



Control Number: 49366



Item Number: 18

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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 AM 11:13 BEFORE THE
 PUBLIC UTILITY COMMISSION
 PUBLIC UTILITY COMMISSION
 OF TEXAS

**PETITIONER'S RESPONSE TO COMMISSION STAFF'S FINAL
 RECOMMENDATION**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

COMES NOW, Frost Bank National Bank as Trustee of the Freeman Educational Foundation ("Frost Bank" or "Petitioner") and files this Response to Commission Staff's Final Recommendation and would respectfully show the following:

I. INTRODUCTION AND BACKGROUND

1. On March 22, 2019, Frost Bank filed with the Public Utility Commission of Texas ("Commission") its Petition for expedited release of its 525-acre Freeman Tract from the City of San Marcos' ("City") water certificate of convenience and necessity ("CCN") No. 10298.
2. On April 25, 2019 Frost Bank provided Commission Staff additional mapping and survey information.
3. On June 18, 2019, Commission Staff recommended that the Commission's Administrative Law Judge ("ALJ") find the opt-out petition administratively complete and notice sufficient.
4. On June 20, 2019, the ALJ issued Order No. 4 in which he agreed with Commission staff, found the opt-out petition complete and notice sufficient, and issued a procedural schedule.
5. Order No. 4 established a deadline of July 16, 2019 for parties to respond to the Commission Staff's recommendation on final disposition; therefore, this pleading which includes only argument and no additional proof, is timely filed.

II. ARGUMENT

Pursuant to Texas Water Code § 13.254 (a-5), the Commission shall grant Frost Bank's request for expedited release from the City's CCN area no later than 60 days after the date the landowner files a petition.¹ In this case, the Declaration of Administrative Completeness established the 60-day deadline for approval. And while the City has taken great pains to intervene in this docket, neither the Texas Water Code nor Commission rules contemplate a hearing process at this juncture.² As Frost Bank has met all of the requisite conditions to satisfy the statutory and regulatory requirements for the Commission to grant the request for expedited release, the Commission must grant the Petition and remove Frost Bank's property from the City's water CCN. Frost Bank agrees with Commission Staff that its petition for expedited release be approved.³

III. PRAYER

WHEREFORE PREMISES CONSIDERED, Frost Bank requests that the ALJ recommend the expedited release of Frost Bank's property from the City's water CCN and for any such other relief to which it is entitled.

¹ Tex. Water Code Ann § 13.254(a-5).

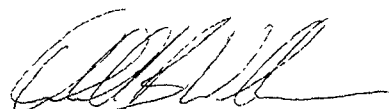
² See City of San Marcos' Motion to Intervene at 1 (April 22, 2019). The City claimed in its Motion that the City was providing water service to Petitioner; however, when the City later responded under oath as part of its discovery responses, the City admitted that the City never had a contract nor billed the property owners for water services (City of San Marcos' Response to Commission Staff's First Request for Information RFI Nos. 1-1 through 1-4 (May 5, 2019)). Furthermore, Petitioner's lessee confirmed via sworn affidavit that the City of San Marcos has never provided water to the tract (Exhibit A to Petitioner's Response to City of San Marcos' Motion to Intervene (April 29, 2019)).

³ Commission Staff's Final Recommendation at 1 (July 9, 2019).

Respectfully submitted,

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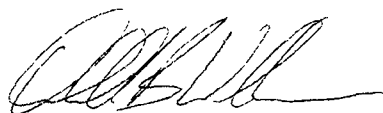


Randall B. Wilburn

**ATTORNEYS FOR FROST BANK
NATIONAL BANK**

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail, or Certified Mail Return Receipt Requested on all parties on the 16th of July 2019.



Randall B. Wilburn