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PUC DOCKET NO. 51979

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PETITION BY SIG MAGNOLIA LP §
FOR EXPEDITED RELEASE §
FROM WATER CCN NO. 11052 §
HELD BY DOBBIN PLANTERSVILLE §
WATER SUPPLY CORPORATION §

BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

SIG MAGNOLIA LP’S RESPONSE TO MOTION FOR LEAVE TO REPLY

TO THE PUBLIC UTILITY COMMISSION OF TEXAS:

COMES NOW, SIG Magnolia LP (Petitioner) and files this Response to Dobbin Plantersville Water Supply Corporation’s (Dobbin Plantersville) Motion for Leave to Reply and would show the following:

BACKGROUND

On April 5, 2021, Petitioner filed a petition with the Public Utility Commission of Texas (PUC) for expedited release from Dobbin Plantersville Water’s water certificate of convenience and necessity (CCN) No. 11052 pursuant to Texas Water Code § 13.2541 and 16 Texas Administrative Code (TAC) § 24.245. Petitioner supplemented the petition with revised maps on April 26, 2021.

On May 4, 2021, Dobbin Plantersville filed a motion to intervene. On May 5, 2021, the Commission Staff filed a request for an extension, which was granted and a new order revising deadlines was issued on May 6, 2021. On May 7, 2021, Dobbin Plantersville filed a request for an extension to file its response to the petition, which was granted and a new order revising the deadlines was issued the same day.

On May 27, 2021, Commission Staff recommended that the petition, as supplemented, be found administratively complete.

Dobbin Plantersville filed a response to the petition and a Motion to Dismiss on June 17, 2021. The Petitioner filed its Response to SIG Magnolia LP's Petition for Streamlined Expedited Release and Motion to Dismiss on June 24, 2021. Dobbin Plantersville filed a Motion for Leave to Reply on June 24, 2021, seeking 28 days to file a reply. Dobbin Plantersville filed a Supplemental Motion to Dismiss on June 25, 2021.

ARGUMENT

Pursuant to the Commission's procedural rules in 16 Tex. Admin. Code section 22, a party only has a right to file a response to a motion. *See* 16 TAC § 22.77(b). There is no mechanism in the rules that provides a party with the right to file a reply to a response. Further, if a party seeks for the Commission to grant an exception to its rules, it must show good cause. *See* 16 TAC § 22.5(b) ("Notwithstanding any other provision of this chapter, the presiding officer may grant exceptions to any requirement in this chapter . . . for good cause.") In similar pleadings, the Administrative Law Judges and the Commission have determined that "[t]he Commission's procedural rules governing both general and discovery motions do not provide for replies to responses absent a showing of good cause." *See, e.g., Application of Entergy Gulf States, Inc., for Authority to Reconcile Fuel and Purchased Power Costs*, Docket No. 32710, Order No. 6 at 2 (granting motion to strike reply to response).

Dobbin Plantersville seeks this Commission's leave to file a reply to SIG Magnolia's response to the Motion to Dismiss, the PUC Staff's final recommendation on the petition, and SIG Magnolia's response to the PUC Staff's final recommendation, but has shown no good cause as to why it should be entitled to file replies not contemplated in the PUC rules. In fact, Dobbin Plantersville had not even seen SIG Magnolia's response to the motion to dismiss, which was filed after the motion for leave to reply was filed, nor has Dobbin Plantersville seen the final

recommendation or SIG Magnolia's response to the same. Further, Dobbin Plantersville filed a supplemental motion to dismiss on June 25, 2021. Dobbin Plantersville has had ample opportunity to make its arguments that SIG Magnolia's petition should be dismissed, and the Commission should not afford it a third bite at the apple.

In the alternative, if this Commission does find that Dobbin Plantersville is allowed to file a reply, Dobbin Plantersville should be given 5 working days to reply to SIG Magnolia's response to the motion to dismiss and to the other replies Dobbin Plantersville seeks leave to file. Dobbin Plantersville has shown no good cause as to why it should be allowed almost a full month to file a reply to SIG Magnolia's motion to dismiss, or why it should be given the opportunity to reply to the PUC Staff's final recommendation and SIG Magnolia's response to the PUC Staff's final recommendation.

CONCLUSION AND PRAYER

Wherefore, the Petitioner respectfully requests that the Commission issue an order denying Dobbin Plantersville's Motion for Leave to Reply.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that this Response was provided to all parties of record via electronic mail or regular mail on June 29, 2021, in accordance with the Order Suspending Rules, issued in Project No 50664.

Emily W. Rogers
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