

Control Number: 49366



Item Number: 24

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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 §

PUBLIC UTILITY COMMISSION
OF TEXAS

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**COMMISSION STAFF'S SUPPLEMENTAL 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. 5, files this Supplemental Recommendation on Administrative Completeness and Proposed Notice. Staff recommends that the petition 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 streamlined expedited release of an approximately 525-acre tract of land within the boundaries of the City of San Marcos' water Certificate of Convenience and Necessity 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.

Frost Bank filed clarifying supplements to the petition on April 2, 11, and 25, 2019, and May 22, 2019. In Order No. 4 issued on June 20, 2019, the administrative law judge (ALJ) concluded that the application was administratively complete.

After issuing Order No. 4, the ALJ discovered discrepancies in the application regarding the ownership of the 525-acre tract. On July 26, 2019, the ALJ issued Order No. 5, reversing Order No. 4, deeming the application administratively incomplete, and setting a deadline of August 26, 2019, for the applicant to supplement the petition to cure the deficiencies. Order No. 5 also set September 9, 2019, as the deadline for Staff to file a supplemental recommendation regarding

administrative completeness, along with a proposed procedural schedule. Therefore, this pleading is timely filed.

II. ADMINISTRATIVE COMPLETENESS

Staff has reviewed the supplemental information filed by Frost Bank on August 26, 2019, and September 6, 2019, and recommends that the petition be found administratively complete and accepted for filing. The supplemental filings detail the following chain of ownership:

1948 Joseph and Harold Freeman purchase the 525-acre property.

1971 Joseph Freeman's probated will bequeaths his interest in the property to Frost National Bank of San Antonio, as Trustee of the Freeman Educational Foundation, with a life estate going to Harold Freeman.

1979 Harold Freeman conveys his interest in the property to Frost National Bank, Independent Executor and Trustee under the Will of Joseph Freeman, and reserves the full possession, benefit, and use of the property during his natural life.

1985 Harold Freeman's will is probated leaving Frost Bank as the sole owner of the property.

The supplements also detail the history of petitioner's name changes from Frost National Bank of San Antonio to Frost Bank and confirm that Frost Bank was named as Trustee of the Freeman Educational Foundation. Therefore, Staff further recommends a finding that the correct entity has filed the petition.

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.

Frost Bank states 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. Frost Bank also included an affidavit attesting to the provision of notice, and the City of San Marcos has intervened in this proceeding. Accordingly, Staff recommends that the notice issued be found sufficient.

IV. PROPOSED PROCEDURAL SCHEDULE

In accordance with Staff's administrative completeness recommendation, Staff proposes that the 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 ALJ issues an order finding an application administratively complete. Therefore, Staff requests that the ALJ populate the following deadlines 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 Frost Bank to file a reply to both the City of San Marcos' response and Commission Staff's recommendation on final disposition	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

V. CONCLUSION

For the reasons detailed above, Staff respectfully requests that an order be issued (1) finding Frost Bank's petition to be administratively complete and its notice sufficient and (2) adopting the proposed procedural schedule.


Dated: September 9, 2019

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

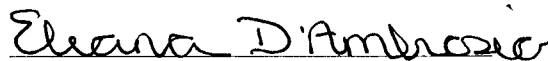
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CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on September 9, 2019 in accordance with 16 TAC § 22.74.



Eleanor D'Ambrosio