

Control Number: 49366



Item Number: 15

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DOCKET NO. 49366

**PETITION OF FROST BANK NATIONAL §
BANK, AS TRUSTEE OF THE FREEMAN §
EDUCATIONAL FOUNDATION TO §
AMEND THE CITY OF SAN MARCOS' §
WATER CERTIFICATE OF §
CONVENIENCE AND NECESSITY IN §
HAYS COUNTY BY EXPEDITED §
RELEASE §**

2019 JUL 16 PM 1:29
PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

**COMMISSION STAFF'S RECOMMENDATION ON ADMINISTRATIVE
COMPLETENESS AND PROPOSED NOTICE**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and in response to Order No. 2, files this Recommendation on Administrative Completeness and Proposed Notice. Staff recommends that the application be deemed sufficient for further review. In support thereof, Staff shows the following:

I. BACKGROUND

On March 22, 2019, Frost Bank National Bank, as trustee of the Freeman Educational Foundation (Frost Bank), filed a petition for expedited release of an approximately 476-acre tract of land within the boundaries of the City of San Marcos' water certificate of convenience and necessity (CCN) number 10298 in Hays County, under Texas Water Code § 13.254(a-5) and 16 Texas Administrative Code (TAC) § 24.245(1). Frost Bank asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Hays County, which is a qualifying county.

On April 23, 2019, Order No. 2 was issued, establishing a deadline of June 21, 2019, for Staff to file a recommendation on the administrative completeness of the application and notice and propose a procedural schedule for further processing of the application. Therefore, this pleading is timely filed.

II. ADMINISTRATIVE COMPLETENESS

As detailed in the attached memorandum from Gregory Charles in the Commission's Water Utility Regulation Division, Staff has reviewed the petition for expedited release and recommends that it be found administratively complete.

III. NOTICE SUFFICIENCY

Under 16 TAC § 24.245(l)(4)(A)(vi), the landowner must provide proof that a copy of the petition has been mailed to the current CCN holder via certified mail on the day that the landowner submits the petition with the Commission.

Petitioners state in its filing that it mailed a copy of its petition to the CCN holder, City of San Marcos, by certified mail on the day the petition was filed with the Commission. Petitioners also included an affidavit attesting to this provision of notice to City of San Marcos. Accordingly, Staff recommends that the notice issued be found sufficient.

IV. PROCEDURAL SCHEDULE

In accordance with Staff's administrative completeness recommendation, Staff proposes that the below procedural schedule be used. Under TWC § 13.254(a-6), there is an expedited statutory deadline of 60 days for approval that begins once the Administrative Law Judge (ALJ) issues an order finding an application administratively complete. Therefore, Staff requests that the ALJ populate the following deadlines accordingly when the ALJ issues that order.

Event	Date
Order regarding administrative completeness of the Petition	Date of Order
Deadline for the City of San Marcos and/or intervenors to file a response to the administratively complete Petition	Seven (7) days from date of the Order deeming the Petition administratively complete
Deadline for Commission Staff's recommendation on final disposition	Seven (7) days from the deadline for the City of San Marcos and/or intervenors to file a response
Deadline for Petitioners to file a reply to both the City of San Marcos's response and Commission Staff's recommendation on final disposition ¹	Seven (7) days from the deadline for Commission Staff to file its final recommendation
Sixty (60) day administrative approval	Sixty (60) days from the Order deeming the petition administratively complete

¹ Staff notes that such a reply must be limited to briefing and argument. Submission of any additional proof will be deemed a new petition.

V. CONCLUSION

For the reasons detailed above, Staff respectfully requests the issuance of an order finding Petitioners' application administratively complete, its notice sufficient, and adopting the above proposed procedural schedule.

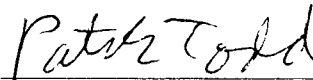
Dated: June 18, 2019

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Margaret Uhlig Pemberton
Division Director

Rachelle Nicolette Robles
Managing Attorney

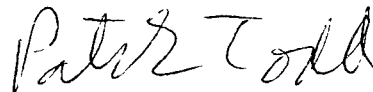


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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on June 18, 2019, in accordance with 16 TAC § 22.74.



Patrick D. Todd

PUC Interoffice Memorandum

To: Patrick Todd, Attorney
Legal Division

Thru: Lisa Fuentes, Manager
Water Utilities Regulation Division

From: Greg Charles, Engineer
Water Utilities Regulation Division

Date: June 18, 2019

Subject: **Docket No. 49366:** *Petition of Frost Bank National Bank, as Trustee of the Freeman Educational Foundation to Amend the City of San Marcos' Water Certificate of Convenience and Necessity in Hays County by Expedited Release*

On March 22, 2019, Frost Bank National Bank, as Trustee of Freeman Educational Foundation, (Frost Bank, Petitioner) filed a petition with the Commission for expedited release from the City of San Marcos' (City) water Certificate of Convenience and Necessity (CCN) No.10298 in Hays County, under Texas Water Code (TWC) § 13.254(a-5) and 16 Texas Administrative Code (TAC) § 24.245(l). The Petitioner asserts that the land is at least 25 acres, is not receiving water service, and is located in Hays County, which is a qualifying county.

On April 11, 2019, the Petitioner re-submitted an adequate map delineating the requested area for expedited release with enough detail to confirm the accurate positioning of their digital data pursuant to 16 TAC § 24.245(m), thereby curing the deficiencies with the previous map. The map and digital data are sufficient for determining the location of the requested release area within the City's certificated area. Mapping Staff was able to confirm the acreage of the subject properties, and determined that the requested area is located within the City's CCN. Furthermore, the Petitioner provided a warranty deeds confirming the Petitioner's ownership of the tract of land within the subject property. Additionally, on April 2, 2019, the Petitioner supplemented the application with a sworn affidavit attesting that the property, among other requirements, is not receiving water services from the CCN holder. The revised area requested for expedited release is approximately 525 acres.

The Petitioner included a statement indicating a copy of the petition was sent via certified mail to the City on the date the petition was filed with the Commission. On April 22, 2019, the City filed a motion to intervene, which was granted on April 30, 2019.

Staff has reviewed the information provided by the Petitioner and recommends the petition be deemed administratively complete and accepted for filing.