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DOCKET NO. 49280

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Petition of Previllage, LLC to Amend HMW * Before the Public Utility Commission
Special Utility District's Water Certificate of * of Texas
Convenience and Necessity in Harris County * PUBLIC UTILITY COMMISSION
by Expedited Release * FILING CLERK

Response to Petition by Intervenor HMW Special Utility District of Harris and Montgomery Counties

Rebuttal to Responses to Motion to Dismiss

Comes now the Intervenor, HMW Special Utility District of Harris and Montgomery Counties("HMW"), filing its Response to the Petition of Previllage, LLC, and its Rebuttal to Responses to Motion to Dismiss, and states as follows:

I.

The Texas Public Utility Commission("PUC") granted HMW's Motion to Intervene on April 24, 2019.

II.

HMW holds Certificate of Convenience No. 10342(the "CCN"), a portion of which the Applicant seeks to decertify. HMW is a retail public utility as defined by the Texas Water Code (the "Code").

III.

Notwithstanding the responses of Quadvest, L.P('Quadvest'), through its counsel, and the Commission staff, the proposed decertification continues to be incurably defective on its face, as well as unlawful, in that conflicting sworn affidavits have been filed with the PUC in support of the Petition, by the same individual. The two documents are directly contradictory, and thus neither can be worthy of belief as the statutory basis for decertification. Neither the Commission staff nor Quadvest cite a Commission holding that contradictory sworn affidavits may be the basis for decertification of an existing property right under Code Section 13.254.

Alternatively, the Petition is not and cannot be made administratively complete by correction, because it cannot be made so by the filing of an additional, contradictory sworn affidavit as to the property sought to be decertified.

Finally, the Commission staff's comment regarding "providing" rather than "receiving" water service is irrelevant to HMW's Motion to Dismiss because it does not address either the presence or the veracity of contradictory affidavits in the same proceeding. Its additional comment that HMW has presented no evidence is equally without merit, because the two affidavits are in fact the evidence.

Accordingly, the sole appropriate remedy is dismissal of the Petition.

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IV.

Further, and alternatively, the application facially asserts that it seeks to deprive HMW of a vested property right, i.e. the rights conferred by the CCN as to the area proposed to be decertified.

V.

Further, and alternatively, Code Subsections 13.254(a-1) through (h) have been revised by the 86th Texas Legislature in a manner that affects both the process for and the amount of compensation to be provided to the CCN holder in the event of decertification. See C.S.S.B. 2272, which has been adopted by both houses of the legislature and signed by the Governor on June 10, 2019. The revisions will become effective on September 1, 2019.

HMW asserts that the Petitioner knew that the legislation ultimately adopted was pending before the Texas Legislature prior to the filing of the petition, and that it moved to take advantage of existing law, prior to the passage of the revision, by immediately filing its petition with the assistance of Quadvest.

Regardless of the Petitioner's knowledge of the pending change in law and public policy, the PUC should not allow the Petitioner to subvert the intent of the Texas Legislature by allowing the Petitioner to benefit from a statutory scheme that is set to expire.

The Petition should be dismissed, or alternatively denied on the merits, for this additional reason.

VI.

In addition, and alternatively, both the Petition itself and the evidence to be shown by HMW, including evidence likely to become available through discovery, will demonstrate that Quadvest is (1) the actual Petitioner party in interest, (2) the *de facto* applicant for decertification, and (3) the intended provider of water service to the tract sought to be decertified.

Quadvest is also a retail public utility as defined by the Code, and the holder of CCN No. 11612. As such, it is prohibited by Code Section 13.252 from extending retail water service to "any portion of the service area of another retail public utility that has been granted or is not required to possess a certificate of convenience and necessity..."

The evidence will show that the Petition is in fact part of an effort by Quadvest to extend retail water service to portions of the CCN currently held by HMW. Indeed, the sole logical explanation for the involvement of Quadvest in the filing and prosecution of the Petition, which has been ongoing, is its interest in providing such service. Thus, the Petition is submitted not for the purpose intended by the relevant portions of Code Section 13.254, but instead to facilitate an effort Quadvest, L.P. to expand its own retail water service at the expense of HMW, in violation of Code Section 13.252.

Further, and alternatively, the PUC is authorized to and should prohibit the extension of such service by Quadvest and its interference with the actual or intended operation of HMW's utility system within its CCN. *Id.* As an alternate remedy, the PUC should issue orders that prohibit such extensions of service by Quadvest or any affiliated entity.

Wherefore, premises considered, HMW moves the PUC to dismiss the Petition, or alternatively to deny it on its merits, and to grant such other and further relief as the Commission deems just under applicable law.

Respectfully submitted,

Law Offices of Patrick F. Timmons, Jr., P.C.

A handwritten signature in black ink, appearing to read "Patrick F. Timmons, Jr.", written over a horizontal line.

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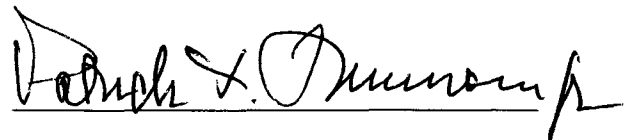
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Certificate of Service

I hereby certify that a true copy of the foregoing Motion to Intervene was served on the Applicant and the PUC staff on this 22nd day of July, 2019, by U.S. First Class Mail, as provided by 16 TAC Section 22.74.

A handwritten signature in black ink, appearing to read "Patrick F. Timmons, Jr.", written over a horizontal line.

Patrick F. Timmons, Jr.