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Received - 2021-08-11 08:25:36 AM
Control Number - 52160
ItemNumber - 8

PUC DOCKET NO.: 52160

PETITION BY SEWELL FAMILY	§	PUBLIC UTILITY COMMISSION
PARTNERSHIP, LTD., FOR	§	
STREAMLINED EXPEDITIED	§	OF TEXAS
RELEASE FROM WATER CCN NO.	§	
10081 HELD BY JOHNSON	§	
COUNTY SPECIAL UTILITY	§	
DISTRICT	§	

AMENDED RESPONSE TO PETITION AND
MOTION TO RECONSIDER

**TO THE HONORABLE MEMBERS OF
THE PUBLIC UTILITY COMMISSION OF TEXAS:**

NOW COMES Johnson County Special Utility District (“JCSUD”), in the above styled and numbered cause, and makes and files this, its Amended Response to Petition, and would respectfully show the PUC as Follows:

This Amended Response and Motion to Reconsider is filed because it was recently learned that the applicant’s property is indeed served by water by JCSUD. JCSUD inadvertently believed the subject property was not currently served by JCSUD water, however, that belief was incorrect and JCSUD has learned that it is served currently.

I.
BACKGROUND

Petitioner is correct in that Texas Water Code (TWC) §13.2541 provides for an automatic release from JCSUD’s water certificate of convenience and necessity (“CCN”). However, §13.2541(g) provides for the procedure for determining the amount of compensation to the CCN holder, in this case JCSUD associated with loss of service area created by the decertification request and the costs associated with stranded service connections that will result because of any decertification.

A critical condition for expedited release initiated by a Landowner is that the property is not receiving water service. See TEX. WATER CODE § 13.2541. Upon reviewing the impact of decertification of the subject tract and the resulting stranded costs and impact upon other property owners currently served by JCSUD in the surrounding area that will be impacted, JCSUD discovered that the subject property is currently serviced with water from JCSUD.

In 2016, the property owner had the account set to auto draft and ebill service and remains an active account with a meter located at GPS coordinate 97.401688, 32.573978. The billing address for the meter is 2608 Longhorn Trail and is under the name of Jenny Sewell. This metered service is currently active and was inadvertently overlooked by JCSUD because of the automatic payment status.

As a result of the current active service, the subject property does not qualify for section 13.2541 expedited release and therefore the PUC should deny the request.

Compensation for Stranded Costs and Loss of Development

Previously, JCSUD advised the PUC that it believed it and the landowner might enter into an agreement regarding the costs to JCSUD resulting from the requested decertification. However, JCSUD also requested that the PUC order the land owner to pay the resulting costs to JCSUD and utilize the statutory provisions regarding calculation of damages and appraisers. This aspect was not addressed in the Commission Staff's Recommendation on Final Disposition. Therefore, JCSUD again requests the PUC order Applicant to pay the resulting costs of decertification to JCSUD by utilizing the statutory process and timeline regarding appointment of appraisers.

Regarding appraisers, the statute provides that the petition and certificate holder are to agree upon an appraiser to ascertain the compensation to be paid to the certificate

holder no later than 10 days following the PUC's grant of the petition (which is statutorily required within 60 days of the filing of the petition). If the parties are unable to agree upon an appraiser, then each party retains their own appraiser and the PUC appoints a third appraiser. Within 70 days of approval of the petition, each party must submit their appraisal report and within 100 days the commission must appoint the third appraiser. The appraisers are required to consider the factors delineated in §13.254(g) to determine the amount of compensation to the certificate holder. While it is now clear that the applicant does not qualify for the relief requested, JCSUD does believe it is in both parties, and the general public's best interest to utilize the above process and timeline for determine compensation should the parties not reach an agreement. Unless the PUC orders the applicant to pay the resulting costs to JCSUD, the ratepayers of JCSUD will end up paying the resulting costs of the development of applicant's property.

JCSUD believes the parties may come to an agreement regarding the amount of compensation or the joint appointment of an appraiser. In the event an agreement cannot be reached, then JCSUD requests the PUC to set a deadline of submission of appraisal reports 70 days after the commission's approval of the petition, and to appoint a third appraiser within 100 days of approval of the petition.

Based upon this new information, JCSUD respectfully requests the PUC to reconsider its previous order and based upon the newly discovered facts, deny the request for streamlined expedited release and in the event decertification is granted, order the applicant to compensate JCSUD for the losses it will sustain as a result of the decertification.

V. PRAYER

WHEREFORE PREMISES CONSIDERED, JCSUD requests the PUC reconsider its prior order and enter an order denying the request or alternatively requiring Petitioner to compensate JCSUD for its loss associated with the Petition, along with all other statutory required compensation within the statutory deadlines and grant JCSUD such further relief to which JCSUD is justly entitled.

Respectfully submitted,

/s/ D. Scott Cain

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**ATTORNEYS FOR JOHNSON COUNTY
SPECIAL UTILITY DISTRICT**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing has been forwarded this day by to all parties of record on this the 11th day of August, 2021.



D. Scott Cain