



## Filing Receipt

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<b>PETITION OF RODNEY EARL</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>MOHNKE, STEPHEN LEE MOHNKE,</b>	<b>§</b>	
<b>MELVIN MAX MOHNKE, KENNETH</b>	<b>§</b>	<b>OF TEXAS</b>
<b>WAYNE MOHNKE, KATHLEEN ANN</b>	<b>§</b>	
<b>MOHNKE-BLAKELY, AND MEL</b>	<b>§</b>	
<b>MOHNKE, TRUSTEES OF THE</b>	<b>§</b>	
<b>MOHNKE LIVING TRUST, TO</b>	<b>§</b>	
<b>AMEND H-M-W SPECIAL UTILITY</b>	<b>§</b>	
<b>DISTRICT’S CERTIFICATE OF</b>	<b>§</b>	
<b>CONVENIENCE AND NECESSITY IN</b>	<b>§</b>	
<b>HARRIS COUNTY BY EXPEDITED</b>	<b>§</b>	
<b>RELEASE</b>	<b>§</b>	

**PETITIONER’S OBJECTION TO HMW APPRAISAL REPORT**

Rodney Earl Mohnke, Stephen Lee Mohnke, Melvin Max Mohnke, Kenneth Wayne Mohnke, Kathleen Ann Mohnke-Blakely and Mel Mohnke, Trustee of The Mohnke Living Trust dated December 7, 1996 ( the “Petitioner”) hereby files this Objection to HMW Appraisal Report. In support thereof, Petitioner shows the following.

**I. Introduction**

On January 11, 2022, HMW filed an “Appraisal Report per Water Code 13.254(i).” As discussed below, HMW’s filing, the conclusions HMW offers in the filing, and the manner in which HMW developed those conclusions, have no relevance to the proceedings. Accordingly, the Petitioner requests that HMW’s filing be rejected and that, in the absence of an appraisal report from HMW, the amount of compensation due be deemed to be zero.

**II. Argument**

Compensation appraisals to determine appropriate compensation for the decertification of property are dictated by Texas Water Code § 13.254(g) and 16 Tex. Admin. Code 24.245. Texas Water Code § 13.254(g) provides:

(g) For the purpose of implementing this section, the value of real property owned and utilized by the retail public utility for its facilities shall be determined according to the standards set forth in Chapter 21, Property Code, governing actions in eminent domain **and the value of personal property shall be determined according to the factors in this subsection.** The factors ensuring that the compensation to a retail public utility is just and adequate shall include: the amount of the retail public utility's debt allocable for service to the area in question; the value of the service facilities of the retail public utility located within the area in question; the amount of any expenditures for planning, design, or construction of service facilities that are allocable to service to the area in question; the amount of the retail public utility's contractual obligations allocable to the area in question; any demonstrated impairment of service or increase of cost to consumers of the retail public utility remaining after the decertification; the impact on future revenues lost from existing customers; necessary and reasonable legal expenses and professional fees; and other relevant factors. The utility commission shall adopt rules governing the evaluation of these factors. (*Emphasis added*).

As indicated, Texas Water Code § 13.254(g) provides that compensation shall be determined “according to the factors in this subsection,” and, in turn, identifies the factors to be considered.

16 Tex. Admin. Code 24.245 requires that appraisers determine the amount of compensation in accordance with subsection (j) of § 24.245, which subsection states:

- (j) Valuation of real and personal property of the former CCN holder.
  - (1) The value of real property must be determined according to the standards set forth in chapter 21 of the Texas Property Code governing actions in eminent domain.
  - (2) The value of personal property must be determined according to this paragraph. The following factors must be used in valuing personal property:
    - (A) the amount of the former CCN holder's debt allocable to service to the removed area;
    - (B) the value of the service facilities belonging to the former CCN holder that are located within the removed area;
    - (C) the amount of any expenditures for planning, design, or construction of the service facilities of the former CCN holder that are allocable to service to the removed area;

- (D) the amount of the former CCN holder's contractual obligations allocable to the removed area;
- (E) any demonstrated impairment of service or any increase of cost to consumers of the former CCN holder remaining after a CCN revocation or amendment under this section;
- (F) the impact on future revenues lost from existing customers;
- (G) necessary and reasonable legal expenses and professional fees, including costs incurred to comply with TWC §13.257(r); and
- (H) any other relevant factors as determined by the commission.

The report HMW filed on January 11, 2022 bears no relationship to Texas Water Code § 13.254(g) or 24 Tex. Admin. Code 24.254. Instead, as reflected in its title, HMW has provide an “Economic Damages Report,” based on a “business valuation” to “establish the fair market value of economic damages related to the change in zoning for the real property referred to as the Monke Acreage.” The report purports to provide a valuation for the company, based on the income approach method for valuing a company. Ultimately, the report is a “damages model” with no consideration for or discussion of Texas Water Code § 13.254(g) or 24 Tex. Admin. Code 24.254, including the specific factors those legal provisions require the appraiser to consider in developing the appraisal. HMW’s appraisal in fact identifies and discusses none of the required factors.

Because HMW failed to submit an appraisal that complies with Texas Water Code § 13.254(g) or 24 Tex. Admin. Code 24.254, HMW has failed to submit an appraisal as required by Texas Water Code § 13.254 and 24 Tex. Admin. Code 24.254. Pursuant to 16 Tex. Admin. Code 24.254(g)(6), if the former CCN holder fails to submit an appraisal pursuant to 16 Tex. Admin. Code § 24.254 within the timeframes required by the rules, “**the amount of compensation to be paid will be deemed to be zero.**” 16 Tex. Admin. Code 24.254(g)(6) (*emphasis added*). Because HMW failed to file a timely appraisal report pursuant to 24 Tex.

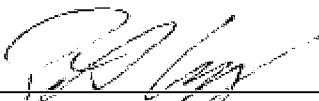
Admin. Code § 24.254, 24.254(g)(6) requires (without discretion) that the amount of compensation be deemed to be zero.

### III. Prayer

Accordingly, the Petitioner hereby requests a determination, pursuant to 16 Tex. Admin. Code § 13.254(g)(6) that no compensation is owed to HMW.

Respectfully submitted,

**Gregg Law PC**



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## **CERTIFICATE OF SERVICE**

By my signature above, I certify that on the 24th day of January, 2022 the foregoing document was serviced via first class mail and/or email to the following:

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