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PETITION OF T.J. BRADSHAW
CONSTRUCTION, LTD. TO AMEND
JONAH SPECIAL UTILITY DISTRICT'S
CERTIFICATES OF CONVENIENCE
AND NECESSITY IN WILLIAMSON
COUNTY BY EXPEDITED RELEASE

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PUBLIC UTILITY COMMISSION
OF TEXAS

**T.J. BRADSHAW CONSTRUCTION, LTD'S REPLY TO
RESPONSE ON FINAL DISPOSITION**

COMES NOW T.J. Bradshaw Construction, Ltd. (the "Petitioner") and files this reply to the response of Jonah Water Special Utility District ("Jonah") to Petitioner's Petition and the Public Utility Commission of Texas (the "PUC" or the "Commission") Staff's recommendation on final disposition. Order No. 2 in this docket set the deadline for this response as January 7, 2019. This reply is timely filed. Petitioner shows the following:

I. BACKGROUND

On October 18, 2018, Petitioner, acting pursuant to § 13.254 (a-5), Tex. Water Code, and § 24.245(l), Title 16, Texas Administrative Code, petitioned the Commission for the streamlined expedited release of certain real property the Petitioner owns in Williamson County, Texas (the "Petition") from within the service area covered by Jonah's Certificates of Convenience and Necessity ("CCN") Nos. 10970 and 21053. On October 23, 2018, Petitioner supplemented the application.

Petitioner owns approximately 256.33 acres of contiguous property in Williamson County, Texas. The Petitioner requested streamlined expedited release of the above-mentioned property from the CCN service area of Jonah's water and sewer CCN. Petitioner did not believe that the property is within the Jonah sewer CCN, but requested release in the alternative if the property was located therein.

Jonah filed its response to the administratively complete application on December 7, 2018. Commission Staff filed its recommendation on final disposition on December 18, 2018. Commission Staff amended its recommendation to include a final map on

December 21, 2018.

II. REPLY

Commission Staff recommended that Petitioner be granted expedited release from Jonah's water CCN only and noted that the subject property was not within Jonah's sewer CCN area. Petitioner fully supports Commission Staff's recommendation without reservation or amendment.

Jonah raised many spurious arguments that should not merit response. As Commission Staff recommended approval of Petitioner's Petition after having received Jonah's response, it is reasonable to assume that Commission Staff did not find Jonah's response meritorious as Commission Staff did not agree with or adopt a single argument made by Jonah. However, out of an abundance of caution, each assertion will be addressed in turn.

A. Decertification is NOT Ripe for Consideration in this Docket

Jonah asserts, without providing any evidence, that it is federally indebted and, as such, is protected pursuant to 7 U.S.C. § 1926b. Texas Water Code § 13.254 (a-6) specifically provides that the Commission may not bar the Petition based on the fact that the certificate holder is a borrower under a federal loan program.

In the instant case, there is no current state or federal case or injunctive order binding on the Commission regarding the Petition in this case. A state agency may not contradict the express language of a state statute.¹ As such, Jonah's argument is misplaced and immaterial to the Petition.

B. Petitioner is the Owner of a Single Tract

Jonah spuriously indicates that an easement interest over property does not equate

¹ *Texas Indus. Energy Consumers v. CenterPoint Energy Houston Elec., LLC*, 324 S.W.3d 95, 106 (Tex. 2010).

to ownership. This is in direct opposition to property law in the state. It is well settled law that an easement benefits an easement holder for a specific purpose. An easement does not divest an owner of title.² An easement merely allows a person to use the property for a specific purpose.³ As such, any easement interests cited by Jonah do not affect Petitioner's rights as the owner of the subject property.

C. Petitioner Demonstrates Ownership Over the Property

Petitioner attached a recorded deed and an affidavit of the Owner's principal asserting ownership. As such, Petitioner has established a *prima facie* case that it owns the property. Jonah provides no controverting evidence to suggest otherwise. Its attempt falls short of all rules of evidence.

D. Petition Demonstrates that the Property Owner Was Authorized to File the Petition

Jonah asserts that the Petition does not provide the ownership interest or management authority of Petitioner. Ownership interests are discussed above and incorporated herein by reference. Petitioner provided an affidavit from a principal of the Petitioner's organization indicating that Troy Bradshaw had authority to file the petition. This complies with the clear rules of the Commission. As such, Petitioner has established a *prima facie* case that it is authorized to submit the Petition.

E. The Property is not Receiving Water from Jonah

Petitioner has indicated that it is not receiving service from Jonah. Jonah asserts that it provides service to property that may surround the Petitioner's property. However, it provides no evidence that it is providing ACTUAL service to Petitioner's property. As such, Jonah's assertion fails to controvert any fact submitted in the Petition.

² *Marcus Cable Assocs, LP v. Krohn*, 90 S.W.3d 697, 700 (Tex. 2002).

³ *Id.*

F. Jonah's Outstanding Debt is Immaterial

Jonah indicates that it has debt. While that may be, although it provides no proof of that assertion, such a statement is immaterial to the Petition. The fact that an incumbent provider has debt is not part of the analysis as to whether the Petition should be granted. As such, Jonah's arguments should be disregarded as immaterial.

III. PRAYER

WHEREFORE, Petitioner prays that the Commission grant the Petition in its entirety as recommended by the Commission Staff.

Respectfully submitted,

RUSSELL RODRIGUEZ HYDE BULLOCK, L.L.P.
1633 Williams Drive, Building 2, Suite 200
Georgetown, Texas 78628
arodriguez@txlocalgovlaw.com
(512) 930-1317
(866) 929-1641 (Fax)

/s/ Arturo D. Rodriguez, Jr.
ARTURO D. RODRIGUEZ, JR.
State Bar No. 00791551

CERTIFICATE OF SERVICE

I hereby certify that I have served or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or Certified Mail Return Receipt Requested to all parties on this the 7th day of January 2019.

/s/ Arturo D. Rodriguez, Jr.

ARTURO D. RODRIGUEZ, JR.