

Control Number: 49863



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DOCKET NO. 49863

RECEIVED

PETITION OF ALAMO MISSION LLC  
TO AMEND ROCKETT SPECIAL  
UTILITY DISTRICT'S WATER  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY IN ELLIS COUNTY  
BY EXPEDITED RELEASE

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2019 OCT 02 AM 9:05  
PUBLIC UTILITY COMMISSION  
OF TEXAS  
FILING CLERK

**ALAMO MISSION LLC'S MOTION TO STRIKE  
ROCKETT'S SUPPLEMENTAL FILING**

Alamo Mission LLC ("Petitioner") files this Motion to Strike Rockett Special Utility District's ("Rockett") Supplemental Filing filed with the Public Utility Commission of Texas on September 30, 2019. Petitioner shows:

On September 30, 2019, Rockett filed a Supplement to its Response and Objection to the Petition for Expedited Release, arguing that the Property that is the subject of the Petition in this docket is not eligible for expedited decertification because Rockett has an outstanding federal loan. The ALJ should strike Rockett's Supplemental Filing for the following reasons:

First, under the applicable statute and the PUC's streamlined expedited release rules, the fact that a CCN holder is a borrower under a federal loan program does not bar the release of a property from a CCN.<sup>1</sup> The statutory language is clear: "The utility commission may not deny the petition based on the fact that the certificate holder is a borrower under a federal loan program."<sup>2</sup> Any outstanding loan is not relevant to this proceeding and is clearly not a proper basis for denying the Petition.

Second, the Supplement should be stricken as untimely. In streamlined expedited release proceedings, a CCN holder "may submit a response to the petition *within a timeframe specified by*

<sup>1</sup> Tex. Water Code Ann. § 13.2541(d); 16 Tex. Admin. Code § 24.245(l)(7).

<sup>2</sup> Tex. Water Code Ann. § 13.2541(d).

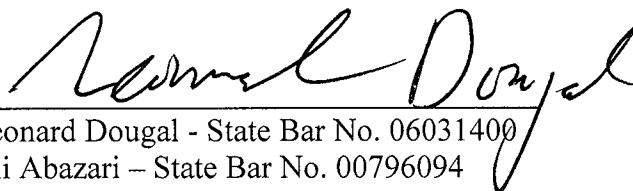
*the presiding officer.*”<sup>3</sup> Order No. 2 in this docket set a September 24, 2019 deadline for Rockett’s response to the petition. Rockett’s Supplement to its Response, however, was filed six days after the deadline. It is untimely and should not be accepted.

Third, Rockett did not request leave to file its untimely Response, nor did it show good cause for doing so. The PUC’s rules provide that “[a]fter notice of a proceeding has been provided, a pleading may be amended *with leave of the presiding officer*” under certain circumstances.<sup>4</sup> Notice has been issued and found to be sufficient.<sup>5</sup> To the extent Rockett sought to amend its Response, it could only do so with leave of the presiding officer. Rockett did not even request leave, however.

For these reasons, Petitioner requests that the ALJ grant this motion, strike Rockett’s Supplemental Filing from the record, and disregard it in its entirety.

Respectfully submitted,

JACKSON WALKER L.L.P.



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ATTORNEYS FOR ALAMO MISSION LLC

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<sup>3</sup> 16 Tex. Admin. Code § 24.245(l)(5) (emphasis added).

<sup>4</sup> 16 Tex. Admin. Code § 22.76(a)(2) (emphasis added).

<sup>5</sup> See Order No. 2.

**CERTIFICATE OF SERVICE**

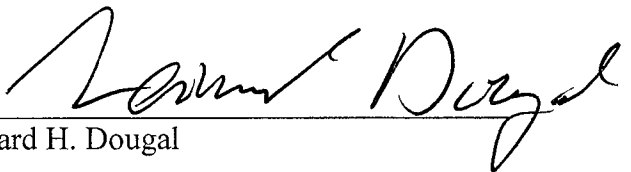
I hereby certify that on the 2nd day of October, 2019, a true and correct copy of the foregoing document was served on the individuals listed below by hand delivery, email, facsimile or First Class Mail.

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