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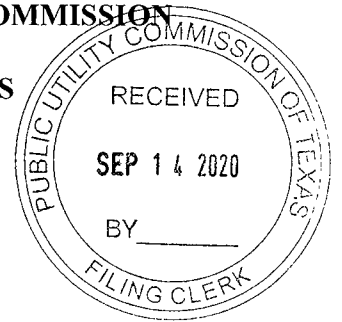
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PUC DOCKET NO. 51158

PETITION OF JOHNSTON LEGAL §
GROUP AND FRANK CARVALHO TO §
AMEND MOUNTAIN PEAK SPECIAL §
UTILITY DISTRICT'S CERTIFICATE §
OF CONVENIENCE AND NECESSITY §
IN JOHNSON COUNTY BY §
STREAMLINED EXPEDITED RELEASE §

PUBLIC UTILITY COMMISSION
OF TEXAS



MOUNTAIN PEAK SUD'S REQUEST
FOR CLARIFICATION OF DOCKET DEADLINES

Mountain Peak Special Utility District (“Mountain Peak”) hereby submits this Request for Clarification of Docket Deadlines. The Administrative Law Judge’s Order No. 3, likely inadvertently, overlooks a previous set deadline for Mountain Peak’s response. If enforced, the old deadline in Order No. 1 would require Mountain Peak to respond to the Petition before it is deemed administratively complete and while Mountain Peak’s objection to Commission Staff’s recommendation concerning the Petition’s administrative completeness remains pending. Mountain Peak therefore respectfully requests that the deadlines be clarified to comport with Commission Rule 24.245(h)(6), which establishes that a CCN holder’s response to a petition for expedited decertification will not be required until *after* the petition is deemed administratively complete.

I. THE DOCKET’S CURRENT DEADLINES REQUIRE MOUNTAIN PEAK TO RESPOND TO JOHNSTON’S PETITION BEFORE IT HAS BEEN DEEMED ADMINISTRATIVELY COMPLETE.

On August 11, 2020, Johnston Legal Group and Frank Carvalho (collectively “Johnston”) filed with the Public Utility Commission of Texas (“the Commission”) a petition for expedited release of an approximately 59-acre tract (the “Property”) that lies within the boundaries of Mountain Peak’s existing Certificate of Convenience and Necessity (“CCN”) No. 10908 in

Johnson County (the “Petition”).¹ The Administrative Law Judge (“ALJ”) set the procedural schedule in the Docket, requiring Commission Staff’s comments on the administrative completeness of the petition and notice by **September 10, 2020**, and requiring Mountain Peak to submit a response to the Petition by **September 17, 2020**.²

Mountain Peak intervened in the proceeding,³ and on September 10, 2020, Commission Staff filed its Recommendation on Administrative Completeness and Notice.⁴ In its recommendation, Staff advised the Commission that, although it believed the Petition to be administratively complete, the Petition should be “restyled” to correct a defect in the parties named in the petition.⁵ Mountain Peak objected to the recommendation, explaining that the Petition is fatally defective because one of the Petitioners, the Johnston Legal Group, has not demonstrated ownership of the Property.⁶ Mountain Peak urged the Commission to dismiss the Petition without prejudice to refiling.⁷

On September 11, the ALJ issued an order requiring Johnston and Commission Staff to respond to Mountain Peak’s objection.⁸ Johnston is required to respond by **September 18, 2020**, and Commission Staff is required to respond by **September 24, 2020**. In accordance with Order No. 3, the administrative completeness of the Petition remains pending.

Order No. 3 did not, however, adjust the previously set deadline for Mountain Peak to respond to the Petition, which as explained above, is set for **September 17, 2020**. If this deadline

¹ *Petition of Johnston Legal Group and Frank Carvalho to Amend Mountain Peak Special Utility District’s Certificate of Convenience and Necessity in Johnson County by Expedited Release*, Docket No. 51158.

² *Id.* Order 1.

³ *Id.* Order 2 (granting Mountain Peak’s Motion to Intervene).

⁴ *Id.* Staff Recommendation, Sept. 10, 2020.

⁵ *Id.*

⁶ *Id.* Mountain Peak SUD’s Objection to Commission Staff’s Recommendation of Administrative Completeness, Sept. 10, 2020.

⁷ *Id.*

⁸ *Id.* Order 3.

remains in force, Mountain Peak will be required to respond to a petition that has not been declared administratively complete. Commission Rule 24.245(h)(6) provides that a petition for expedited decertification must be deemed administratively complete before the current CCN holder's response is due. Rule 24.245(h)(6) states:

The current CCN holder may file a response to the petition within a timeframe specified by the presiding officer, not to exceed 20 days *from the date the petition is determined to be administratively complete*.⁹

Accordingly, the Commission should clarify or reset the deadlines to comport with Rule 24.245(h)(6), requiring Mountain Peak to respond to Johnston's Petition *after* it has been declared administratively complete.

**II. MOUNTAIN PEAK'S OBJECTION TO THE PETITION REMAIN PENDING;
REQUIRING MOUNTAIN PEAK TO RESPOND BEFORE THE OBJECTION IS
RESOLVED WOULD POTENTIALLY WASTE COMMISSION RESOURCES.**

Additionally, and in accordance with Order No. 3, Mountain Peak's objection to Commission Staff's recommendation regarding the administrative completeness of the Petition remains pending.¹⁰ The relief requested by Mountain Peak's objection—dismissal of the Petition without prejudice to refiling—would moot any response Mountain Peak would file at this stage. Yet, under the current Docket deadlines, Mountain Peak's deadline to respond to the Petition (which has not been deemed administratively complete) is **September 17, 2020**, *before* Johnston's and Commission Staff's responses to Mountain Peak's objections are due—**September 18 and 24, 2020**, respectively. Requiring Mountain Peak to respond to the Petition prior to resolution of its objection, would potentially waste Commission resources.

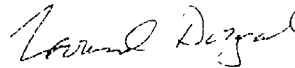
⁹ 16 Tex. Admin. Code § 24.245(h)(6) (emphasis added).

¹⁰ *Petition of Johnston Legal Group and Frank Carvalho to Amend Mountain Peak Special Utility District's Certificate of Convenience and Necessity in Johnson County by Expedited Release*, Docket No. 51158, Order 3.

CONCLUSION AND REQUESTED RELIEF

Based on the foregoing, Mountain Peak respectfully requests that the Commission clarify that the deadline for Mountain Peak to respond to the Petition, which is currently set for September 17, 2020, will be reset in accordance with Commission Rule 24.245(h)(6) for a date not to exceed 20 days after the Petition is found to be administratively complete.

Respectfully submitted,

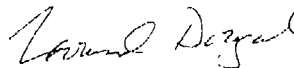


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ATTORNEYS FOR MOUNTAIN PEAK
SPECIAL UTILITY DISTRICT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the forgoing was served on all parties of record in this proceeding on the 14th day of September, 2020 by hand delivery, facsimile, electronic mail, First Class U.S. Mail, or overnight delivery.



Leonard H. Dougal