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Public Utility Commission of Texas

TO: Stephen Journeay
Commission Counsel

All Parties of Record

FROM: Christina Denmark 
Administrative Law Judge

RE: **Docket No. 51872 – Application of the City of Woodway to Amend its Certificate of Convenience and Necessity and for Dual Certification with the City of Waco In McLennan County**

DATE: March 30, 2022

Enclosed is the Proposal for Decision (PFD) in the above-referenced case. By copy of this memo, the parties to this proceeding are being served with the PFD.

Please place this docket on an open meeting agenda for the Commissioners' consideration. Please notify me and the parties of the open meeting date, as well as the deadline for filing exceptions to the PFD, replies to the exceptions, and requests for oral argument.

If there are no corrections or exceptions, no response is necessary.

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DOCKET NO. 51872

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|------------------------------------|----------|----------------------------------|
| APPLICATION OF THE CITY OF | § | PUBLIC UTILITY COMMISSION |
| WOODWAY TO AMEND ITS | § | |
| CERTIFICATE OF CONVENIENCE | § | OF TEXAS |
| AND NECESSITY AND FOR DUAL | § | |
| CERTIFICATION WITH THE CITY | § | |
| OF WACO IN MCLENNAN COUNTY | § | |

PROPOSAL FOR DECISION

In this Proposal for Decision (PFD), the administrative law judge (ALJ) recommends that the Commission dismiss the application by the City of Woodway to amend its water certificate of convenience and necessity (CCN) number 10022 and for dual certification with the City of Waco's CCN number 10039 in McLennan County. The ALJ recommends the application be dismissed due to Woodway's failure to amend the application such that it is sufficient after repeated determinations that the application is insufficient, under 16 Texas Administrative Code (TAC) § 22.181(d)(7). The ALJ recommends that the dismissal be without prejudice.

I. Findings of Fact

The ALJ makes the following findings of fact.

1. Woodway is a municipality located in McClennan County.
2. Woodway holds CCN number 10022 that obligates it to provide retail water service in its certificated service area in McLennan County.
3. On March 5, 2021, Woodway filed an application to amend its CCN number 10022 and for dual certification with the City of Waco's CCN number 10039 in McClennan County.
4. In Order No. 2 filed on April 6, 2021, the ALJ found the application incomplete and insufficient for further review, and ordered Woodway to cure the deficiencies by May 5, 2021.
5. Woodway did not timely respond to Order No. 2.
6. On May 10, 2021, Woodway filed a revised application.

7. In Order No. 4 filed on June 28, 2021, the ALJ found the application remained incomplete and insufficient for further review, and ordered Woodway to cure the deficiencies by August 9, 2021.
8. Woodway did not timely respond to Order No. 4.
9. On August 13, 2021, Woodway filed supplemental information.
10. In Order No. 7 filed on October 19, 2021, the ALJ found the application remained incomplete and insufficient for further review, and ordered Woodway to cure the deficiencies by November 15, 2021.
11. Woodway did not attempt to cure the deficiencies or otherwise respond to Order No. 7.
12. In Order No. 8 filed on December 16, 2021, the ALJ found the application remained incomplete and deficient, and ordered Woodway to cure the deficiencies by January 14, 2022.
13. Woodway did not attempt to cure the deficiencies or otherwise respond to Order No. 8.
14. On February 15, 2022, Commission Staff filed a motion to dismiss without prejudice. Commission Staff stated a dismissal of this docket is appropriate because of Woodway's failure to amend the application such that it is sufficient after repeated determinations that the application is insufficient.
15. Woodway did not respond to the motion to dismiss.
16. No hearing was held on the motion to dismiss.
17. Woodway has filed nothing in this docket since August 13, 2021.

II. Conclusions of Law

The ALJ makes the following conclusions of law.

1. The Commission has authority over this matter under Texas Water Code §§ 13.241, 13.242, 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 PFD.
4. Woodway 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 accordance with these findings of fact and conclusions of law, the ALJ recommends the following ordering paragraphs.

1. The Commission dismisses Woodway's application, without prejudice, for failure to amend the application such that it is sufficient after repeated determinations that the application is insufficient.
2. The Commission denies all other motions, and any other requests for general or special relief if not expressly granted.

Signed at Austin, Texas the 30th day of March 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read "Christina Denmark", written over a horizontal line.

CHRISTINA DENMARK
ADMINISTRATIVE LAW JUDGE