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DOCKET NO. 50244

Application of Quadvest, LP to Amend	*	Public Utility Commission
Water Certificate of Convenience and	*	of Texas
Necessity in Harris County	*	

DOCKET NO. 51431

Application of Quadvest, LP to Amend	*	Public Utility Commission
Sewer Certificate of Convenience and	*	of Texas
Necessity in Harris County	*	

OBJECTION TO ORDER NO. 1 IN DOCKET NO. 50244 AND MOTION TO ABATE

Comes now the HMW Special Utility District of Harris and Montgomery Counties ("HMW"), filing its Objection to Proposed Order No. 1 in Docket No. 50244 and Motion to Abate, and states as follows:

I.

Concurrently herewith, HMW has filed its Motion to Intervene.

II.

HMW requests judicial notice of the Commission's entire file in Docket No. 49280, in which the Commission allowed decertification of a portion of HMW's Certificate of Convenience and Necessity ("CCN") No. 10342, and of the contents of these two dockets.

III.

HMW has appealed the decertification in Docket No. 49280 of a portion of its Certificate of Convenience and Necessity No. 10342 to the 261st District Court of Travis County, Texas, in Cause No. D-1-GN-20-000905. Among its contentions to the Commission and in its appeal to the district court is that the applicant here, Quadvest, is the real applicant party in interest in Docket No. 49280.

As such, these two dockets are in furtherance of Quadvest's intention to assume immediate control of the decertified portion of HMW's CCN.

IV.

On or about November 19, 2020, HMW ascertained that the Applicant, Quadvest, LP, has already poured concrete slabs in preparation for the installation of one or more water wells, a high

pressure tank and a ground storage tank on the decertified property. See the photographs attached as Exhibits 1-10.

The record in these two dockets shows that they actually pertain to the same owner and the same property that is the subject of Docket No. 49280. Thus, these two dockets are inextricably linked to the outcome of Docket No. 49280 and its subsequent appeal.

Moreover, the practical reality is that there can be no sewer service without water service and, without water service, no necessity to provide it.

Finally, HMW is entitled to the benefit of the status quo ante until its appeal is resolved. Further, Quadvest is not entitled to obtain water or sewer service until its right to do so is confirmed on appeal, in the event that is the result.

V.

Accordingly, HMW objects to and requests reconsideration of Order No. 1 in Docket No. 50244. As noted above, these two dockets are linked to the ongoing dispute about whether Quadvest is entitled to decertify any portion of HMW's CCN.

Quadvest should not be permitted to pursue **any** regulatory or construction activity that advances its ability to provide water or sewer service from the area in dispute pending resolution of the referenced appeal. It has no legal right to do so pending the referenced appeal. Neither should it be permitted to proceed on the assumption that it will prevail in the appeal.

Moreover, gaining authority to provide sewer service is not an actual issue for Quadvest in the absence of authority to provide water service, which it cannot do unless and until the referenced appeal is resolved in its favor. Thus, no real difference calls for separate proceedings on these two forms of utility service.

In addition, Quadvest is not authorized to commence the construction of water and/or sewer service facilities on the property, subject to the decertification proceeding, which it is clearly now doing.

Finally, the referenced construction activities are additional violations of Water Code Section 13.252, given that they constitute an interference by Quadvest of the CCN and operations of HMW. While that issue is not directly at issue in these proceedings, they are at issue in Docket No. 49280 and its appeal, which are the purported legal basis for these two applications. Nevertheless, the record in both these dockets and the dispute on appeal, together with Quadvest's construction activities on the

subject property, demonstrate that it is and has always been the real applicant party in interest. As a CCN holder itself, that means that Quadvest continues to interfere with the use and operation by HMW of CCN No. 10342.

For the foregoing reasons, the Commission should vacate its Order No. 1, dispose of the two applications in a single proceeding that takes account of the pending appeal of Docket No. 49280, and treats Quadvest's requests to amend for what they actually are, which is a global request to proceed with water and sewer service at the earliest opportunity, regardless of HMW's right to maintain the status quo pending the referenced appeal.

VI.

In addition, HMW moves the Commission to abate these proceedings.

HMW incorporates by reference its arguments stated above. For the reasons noted, Quadvest is not entitled to amend its CCN in the manner it proposes unless it is successful in the referenced appeal. If it is not, it will have no right whatever to provide water or sewer service to the property in question.

Further, HMW is entitled to maintenance of the status quo ante unless and until Quadvest prevails in the decertification proceeding now on appeal. Otherwise, only HMW has an arguable right to proceed.

Accordingly, in addition to maintaining one proceeding, the Commission should abate the case pending the resolution of the referenced appeal.

Wherefore, premises considered, HMW prays that the Commission grant its Motions to Vacate and to Abate, and for such other and further relief as the Commission deems just.

Respectfully submitted,

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/s/

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Certificate of Service

I hereby certify that a true copy of the foregoing Motion to Intervene, Objection to Order No. 1 in Docket No. 50244 and Motion to Abate was served on the Applicant and the PUC staff on this 30th day of November, 2020, by electronic means as provided by the applicable rules of the Texas Public Utility Commission.

/s/

Patrick F. Timmons, Jr.