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DOCKET NO. 49280

PETITION OF PREVILLAGE, LLC TO	§	PUBLIC UTILITY COMMISSION
AMEND HMW SPECIAL UTILITY	§	
DISTRICT'S WATER CERTIFICATE	§	2019 SEP 18 PM 3:02
OF CONVENIENCE AND NECESSITY	§	FILED IN UTILITY COURT
IN HARRIS COUNTY BY EXPEDITED	§	
RELEASE	§	

**QUADVEST, LP'S RESPONSE TO HMW SPECIAL UTILITY  
DISTRICT'S MOTION TO DIRECT RESPONSES TO DISCOVERY**

COMES NOW Quadvest, LP ("Quadvest"), for itself and on behalf of Previllage, LLC ("Previllage"), and files this Response to HMW Special Utility District's ("HMW") Motion to Direct Responses to Discovery.

Order No. 5 (Document ID No. 49280-18) set a deadline of September 12, 2019 for HMW to file a response to the administratively complete application. HMW filed an untimely MOTION TO EXTEND FILING DATE FOR RESPONSE TO ADMINISTRATIVELY COMPLETE PETITION on September 13, 2019. HMW has now filed, five days after the deadline, a second response. As HMW's original motion should be denied as untimely, this motion should also be denied as untimely.

This new motion seeks to compel Quadvest to answer three forms of discovery. The streamlined expedited release provisions of TWC 13.254(a-5) do not provide for discovery, and compelling discovery would conflict with that statutory provision, including, particularly, in satisfying the 60-day deadline imposed by the legislature. The provision also provides no purpose for discovery by an intervenor in this application. TWC 13.254(a-5) is clear in what the Commission must consider in approving the application. The provision is not discretionary ("the owner of a tract of land that is at least 25 acres and that is not receiving water or sewer service may petition for expedited release of the area from a certificate of public convenience and necessity and is entitled to that release . . ."). Discovery propounded by an intervenor has non-purpose in



the streamlined expedited release process. Discovery at this late stage further compounds the conflict with the statutory 60-day deadline (noting that HMW could have filed its discovery months ago (see 16 TAC 22.144, which allows discovery “[a]t any time after an application is filed”).

The Commission’s procedural rules at Sections 22.141 through 22.144 do not provide for the requested discovery. 22.141 prohibits discovery when it is exempted under another rule or law. Because it is incompatible with TWC 13.254(a-5), discovery is exempted by that law. Alternatively, 22.142(d) requires the presiding officer to consider, among other factors, the type of proceeding in evaluating RFI requests. As indicated above, this type of proceeding is incompatible with intervenor’s discovery requests. Finally, the presiding officer should use their discretion, as necessary, to deny the request in light of HMW’s unnecessary delay in seeking the discovery and the resulting conflict with TWC 13.254(a-5) in light of that unnecessary delay. If HMW required information to file its response to Commission Staff’s final recommendation, it would stand to reason that request for information should have come sufficiently in advance of that deadline to file its response—not five days after that deadline.

Accordingly, Quadvest respectfully requests that HMW’s motion be denied.

Respectfully submitted,

**DuBois, Bryant & Campbell, LLP**

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**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing document was served on the persons as indicated below on this the 19th day of September 2019:

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