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APPLICATION OF THE CITY OF	§	PUBLIC UTILITY COMMISSION
BURLESON TO AMEND ITS	§	
CERTIFICATE OF CONVENIENCE	§	OF TEXAS
AND NECESSITY IN JOHNSON	§	
COUNTY	§	

ORDER NO. 21
REQUIRING CLARIFICATION AND AMENDING PROCEDURAL SCHEDULE

On April 8, 2021, the City of Burleson filed an application to amend its certificate of convenience and necessity (CCN) number 20358 in Johnson County to decertify 7,667 acres (the requested area). In its application, Burleson states it has no facilities or customers in its extraterritorial jurisdiction, and therefore requests to remove the requested area from its CCN.

I. Dana Kendrick

On January 30, 2023, Dana Kendrick filed a letter with the Commission opposing Burleson's application to amend its CCN. Ms. Kendrick states she has a septic system and does not want Burleson to provide sewer service to her property. In Order No. 10 filed on February 6, 2023, Ms. Kendrick was given an opportunity to clarify whether she is seeking to intervene in this proceeding and clarify whether she objects to Burleson's application to decertify the requested area, which includes her property, by February 15, 2023. To date, Ms. Kendrick has not responded.

The administrative law judge (ALJ) construes Ms. Kendrick's letter as a comment in support of the decertification. There is nothing further to be done with Ms. Kendrick's letter.

II. Clarke E. Phelps, Jesus Escamilla, and Jim Renteria

On February 7, 2023, Clark E. Phelps filed a letter with the Commission requesting to be excluded from Burleson's CCN amendment to provide sewer service to his property.

On February 16, 2023, Jesus Escamilla filed a letter with the Commission requesting to be excluded from Burleson's CCN. Mr. Escamilla does not want Burleson providing sewer service to his residence.

On February 21, 2023, Jim Renteria filed a letter with the Commission requesting to be excluded from Burleson's CCN. Mr. Renteria does not want Burleson providing sewer service to his two properties.

The ALJ construes these filings as comments in support of the decertification and that these individuals are not seeking to intervene. These individuals do not want to be in Burleson's CCN area and this application is to decertify the requested area, which includes these individuals' properties, from its current CCN.

Nothing further is to be done with these three filings. However, if the parties disagree with the ALJ's interpretation, they may file a request to intervene no later than March 8, 2023.

III. Glen and Karen McGuire

On February 9, 2023, Glen and Karen McGuire filed an opt-out requesting to be excluded from the area. It is unclear from their letter whether they want their property excluded from the CCN or whether they are requesting their property to remain within Burleson's CCN.

On February 17, 2023, Burleson filed a response to the McGuires' request. To the extent the McGuires are seeking to intervene, Burleson objects because no formal request to intervene has been filed. Burleson was also unclear as to whether the McGuires would like to be included or excluded from its CCN.

Under Texas Water Code (TWC) § 13.246 and 16 Texas Administrative Code (TAC) § 24.227(i), a landowner who owns a tract of land that is at least 25 acres and that is wholly or partially located within the requested area may elect to exclude some or all of the landowner's property from the requested area by providing written notice to the Commission. No hearing is required and the requested area must be modified to remove the electing landowner's property from the CCN or CCN amendment. Under TWC § 13.246, the application must be modified "so that the electing landowner's property is not included in the proposed service area."

Burleson is not proposing to provide service to the McGuires' property—the McGuires' property is already included in Burleson's CCN. Further, it does not appear that the McGuires' tract of land is at least 25 acres. Therefore, the McGuires cannot opt out under TWC § 13.246 and 16 TAC § 24.227.

If the McGuires' intent is for their property to remain within Burleson's CCN and they wish to be involved in this proceeding, then the McGuires may file a request to intervene no later than March 8, 2023.

IV. Timothy Roach

On February 21, 2023, Timothy Roach filed a letter objecting to Burleson's CCN amendment to decertify his property from the CCN. He believes his property value will decrease if no sewer utility services are provided. Mr. Roach would like Burleson to continue to provide sewer service to his property and requests Burleson's application be denied.

On February 27, 2023, Burleson filed a response to Mr. Roach's request. To the extent Mr. Roach is seeking to intervene, Burleson objects because no formal request to intervene has been filed. Burleson further objects to Roach's demand that Burleson provide sewer service to his property.

As noted above, Mr. Roach may not opt out under TWC § 13.246 and 16 TAC § 24.227. His tract of land is not at least 25 acres and Burleson is seeking to remove his property from its CCN, not provide service to his property.

If Mr. Roach wishes to be involved in this proceeding, then he may file a request to intervene no later than March 8, 2023.

V. Jared and Autumn Wilson

On February 21, 2023, Jared and Autumn Wilson filed a letter requesting to opt out of the subtraction of their land from Burleson's CCN.

On February 27, 2023, Burleson filed a response to the Wilson's request. To the extent the Wilsons are seeking to intervene, Burleson objects because no formal request to intervene has been filed. Burleson objects to the Wilson's opt out arguing that 16 TAC § 24.227(i) is not applicable because Wilson's property is too small to qualify and the rule only applies when an applicant is seeking to have a CCN granted or amended to add a requested area, not for an application to decertify.

As noted above, the Wilsons may not opt out under TWC § 13.246 and 16 TAC § 24.227. Their tract of land is not at least 25 acres and Burleson is seeking to remove their property from its CCN, not provide service to their property.

If the Wilsons wish to be involved in this proceeding, then they may file a request to intervene no later than March 8, 2023.

VI. Procedural Schedule

The deadline for parties to file a joint motion to admit evidence, along with proposed findings of fact and conclusions of law is extended to March 17, 2023.

Signed at Austin, Texas the 1st day of March 2023.

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**