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Public Utility Commission of Texas

TO: Stephen Journey
Commission Counsel

All Parties of Record

FROM: Katie Moore Marx *KMM*
Administrative Law Judge

RE: **Docket No. 50963** – *Application of the City of McGregor to Amend Certificates of Convenience and Necessity and for Dual Certification with the City of Waco in McLennan County*

DATE: May 20, 2022

Enclosed is the Proposal for Decision (PFD) in the above-referenced case. By copy of this memo, the parties to this proceeding are being served with the PFD.

Please place this docket on an open meeting agenda for the Commissioners' consideration. Please notify me and the parties of the open meeting date, as well as the deadline for filing exceptions to the PFD, replies to the exceptions, and requests for oral argument.

If there are no corrections or exceptions, no response is necessary.

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DOCKET NO. 50963

APPLICATION OF THE CITY OF	§	PUBLIC UTILITY COMMISSION
MCGREGOR TO AMEND	§	
CERTIFICATES OF CONVENIENCE	§	OF TEXAS
AND NECESSITY AND FOR DUAL	§	
CERTIFICATION WITH THE CITY OF	§	
WACO IN MCLENNAN COUNTY	§	

PROPOSAL FOR DECISION

In this Proposal for Decision (PFD), the administrative law judge (ALJ) recommends that the Commission dismiss the application of the City of McGregor to amend its water and sewer certificates of convenience and necessity (CCNs) and for dual certification with the City of Waco in McLennan County. The ALJ recommends dismissal due to McGregor’s failure to amend its application such that it is sufficient after repeated determinations that the application is insufficient, under 16 Texas Administrative Code (TAC) § 22.181(d)(7). The ALJ recommends that the dismissal be without prejudice.

I. Findings of Fact

The ALJ makes the following findings of fact.

1. On June 22, 2020, McGregor filed an application to amend its CCN numbers 10033 and 20009, and for dual certification with Waco’s CCN numbers 10039 and 20010, all in McLennan County.
2. On July 10, 2020, McGregor filed a supplement to the application.
3. McGregor is a municipality located in McLennan and Coryell counties.
4. McGregor operates, maintains, and controls facilities for providing water and sewer service under water CCN number 10033 and sewer CCN number 20009.
5. In Order No. 2 filed on July 23, 2020, the ALJ found that the application was insufficient and ordered McGregor to, by September 4, 2020, supplement the application to cure the insufficiencies.
6. On August 25, 2020, McGregor filed supplemental information in an attempt to cure the application insufficiencies.

7. In Order No. 3 filed on October 6, 2020, the ALJ found that the application remained insufficient and ordered McGregor to, by November 5, 2020, supplement the application to cure the insufficiencies.
8. On November 5, 2020, McGregor filed supplemental information in an attempt to partially cure the application insufficiencies and requested more time to provide the additional information necessary for the remaining insufficiencies.
9. In Order No. 4 filed on November 6, 2020, the ALJ granted McGregor's request for extension and directed McGregor to cure the insufficiencies by December 3, 2020.
10. McGregor did not attempt to cure the insufficiencies by December 3, 2020.
11. On seven occasions from December 4, 2020 to August 13, 2021, McGregor asked for extensions of its deadline to cure the insufficiencies in its application.
12. In Order Nos. 5 through 11, the ALJ granted McGregor's seven requests for extensions.
13. In Order No. 11 filed on August 17, 2021, the ALJ ordered McGregor to, by September 10, 2021, cure the insufficiencies in its application.
14. McGregor did not attempt to cure the insufficiencies by September 10, 2021.
15. In Order No. 12 filed on November 9, 2021, the ALJ found that the application remained insufficient and ordered McGregor to cure the insufficiencies by December 6, 2021.
16. McGregor did not attempt to cure the insufficiencies by December 6, 2021.
17. In Order No. 13 filed on January 5, 2022, the ALJ ordered McGregor to cure the insufficiencies in its application by February 7, 2022. McGregor did not attempt to cure the insufficiencies by February 7, 2022.
18. In Order No. 14 filed on March 9, 2022, the ALJ found that the application remained insufficient and ordered McGregor to cure the insufficiencies by March 21, 2022.
19. McGregor did not attempt to cure the insufficiencies by March 21, 2022.
20. On March 29, 2022, Commission Staff filed a motion to dismiss, without prejudice, under 16 TAC § 22.181(d)(7) for failure to amend an application such that it is sufficient after repeated determinations that the application is insufficient.

21. The deadline for McGregor to respond to Commission Staff's motion to dismiss was April 18, 2022.
22. McGregor did not respond to the motion to dismiss.
23. McGregor has filed nothing in this docket since requesting a deadline extension on August 13, 2021.
24. No hearing was held on the motion to dismiss.

I. 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.
2. 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.
3. 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 PFD.
4. McGregor failed to amend its application such that it is sufficient after repeated determinations that the application was insufficient, thereby warranting dismissal of this proceeding, without prejudice, under 16 TAC § 22.181(d)(7).

II. Ordering Paragraphs

In light of the findings of fact and conclusions of law, the ALJ recommends the following ordering provisions.

1. The Commission dismisses, without prejudice, this application due to McGregor's failure to amend an application such that it is sufficient after repeated determinations that the application is insufficient.
2. The Commission denies all other motions, and any other requests for general or special relief if not expressly granted.

Signed at Austin, Texas the 20th day of May 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink that reads "Katie Moore Marx". The signature is written in a cursive, flowing style.

KATIE MOORE MARX
ADMINISTRATIVE LAW JUDGE