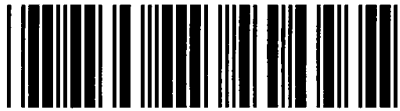


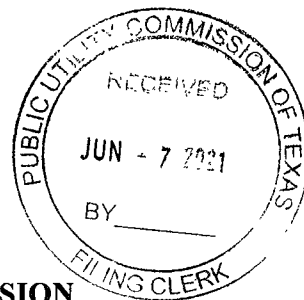


Control Number: 51973



Item Number: 9

Addendum StartPage: 0



DOCKET NO. 51973

PETITION BY 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 FOR EXPEDITED
RELEASE FROM WATER CCN
NUMBER 10342 HELD BY HMW
SPECIAL UTILITY DISTRICT

§ PUBLIC UTILITY COMMISSION
§
§ OF TEXAS
§
§
§
§
§
§
§
§
§

**PETITIONERS' RESPONSE TO HMW SPECIAL UTILITY DISTRICT'S
MOTION TO INTERVENE**

COME NOW, 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 (collectively "Petitioners") and file this response to HMW Special Utility District of Harris and Montgomery County's ("HMW") Motion to Intervene. For the reasons set forth below, Petitioners request that the Motion be denied.

I.

BACKGROUND

On April 1, 2021, Petitioners filed an application to amend HMW SUD's certificate of convenience and necessity ("CCN") in Harris County, Texas. On April 13, 2021, Petitioners filed a Supplement to Petition.

On June 6, 2021, HMW filed a "Motion to Intervene." Petitioners hereby request that the Administrative Law Judge deny HMW's request to intervene, based on the following discussion.

II.

DISCUSSION

By Order No. 1, the ALJ established a deadline of May 10, 2021 for HMW to move to intervene. With no explanation of justification, HMW presents its motion to intervene twenty-five

days after the deadline. HMW is not naïve to this process, having sought to impede proper decertification and STM requests across several dockets. HMW cannot profess to be unaware of the relevance and significance of the procedural deadlines, particularly having had another motion to intervene denied on that basis. (Docket Id. No. 50244-31). HMW knows the rules and has, once again, opted to ignore the rules, to the detriment of the Applicant's substantive rights.

The Commission Rules provide for consideration of late-filed requests to intervene, in limited circumstances, as set forth in 16 Tex. Admin. Code § 22.104. In considering a late-filed request, the Administrative Law Judge must consider the following:

- (A) any objections that are filed;
- (B) whether the movant had good cause for failing to file the motion within the time prescribed;
- (C) whether any prejudice to, or additional burdens upon, the existing parties might result from permitting the late intervention;
- (D) whether any disruption of the proceeding might result from permitting late intervention; and
- (E) whether the public interest is likely to be served by allowing the intervention.

Addressing those late-filing criteria in turn, Petitioners hereby object to the motion to intervene and asks the Administrative Law Judge to consider these objections pursuant to 22.104(d)(1)(A). Regarding 22.104(d)(1)(B), the movant does not have good cause for failing to file the motion within the time prescribed, having presented no explanation for the late filing. Addressing 22.104(d)(1)(C) ("whether any prejudice to, or additional burdens upon, the existing parties might result from permitting the late intervention") and 22.104(d)(1) (D) ("whether any disruption of the proceeding might result from permitting late intervention"), HMW's motion to intervene could result in substantial delay and therefore substantial burden on Petitioners. Fundamentally, HMW's request to intervene could be the sole cause of any decision by Commission Staff to request a hearing on the merits instead of filing a final recommendation on the application. That could result in substantial delay in final consideration of this application and ultimate delay in Petitioners' ability to decertify the area and obtain new service to the subject area. That, in turn, would have significant implications for the development of the subject area by the entities responsible for the development of the tract.

Addressing 22.104(d)(1)(E) (“Whether the public interest is likely to be served by allowing the intervention”), the public interest would be significantly impacted by granting the motion to intervene. As indicated, granting the motion to intervene could result in delay to the provision of service to the subject tract, thus delaying service to customers that have been anticipating service within a certain timeline based on the absence of a motion to intervene in the docket.

Conversely, there is no public interest to be served by allowing the intervention. HMW simply seeks by this late filing, as it has done across so many other filings, to improperly deny the provision of sewer service in areas that are properly subject to decertification from HMW’s service areas.


III.

CONCLUSION

For the reasons stated, Petitioners respectfully request that HMW’s request to intervene be denied.

Respectfully submitted,

DuBois, Bryant & Campbell, LLP

By: 

Peter T. Gregg
State Bar No. 00784174
303 Colorado, Suite 2300
Austin, Texas 78701
pgregg@dbcllp.com
(512) 457-8000
(512) 457-8008 (fax)

CERTIFICATE OF SERVICE

I certify by my signature above that on the 7th day of June, 2021, a true and correct copy of the above and foregoing document was forwarded via electronic mail to all parties of record to:

Kevin R. Bartz
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
kevin.bartz@puc.texas.gov

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