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2019 AUG 23 PM 2:55
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TO: Stephen Journey
Commission Counsel

RE: Docket No. 48714 – *Application of the City of Edinburg to Amend a Certificate of Convenience and Necessity Under Texas Water Code § 13.255 and Decertify a Portion of North Alamo Water Supply Corporation's Service Area in Hidalgo County*

DATE: August 23, 2019

Dear Mr. Journey,

On August 2, 2019, I issued the Proposal for Decision (PFD) in this case. On August 15, 2019, the City of Edinburg filed exceptions to the PFD. On the same day, Commission Staff filed a letter stating that it supports the PFD and has no exceptions. On August 22, 2019, Commission Staff filed a reply to the City of Edinburg's exceptions.

In the PFD, I recommended that the Commission dismiss the city's application due to the city's failure to prosecute its claims, and its failure to cure insufficiencies in its application after repeated findings of insufficiency. For the most part, the city does not dispute the findings in the PFD. Rather, in its exceptions, the city attempts to explain the reasons why it has been slow in responding to orders, curing its application, and so on. I believe those arguments are best left to the Commission to weigh and do not require any revisions to the PFD.

Findings of Fact 16 through 19 discuss Order No. 8, which required the city to cure the deficiencies in its application by July 26, 2019. Finding of Fact 18 states that the city did not file a response by the July 26, 2019 deadline. Finding of Fact 19 states that the city filed a motion for extension of the deadline in Order No. 8 on July 29, 2019.

In their exceptions, the city argues that it filed its motion for extension on July 25, 2019. The city attached to its exceptions an Exhibit A, a US Postal Service tracking document that asserts the city proves that the motion for extension was "delivered" on July 25, 2019 at 10:57 a.m. Exhibit A is, in my opinion, somewhat ambiguous. I suspect it constitutes evidence as to when the city's motion was received at the post office in Austin, not when it was placed in the Commission's post office box. I suspect this is the case because the transmittal letter for the motion for extension is time-stamped by the Commission's Central Records as having been received on July 29, 2019 at 9:34 a.m., and the motion itself is stamped received one minute later. Therefore, I decline to revise the PFD on this point.



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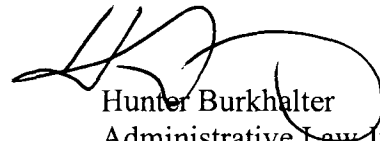
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For these reasons, I conclude that no changes are warranted to the PFD and it remains ready for your consideration.

Sincerely,



Hunter Burkhalter
Administrative Law Judge

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