



Control Number: 50563



Item Number: 59

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PUBLIC UTILITY COMMISSION
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**APPLICATION OF THE CITY OF
ALTON TO AMEND ITS SEWER
CERTIFICATE OF CONVENIENCE
AND NECESSITY IN HIDALGO
COUNTY**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

ORDER

This Order addresses the application of the city of Alton to amend its sewer certificate of convenience and necessity (CCN). In a proposal for decision, the administrative law judge (ALJ) recommended that the Commission dismiss the application without prejudice due to Alton's failure to prosecute, under 16 Texas Administrative Code (TAC) § 22.181(d)(6), and for Alton's failure to amend an application such that it is sufficient after repeated determinations that the application is insufficient, under 16 TAC § 22.181(7). The Commission adopts the proposal for decision, including findings of fact and conclusions of law, to the extent provided in this Order.

The Commission makes the following changes to the proposal for decision. The Commission modifies finding of fact 3 and adds findings of fact 8A and 8B for completeness. The Commission adds conclusion of law 1A for completeness.

Lastly, the Commission makes non-substantive changes for such matters as capitalization, spelling, grammar, punctuation, style, correction of numbering, and readability.

I. Findings of Fact

The Commission adopts the following findings of fact.

1. Alton is a municipality located in Hidalgo County.
2. Alton provides retail sewer service to customers in Hidalgo County under CCN number 20809.
3. On February 18, 2020, Alton filed the application at issue in this proceeding seeking to amend its sewer CCN to incorporate additional acreage into its existing sewer CCN.

4. On April 28, June 8 and June 16, 2020, March 31 and October 20, 2021, and January 20, 2022, Alton supplemented its application, including providing new mapping data.
5. In Order No. 18 filed on February 18, 2022, the ALJ adopted Commission Staff's recommendations regarding the additional mapping data submitted, but found Alton's mapping deficient, and ordered Alton to make the mapping changes recommended by Commission Staff by March 18, 2022.
6. Alton did not respond to Order No. 18.
7. In Order No. 19 filed on March 28, 2022, the ALJ ordered Alton to make the mapping changes recommended by Commission Staff by April 11, 2022.
8. Alton did not respond to Order No. 19.
- 8A. In Order No. 20 filed on May 10, 2022, the ALJ notified the parties that he intended to file a proposal for decision dismissing the proceeding for Alton's failure to amend, and set May 31, 2022 as the deadline for Alton to respond.
- 8B. Alton did not respond to Order No. 20.
9. In Order No. 21 filed on July 12, 2022, the ALJ refined his rulings from Order Nos. 18 and 19 regarding removal of certain portions of the requested area; however, the ALJ found that the digital mapping provided by Alton remained deficient and ordered Alton to cure the deficiencies by August 8, 2022.
10. Alton did not respond to Order No. 21.
11. In Order No. 22 filed on September 29, 2022, the ALJ moved to dismiss the application due to Alton's failure to prosecute and failure to amend an application such that it is sufficient after repeated determinations that the application is insufficient.
12. The deadline to respond to the motion to dismiss was October 19, 2022.
13. Alton did not respond to the motion to dismiss.
14. No hearing was held on the motion to dismiss.
15. Alton has made no filings in this docket since January 20, 2022.

II. Conclusions of Law

The ALJ makes the following conclusions of law.

1. The Commission has authority over this matter under Texas Water Code §§ 13.041, 13.241, 13.242, 13.244, and 13.246.
- 1A. Under 16 TAC § 22.181(c), a proceeding may be dismissed without a hearing if the facts necessary to support the dismissal are uncontested or are established as a matter of law.
2. Under 16 TAC § 22.181(d)(6), the ALJ may recommend to the Commission that it dismiss a proceeding, with or without prejudice, for failure to prosecute.
3. Under 16 TAC § 22.181(d)(7), the ALJ may recommend to the Commission that it dismiss a proceeding, with or without prejudice, for failure to amend an application such that it is sufficient after repeated determinations that the application is insufficient. Under 16 TAC § 22.181(e)(2), dismissal of a proceeding may be made upon the motion of the ALJ, and an ALJ's motion must be provided by written order or stated on the record.
4. Under 16 TAC § 22.181(f)(2), dismissal of a case for reasons other than those specified in 16 TAC § 22.181(g)(1) or (2) requires preparation of a proposal for decision.
5. Alton has failed to prosecute its application and failed to amend its application such that it is sufficient after repeated determinations that the application is insufficient, thereby warranting dismissal of this proceeding, without prejudice, under 16 TAC § 22.181(d)(6) and (7).
6. This proposal for decision was issued in accordance with Texas Government Code § 2001.062 and 16 TAC § 22.261(a).

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission adopts the proposal for decision, including findings of fact and conclusions of law, to the extent provided in this Order.

2. The Commission dismisses Alton's application, without prejudice, due to Alton's failure to prosecute its application and for failure to amend its application such that it is sufficient after repeated determinations that the application is insufficient.
3. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas the 20th day of January 2023.

PUBLIC UTILITY COMMISSION OF TEXAS



PETER M. LAKE, CHAIRMAN



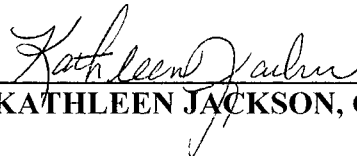
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LORI COBOS, COMMISSIONER



JIMMY GLOTFELTY, COMMISSIONER



KATHLEEN JACKSON, COMMISSIONER