



Control Number: 51451



Item Number: 22

DOCKET NO. 51451

APPLICATION OF THE CITY OF	§	PUBLIC UTILITY COMMISSION	
BRENHAM TO AMEND A	§		
CERTIFICATE OF CONVENIENCE	§	OF TEXAS	7
AND NECESSITY AND FOR PARTIAL	§		
DUAL CERTIFICATION WITH	§		
CENTRAL WASHINGTON COUNTY	§		
WATER SUPPLY CORPORATION IN	§		
WASHINGTON COUNTY	§		

ORDER

This Order addresses the application of the City of Brenham to amend its certificate of convenience and necessity (CCN). As detailed in the findings of fact, the administrative law judge (ALJ), on multiple occasions, directed the City of Brenham to respond to orders in this proceeding. Commission Staff filed a motion to dismiss the application under 16 Texas Administrative Code (TAC) § 22.181(d)(6) for failure to prosecute. The ALJ filed a proposal for decision on January 20, 2022. The ALJ recommended that the Commission dismiss the petition, without prejudice, under 16 TAC § 22.181(d)(7) due to the applicant's failure to amend an application such that it is sufficient after repeated determinations that the application is insufficient. The Commission adopts the proposal for decision including findings of fact and conclusions of law. The Commission makes non-substantive changes for such matters as capitalization, spelling, grammar, punctuation, style, correction of numbering, and readability.

I. Findings of Fact

The Commission adopts the following findings of fact.

1. On October 22, 2020, Brenham filed its application to amend its CCN number 10343 and for partial dual certification with Central Washington County Water Supply Corporation's CCN number 12177 to reflect an expansion of Brenham's city limits in Washington County.
2. Brenham is a municipality located in Washington County.
3. Brenham owns, maintains, and controls facilities for providing retail water service under CCN number 10343.

4. In Order No. 2 filed on November 24, 2020, the administrative law judge (ALJ) found the application insufficient and ordered Brenham to cure the deficiencies by December 21, 2020.
5. Brenham did not attempt to cure the deficiencies by December 21, 2020, as required by Order No. 2.
6. On December 28, 2020, Brenham filed supplemental mapping in an attempt to cure the deficiencies.
7. In Order No. 3 filed on January 27, 2021, the ALJ found that the application remained insufficient and ordered Brenham to cure the deficiencies by March 5, 2021.
8. On March 5, 2021, Brenham filed a request for a 30-day extension of time to cure the deficiencies in its application.
9. In Order No. 4 filed on March 8, 2021, the ALJ granted Brenham's request and ordered Brenham to cure the deficiencies by April 5, 2021.
10. Brenham did not attempt to cure the deficiencies by April 5, 2021 or otherwise respond to Order No. 4.
11. In Order No. 5 filed on May 4, 2021, the ALJ found that the application remained insufficient and ordered Brenham to, by June 3, 2021, either (1) supplement the application to cure the deficiencies; (2) make a filing stating when it will be able to cure the deficiencies; or (3) withdraw the application, without prejudice to refiling.
12. On June 3, 2021, Brenham filed a request for extension of time until June 30, 2021 to respond to Order No. 5.
13. In Order No. 6 filed on June 4, 2021, the ALJ granted Brenham's request and ordered Brenham to cure the deficiencies by June 30, 2021.
14. Brenham did not attempt to cure the deficiencies by June 30, 2021 or otherwise respond to Order No. 6.
15. In Order No. 7 filed on August 2, 2021, the ALJ again found that the application remained insufficient and ordered Brenham to, by August 16, 2021, either (1) supplement the application to cure the deficiencies; (2) make a filing stating when it will be able to cure the deficiencies; or (3) withdraw the application, without prejudice to refiling. In Order

- No. 7, the ALJ also invited Commission Staff to file a motion to dismiss if Brenham failed to comply with Order No. 7.
16. Brenham did not attempt to cure the deficiencies by August 16, 2021, as required by Order No. 7.
 17. On August 30, 2021, Brenham filed a motion asking for an additional 60 days in which to cure the deficiencies in its application.
 18. In Order No. 8 filed on August 31, 2021, the ALJ granted the extension in part and ordered Brenham to, by September 15, 2021, either (1) supplement the application to cure the deficiencies; (2) make a filing stating when it will be able to cure the deficiencies; (3) withdraw the application, without prejudice to refiling; or (4) file a motion to abate. The ALJ additionally invited Commission Staff to file a motion to dismiss if Brenham failed to comply with Order No. 8.
 19. Brenham did not respond to Order No. 8 and did not attempt to cure the deficiencies in its application by September 15, 2021.
 20. On September 30, 2021, Commission Staff filed a motion to dismiss, without prejudice.
 21. The deadline for Brenham to respond to Commission Staff's motion to dismiss was October 20, 2021.
 22. Brenham did not respond to the motion to dismiss.
 23. No hearing was held on the motion to dismiss.

II. Conclusions of Law

The Commission adopts the following conclusions of law.

1. The Commission has authority over this matter under Texas Water Code §§ 13.041, 13.241, 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 proposal for decision.

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

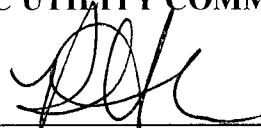
III. Ordering Paragraphs

In light of the above findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission adopts the proposal for decision, including findings of fact and conclusions of law.
2. The Commission dismisses, without prejudice, this application due to Brenham's failure to amend the application such that it is sufficient after repeated determinations that the application is insufficient.
3. The Commission denies all other motions, and any other requests for general or special relief if not expressly granted.

Signed at Austin, Texas the 1st day of March 2022.

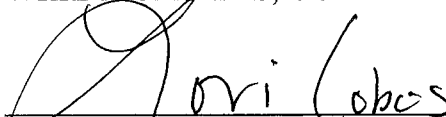
PUBLIC UTILITY COMMISSION OF TEXAS



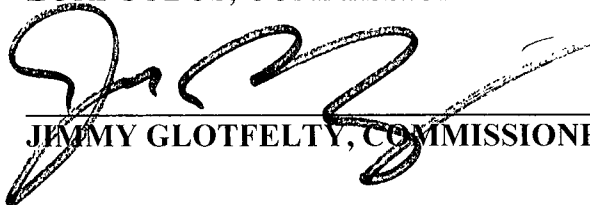
PETER M. LAKE, CHAIRMAN



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JIMMY GLOTFELTY, COMMISSIONER