager and a new City Attorney, both of whom were coming up to speed on many issues, including this application to the Commission.

In researching the disparity between the map and digital information, the City discovered that it had not completed a transaction with North Alamo related to the application. So the City sought to complete that transaction, including seeking approval from City Council, requiring that it request an extension of time to respond to the ALJ order. On February 11, 2019, the City timely filed its request, which the ALJ granted on February 13, 2019, establishing a new deadline of March 13, 2019. The City was not able to complete its transaction with North Alamo during that time, so requested another extension. Unfortunately, the papers were filed a day late on March 14, 2019.

The ALJ granted the extension until March 27, 2019. On March 21, 2019, the City and North Alamo completed the transaction contract, and North Alamo filed the agreement on March 26, 2019 with the Commission that contained the revised maps and digital data. The ALJ again found the application administratively incomplete on April 29, 2019 and ordered the deficiencies cured by May 28, 2019. However, the City did not receive this order (Order No. 7), so was unaware of the deficiencies or new deadline. The City has since learned that it was not receiving direct notices because it was not registered to receive them in the PUC docket.

On June 29, the City discovered through the online docket, after realizing it had not received further communication regarding the application, that it had missed the order and deadline. The City contacted Staff immediately to inform them. On July 2, 2019, the ALJ ordered that the City cure deficiencies by July 26, 2019. Since that time, the City has procured professional surveying services to correct the maps. The City recently finalized the contract for the survey services, and the City anticipates the work to be completed this month.

Knowing it could not meet the July 26, 2019, deadline, the City submitted a motion for extension of time. Per the Commission's rules, the City submitted an electronic copy and a hard copy by mail. The tracking number, EL122479762US, with USPS shows delivery on July 25, 2019. Thus, the City disagrees with the ALJ's factual findings numbers 18 and 19. A copy of the delivery proof is attached as Exhibit A.

Legal Conclusions

The City respectfully requests that the Commission modify the proposal for decision. The Commission may dismiss a proceeding with or without prejudice, but here the City has not failed to prosecute and has been diligent to amend its application when directed to do so. *See* 16 TAC § 22.181(d)(6). Moreover, the City has corrected both errors that led to it missing notices regarding this application. The City is prepared to submit the

information and data needed to finalize its application. The City respectfully requests that the Commission modify the proposal for decision and give the City the opportunity to cure deficiencies in its application.

Respectfully submitted,

/s/ Omar Ochoa

Omar Ochoa, Attorney for Petitioner

Texas Bar No. 24079813

CITY OF EDINBURG

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on August 15, 2019 in accordance with 16 TAC § 22.74.

/s/Omar Ochoa

Omar Ochoa

EXHIBIT “A”

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