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Received - 2021-10-05 10:11:19 AM
Control Number - 51170
ItemNumber - 45

DOCKET NO. 51170

APPLICATION OF THE CITY OF	§	PUBLIC UTILITY COMMISSION
SWEETWATER TO AMEND A	§	
CERTIFICATE OF CONVENIENCE	§	OF TEXAS
AND NECESSITY IN NOLAN COUNTY	§	

ORDER NO. 15

DENYING MOTION TO ABATE, GRANTING MOTION FOR SUBSTITUTION OF ATTORNEY OF RECORD, AND ADOPTING REVISED PROCEDURAL SCHEDULE

This Order addresses the September 20, 2021 motion for abatement of this proceeding filed by Commission Staff and the September 29, 2021 motion for substitution of attorney of record filed by Bitter Creek Water Supply Corporation in this case.

I. Motion for Abatement

On September 20, 2021, Commission Staff moved to abate this proceeding pending the final resolution of Docket No. 52443.¹ Commission Staff states that to the extent the amendment to certificate of convenience and necessity (CCN) number 10228, including the construction and extension of any waterlines or other facilities needed to serve the requested area, is within the scope of Bitter Creek WSC's petition in Docket No. 52443, that issue must be resolved before this docket can proceed because the precise scope of the relief sought by Bitter Creek WSC is not clearly defined. On September 27, 2021, the City of Sweetwater filed its opposition to Commission Staff's motion to abate.

The administrative law judge (ALJ) believes that the only relevant issues in this proceeding concern whether (1) the CCN amendment is necessary for the service, accommodation, convenience, or safety of the public;² and (2) whether the applicant possesses the financial, managerial, and technical capability to provide continuous and adequate service to the requested area.³ While Commission Staff is required to evaluate the potential effect of the requested amendment on any adjacent retail public utilities, it is only one of many factors considered by the Commission and the Commission is not ultimately constrained from granting a CCN or CCN

¹ *Petition of Bitter Creek Water Supply Corporation for a Cease And Desist Order Against the City Of Sweetwater*, Docket No. 52443 (pending).

² Texas Water Code (TWC) § 13.246(b).

³ TWC § 13.241(a).

amendment to land that borders land covered by another retail public utility's CCN.⁴ Accordingly, the ALJ does not believe abatement is appropriate at this time and denies Commission Staff's request for abatement. If Commission Staff does not have sufficient information to make a recommendation at this time, it may conduct additional discovery to that effect. If Commission Staff's recommendation on whether to grant or deny the CCN amendment ultimately hinges on the effect on Bitter Creek WSC and the outcome of Docket No. 52443, it may re-urge its motion to abate this proceeding at that time.

II. Motion for Substitution of Attorney of Record

In its September 29, 2021 motion, Bitter Creek requests that Simon W. Hendershot, III of Hendershot Cowart, PC, be designated as its attorney of record.

The ALJ grants the motion. Les Romo, of the Law Offices of Les Romo, is withdrawn as the attorney of record for Bitter Creek, and Simon W. Hendershot, III, of Hendershot Cowart, PC, is hereby substituted as the attorney of record for Bitter Creek. All parties should update their service lists accordingly.

III. Adopting Revised Procedural Schedule

The ALJ adopts the following procedural schedule for further processing of this docket.

Event	Date
Deadline for Commission Staff to provide final maps, certificate, and tariffs (if applicable) to Sweetwater for review and consent	November 4, 2021
Deadline for Sweetwater to file its consent form with the Commission	November 18, 2021
Deadline for Commission Staff to request a hearing or file a final recommendation on the application	December 3, 2021
If no hearing is requested, deadline for the parties to file joint proposed findings of fact, including findings that address the factors in Texas Water Code § 13.246(c), and conclusions of law	December 10, 2021

⁴ 16 Texas Administrative Code § 24.251.

Signed at Austin, Texas the 5th day of October 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read 'Isaac TA', with a long, sweeping horizontal stroke extending to the right.

ISAAC TA
ADMINISTRATIVE LAW JUDGE

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