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DOCKET NO. 51249

PETITION OF CROOK ROSE, INC. TO	§	BEFORE THE PUBLIC UTILITY
AMEND LINDALE RURAL WATER	§	
SUPPLY CORPORATION'S	§	COMMISSION OF TEXAS
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY IN SMITH COUNTY	§	
BE EXPEDITED RELEASE	§	

**LINDALE RURAL WATER SUPPLY CORPORATION'S MOTION TO INTERVENE,
INITIAL COMMENTS, AND REQUEST FOR RESPONSE DEADLINE**

Lindale Rural Water Supply Corporation (LRWSC) files this Motion to Intervene, Initial Comments, and Request for Response Deadline in response to Crook Rose, Inc.'s (Petitioner) Petition for Expedited Release Pursuant to Texas Water Code § 13.2541 that initiated this docket (Petition).¹ The Petition seeks to use the Commission's streamlined expedited release process to extract approximately 69.197 acres of Property (Property) from a portion of the retail water utility service area LRWSC serves under CCN No. 10758 in Smith County, Texas. However, the Petition is deficient, the Commission should not find the Petition administratively complete, and the Commission should not set a deadline requiring a substantive response from Aqua unless the Petition is deemed administratively complete.

In support, LRWSC would show as follows:

1. The name, address, and telephone number of the movant is:
Lindale Rural Water Supply Corporation
Paul King
President
P.O. Box 756
Lindale, Texas 75771
(903) 882-3335

¹ For purposes of this proceeding, the Petition is considered the Application as defined in the Commission's Procedural Rules under 16 TAC § 22.2(6).

2. The name, address, and telephone number of LRWSC's authorized representative is:

Geoffrey P. Kirshbaum
TERRILL & WALDROP
810 West 10th Street
Austin, Texas 78701
(512) 474-9100
(512) 474-9888 (fax)
gkirshbaum@terrillwaldrop.com

Service of all pleadings and other documents should be made upon LRWSC's authorized representatives.

3. LRWSC is a member-owned, non-profit corporation incorporated pursuant to Texas Water Code, Chapter 67 and the provisions of the Texas Business Organizations Code applicable to member owned member controlled non-profit corporations for the purpose of furnishing potable water service.

4. On September 3, 2020, Petitioner submitted the Petition along with an affidavit in support of same.

5. The Petition states that Petitioner mailed a copy of the Petition to LRWSC via certified mail.

6. Order No. 1 set October 12, 2020 as the "Deadline for Lindale Rural to submit a response to the petition." Order No. 1 also states, "Additional deadlines will be established after the petition is deemed administratively complete." Thus, this Motion to Intervene is timely filed.

Motion to Intervene

7. LRWSC seeks to participate in this proceeding as an Intervenor.² The Commission's rules³ define who can intervene:

² 16 TAC § 24.3(31).

³ 16 TAC § 22.103(b).

A person has standing to intervene if that person:

- (1) has a right to participate which is expressly conferred by statute, commission rule or order or other law; or
- (2) has or represents persons with a justiciable interest which may be adversely affected by the outcome of the proceeding.

8. LRWSC has a right to participate in this proceeding. The Petition is seeking a streamlined expedited release from LRWSC's CCN. Commission rules concerning streamlined expedited release petitions specifically provide, "The current CCN holder may file a response to the petition within the timeframe specified by the presiding officer, not to exceed 20 days from the date the petition is determined to be administratively complete."⁴ Further, Lindale has a justiciable interest that may be adversely affected by the outcome of this proceeding and is an "affected person" in that it is a "retail public utility affected by [the requested] action of the regulatory authority."⁵ Though the specific Property location in relation to LRWSC's CCN is unclear from the Petition, the Petition requests the Commission decertify the portion of LRWSC's water CCN No. 10758 in Smith County that includes the Property, thereby depriving LRWSC of its exclusive right to provide retail water utility service to this particular area.

9. Because the Commission rules permit a response by the CCN holder in response to the type of expedited release petition filed in this docket, because LRWSC is an affected person with respect to the Petition, and because LRWSC has a justiciable interest which may be adversely affected by the outcome of the proceeding, the Commission should grant LRWSC party status as an Intervenor.

10. LRWSC hereby moves to intervene in this docket and for party status as an Intervenor.

⁴ 16 TAC § 24.245(h)(6).

⁵ TEX. WATER CODE §13.002(1); 16 TAC § 24.3(5).

Initial Comments

11. The Commission should not deem the Petition administratively complete and reject it for several reasons. Petitioner's mapping information is defective. This defect should lead the Commission to conclude the Petition should not be deemed administratively complete.

12. The Petition is defective because the maps do not reflect the specific location of the Property in relation to LRWSC's CCN.⁶ Thus, notice of what the Petitioner seeks is defective, and it is not apparent that Petitioner has complied with the PUC mapping requirements.⁷ Thus, the Petition fails to include the most basic information that would allow LRWSC to be notified concerning what specific land Petitioner seeks to remove from LRWSC's CCN and, thus, LRWSC fails to see how the Commission can make a decision about the Petition based on what was filed.

13. LRWSC has other substantive issues with the Petition that it will address if the Petition is ultimately deemed administratively complete. The Property receives water service from LRWSC.⁸ Further, service is "provided or made available" to the Property by LRWSC, and LRWSC is a federally indebted association whose service area "shall not be curtailed" under federal law.⁹ However, it is premature to require LRWSC to address those issues in light of Petitioner's administratively incomplete filing. Respectfully, LRWSC requests the Commission not deem the Petition administratively complete and, instead, reject it.

Request for Response Deadline

14. LRWSC substantively opposes the Petition and desires to file a substantive response after the Petition is determined administratively complete as permitted by 16 TAC § 24.245(h)(6) if the Petition is deemed administratively complete, but not before. The

⁶ 16 TAC § 24.245(h)(3)(C) (requiring "proof that at least part of the tract of land is located in the current CCN holder's certificated service area").

⁷ 16 TAC § 24.245(h)(3)(C).

⁸ TWC § 13.2541(b); *see also* TWC § 13.002(21) (defining "service").

⁹ 7 U.S.C.A. § 1926(b).

Commission does not consider Applications, such as the Petition, “filed until the commission makes a determination that the application is administratively complete.”¹⁰ Commission Staff has recommended that the Petition be found administratively complete,¹¹ but LRWSC does not know if the Commission will accept that recommendation and deem the Petition administratively complete. LRWSC submits the Petition should not be deemed administratively complete. The Commission should only seek a substantive response from LRWSC if the Commission finds the Petition administratively complete over LRWSC’s objections. In that event, LRWSC respectfully requests the Commission establish a deadline for LRWSC to substantively respond by November 5, 2020 as Commission Staff recommends.¹²

Conclusion and Prayer

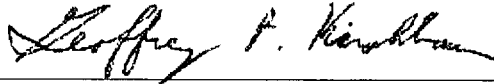
LRWSC respectfully requests the presiding Honorable Administrative Law Judge issue an order that grants LRWSC’s Motion to Intervene and either: (1) identifies deficiencies in the Petition and concludes that it is not administratively complete, or (2) sets a deadline for LRWSC’s Petition response of November 5, 2020 if the Petition is found administratively complete. If accepted for filing, LRWSC requests that the Commission deny the Petition.

¹⁰ 16 TAC §24.8(d) (applicable to applications under subchapter H of Chapter 24, which include all CCN applications).

¹¹ Commission Staff’s Comments on Administrative Completeness and Notice (Oct. 5, 2020).

¹² *Id.*

Respectfully submitted,


By: 

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**ATTORNEYS FOR LINDALE RURAL WATER SUPPLY
CORPORATION**

CERTIFICATE OF SERVICE

I hereby CERTIFY that on October 5, 2020, a true and complete copy of the above was sent to the parties of record in accordance with P.U.C. PROC. R. 22.74.


Geoffrey P. Kirshbaum