



Filing Receipt

Received - 2022-03-29 10:34:32 AM
Control Number - 51973
ItemNumber - 58

DOCKET NO. 51973

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

**PETITIONER’S REPLY TO RESPONSE TO MOTION TO COMPEL AND RESPONSE
TO MOTION TO EXTEND DATE OF FILING FOR MOTION FOR REHEARING**

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 Reply to Response to Motion to Compel and Response to Motion to Extend Date of Filing for Motion for Rehearing. Petitioner addresses both of HMW’s motions in this single pleading because both motions involve the same issues and demand the same result.

Petitioner filed a motion to compel on March 14, 2022 (Petitioner’s “Second Motion to Compel;” Docket Id. No. 51) seeking to compel HMW’s compliance with its statutory obligation to provide proof of the real property recording required in Tex. Water Code 13.257(r) and (s), as ordered by the Commission order approving the decertification (Docket Id. No. 34). Two months after the deadline to satisfy that obligation, HMW files a baseless response to Petitions motion to compel asserting it has no current obligation to comply with the statutory provisions and order requirements.

In support, HMW first argues that the Commission order is not final. The Commission order is, by any interpretation of administrative law, a final agency action, and thus a final order. The order, containing findings of fact, conclusions of law, and ordering provisions, was properly adopted by the Commissioners pursuant to Commission action at its November 2, 2021 Open Meeting. There is no reasonable argument that the order is not a final agency action. The suggestion that the related compensation proceeding somehow undermines the finality of the order is without merit or support. HMW filed a motion for reconsideration of that final order on November 23, 2021 (Docket Id. No. 37). Nowhere in that motion for rehearing did HMW suggest that the final order for which it sought reconsideration was not, in fact, a final order. The Commissioners declined to consider the motion for rehearing (Docket Id. No. 38), thus leaving the final order in effect. The order is unambiguous in ordering that “the Commission amends CCN number 10342.” (Ordering Provision No. 3.) It is equally unambiguous in its requirement that HMW “file in this docket proof of the recording required in TWC § 13.257(r) and (s) within 45 days of the date of this Order.” (Ordering Provision No. 6).

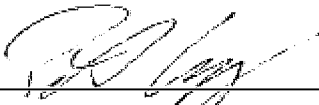
HMW next argues that recording the amendment “would be a fraud on the public.” HMW cannot decide that it does not like the obligation imposed on it by the Texas Legislature. The statute could not be more clear in requiring the utility to record any amendment to its CCN (“A utility service provider shall . . . record in the real property records . . . any amendment to the certificate . . .”) Tex. Water Code. 13.257(r)(1)). The final Commission order amended the certificate, thus triggering the statutory recording obligation. The final Commission order separately imposed the statutory recording obligation. There can be no “fraud on the public,” because the CCN has, in fact, been amended, by a final order of the Commission.

HMW's motion to extend the date for the motion for rehearing is based on the assertion that the November 2, 2022 Commission order is not a final order. As discussed above, HMW is incorrect in that assertion. Accordingly, HMW's argument does not provide a reasonable basis to extend the deadline for HMW to file a motion for rehearing.

Accordingly, Petitioner reurges that its Second Motion to Compel be granted, requests that HMW's motion to extend the date for the motion for rehearing be denied, and for such other relief as may be granted.

Respectfully submitted,

Gregg Law PC

A handwritten signature in black ink, appearing to read "Peter T. Gregg", is written over a horizontal line.

Peter T. Gregg
State Bar No. 00784174
910 West Ave., No. 3
Austin, Texas 78701
Phone: 512-522-0702
Fax: 512-727-6070
pgregg@gregglawpc.com

Attorneys for Petitioners

CERTIFICATE OF SERVICE

By my signature above, I certify that on the 29th day of March, 2022 the foregoing document was serviced via first class mail and/or email to the following:

Kevin R. Bartz
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7203
(512) 936-7268 (facsimile)
kevin.bartz@puc.texas.gov

Patrick F. Timmons, Jr.
1503 Buckmann Ct.
Houston, Texas 77043
pft@timmonslawfirm.com