

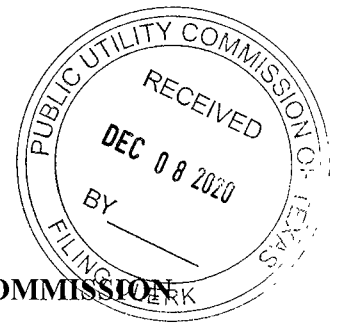


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DOCKET NO. 50244

**APPLICATION OF QUADVEST LP
TO AMEND WATER CERTIFICATE
OF CONVENIENCE AND
NECESSITY IN HARRIS COUNTY**

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PUBLIC UTILITY COMMISSION

OF TEXAS

**QUADVEST, LP'S RESPONSE TO ORDER NO. 9 AND REQUEST FOR
RECONSIDERATION**

COMES NOW, Quadvest, L.P. ("Quadvest") and files this response to Order No. 9 granting the motion in part. For the reasons set forth below, Quadvest respectfully requests that the HMW Special Utility District's Motion to Intervene be denied.

I.

BACKGROUND

On November 15, 2019, Quadvest filed an application to amend its water and sewer certificates of convenience and necessity ("CCN") in Harris County, Texas. On November 3, 2020, the Administrative Law Judge issued Order No. 8 granting the applicant's motion to sever from this docket the sewer CCN amendment application. Order No. 8 provided an amended procedural schedule, as follows:

| Event | Date |
|---|-------------------|
| Deadline for Commission Staff to provide final maps, certificates, and tariffs (if applicable) to Quadvest for review and consent | December 8, 2020 |
| Deadline for Quadvest to file signed consent forms with the Commission | December 22, 2020 |
| Deadline for Commission Staff to request a hearing on the merits or to file a final recommendation on the application | December 29, 2020 |
| If no hearing is requested, deadline for parties to file joint proposed findings of fact and conclusions of law | January 5, 2021 |

On November 30, 2020, HMW Special Utility District ("HMW") filed a "Motion to Intervene, Vacate Oder, and Abate Proceeding." On December 8, 2020, the Administrative Law Judge granted HMW's motion to intervene and denied HMW's request for reconsideration and motion to abate. Quadvest hereby requests that the Administrative Law Judge reconsider Order No. 9 and deny HMW's request to intervene, based on the following discussion.

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II.

DISCUSSION

The Commission Rules specifically address motions to intervene. 16 TEX. ADMIN. CODE § 22.104 (“Motions to Intervene”) provides:

(b) Time for filing motion. Motions to intervene shall be filed within 45 days from the date an application is filed with the commission, unless otherwise provided by statute, commission rule, or order of the presiding officer. For an application for certificate of convenience and necessity filed under Public Utility Regulatory Act §39.203(e), motions to intervene shall be filed within 30 days from the date the application is filed with the commission. The motion shall be served upon all parties to the proceeding and upon all persons that have pending motions to intervene.

HMW seeks to intervene in this docket more than a year after Quadvest filed its application on November 15, 2019 and almost eight months after the Order No. 5 (Docket Id. No. 16) April 16, 2020 deadline to intervene .

The Commission Rules provide for consideration of late-filed requests to intervene, in limited circumstances, as set forth in 16 TEX. ADMIN. CODE § 22.104. In considering a late-filed request, the Administrative Law Judge must consider the following:

(A) any objections that are filed;

(B) whether the movant had good cause for failing to file the motion within the time prescribed;

(C) whether any prejudice to, or additional burdens upon, the existing parties might result from permitting the late intervention;

(D) whether any disruption of the proceeding might result from permitting late intervention; and

(E) whether the public interest is likely to be served by allowing the intervention.

16 Tex. Admin. Code § 22.104(d)(1).

Addressing the late-filing criteria in turn, Quadvest objects to the motion to intervene as set out herein and asks the Administrative Law Judge to consider these objections pursuant to 22.104(d)(1)(A).

Regarding 22.104(d)(1)(B), the movant does not have good cause for failing to file the motion on time. HMW’s purported basis for ignoring the established deadline for eight months

is, according to Quadvest's best reading of HMW's motion, based on two assertions: (1) Quadvest supplemented its proof of notice in the docket; and (2) Administrative Law Judge, in the normal course, issued Order No. 7 providing for a deadline of November 6, 2020 for Commission Staff to request a hearing. Neither assertion is remotely relevant to HMW's eight-month delay. Quadvest provided HMW adequate and timely notice. As set out in Quadvest's filings in this docket regarding notice to neighboring utilities (see "Affidavit of Notice to Neighboring Utilities and Affected Parties" (Docket Id. No. 50244-11) and "Neighboring Notices" (Docket Id. No. 50422-14)), Quadvest provided direct notice to HMW on February 21, 2020. That notice specifically set out HMW's deadline to intervene in the matter. HMW chose not to file a motion to intervene pursuant to that notice. The fact that Quadvest supplemented its proof of notice has no relevance whatsoever to the validity of the intervention deadline or HMW's obligation and ability to respond to that deadline. Similarly, the Administrative Law Judge's issuance of a procedural schedule more than four months after the deadline to intervene that set out a procedural deadline for upcoming steps in the proceedings had no bearing on deadlines for completed stages in the proceedings that proceeded the new procedural schedule addressing upcoming steps in the proceedings.

Regarding 16 TEX. ADMIN. CODE § 22.104(d)(1)(C) ("whether any prejudice to, or additional burdens upon, the existing parties might result from permitting the late intervention") and 22.104(d)(1)(D) ("whether any disruption of the proceeding might result from permitting late intervention"), HMW's baseless motion to intervene could result in substantial delay and therefore substantial burden on Quadvest. HMW's request to intervene could unilaterally cause Commission Staff to request a hearing on the merits instead of filing a final recommendation on the application, leading to substantial delay in final consideration of this application and ultimate delay in Quadvest's ability to provide service to the subject area and significantly hampering development of the subject area by the entities responsible for the development of the tract. Those are delays and resulting prejudices that would not exist if HMW had filed a motion to intervene by the April 16, 2020 deadline, eight months ago. Quadvest would have fundamentally and immediately altered its course of business if a timely request to intervene had been submitted in this docket.

Addressing 22.104(d)(1)(E) ("Whether the public interest is likely to be served by allowing the intervention"), granting the motion to intervene will significantly harm the public interest. As

discussed above, granting the motion to intervene could substantially delay the provision of sewer service to the subject tract, thus delaying service to customers who have been anticipating service within a timeframe based on the schedule in Order No. 5. The public interest is not served by allowing the intervention. HMW simply seeks—as it has with many other filings—to improperly deprive areas that have been properly decertified from HMW’s service areas of sewer service .

III.

CONCLUSION

For the reasons stated herein, Quadvest, LP respectfully requests that Intervenor’s request to intervene be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify by my signature above that on the 8th day of December, 2020, the foregoing document was served via email to the following:

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