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DOCKET NO. 52310

PETITION OF ROSE HILL SPECIAL	§	PUBLIC UTILITY COMMISSION
UTILITY DISTRICT FOR CEASE AND	§	
DESIST ORDER AGAINST THE CITY	§	OF TEXAS
OF TERRELL FOR UNAUTHORIZED	§	
WATER SERVICE	§	

ROSE HILL SPECIAL UTILITY DISTRICT’S LIST OF ISSUES

Background

Petitioner Rose Hill Special Utility District (“Rose Hill”) has initiated this proceeding against the City of Terrell (“City”), alleging that the City is providing unauthorized water service within Rose Hill’s Certificate of Convenience and Necessity (“CCN”) area (CCN No. 10851) and interfering with Rose Hill’s water system. Rose Hill seeks a cease and desist order against the City under Tex. Water Code §§ 13.242 and 13.252, and 16 Texas Administrative Code § 24.255.¹

On September 1, 2022, the Public Utility Commission of Texas (“Commission”) issued an order in this proceeding stating that “[t]he Commission may issue a preliminary order that will contain a list of issues to be addressed in this docket, as well as any necessary statement of Commission policy, precedent or position on any threshold legal or policy issues relevant to this proceeding.”² The Order further states as follows:

¹ See Rose Hill Special Utility District’s First Amended Petition for Cease and Desist Order Against City of Terrell (filed Mar. 10, 2022) (“Amended Petition”).

² Order Requesting List of Issues (issued Jul. 13, 2022) (“Order”) at 1.

To assist the Commission in drafting that order, Rose Hill SUD and City of Terrell must, and Commission Staff and any other interested party may, file in this docket a list of issues to be addressed in the docket by **September 16, 2022**. This pleading may also identify any issues that should not be addressed in the docket and identify any threshold legal and policy issues that should be briefed for purposes of a preliminary order. Specific explanations shall support any issues not to be addressed or threshold issues identified in the pleading.³

Id. This list of issues is timely filed pursuant to this Order.

List of Issues

1. Is the City required to possess a CCN in order to provide, furnish, make available, render or extend retail water service to any customer(s) or area(s) within Rose Hill's CCN area, including but not limited to the customers and areas identified in Rose Hill's Amended Petition?
2. Is the City providing, furnishing, making available, or rendering retail water service to any customer(s) or area(s) within Rose Hill's CCN area, including but not limited to the customers and areas identified in Rose Hill's Amended Petition, in violation of Texas Water Code §§ 13.242, 13.247, 13.252, or 16 Tex. Admin. Code § 24.225?
3. Is the City interfering or attempting to interfere with the operation of a line, plant, or system of Rose Hill in violation of Tex. Water Code § 13.252?
4. Is the City providing retail water service within Rose Hill's certificated area without first having obtained a CCN from the Commission that includes the areas being served by the City, in violation of Tex. Water Code § 13.247 or 16 Tex. Admin. Code § 24.255?
5. With respect to each customer or area within Rose Hill's CCN that the City is providing or offering water service to, or which the City is interfering or attempting to interfere with Rose Hill's provision of service to, including but not limited to those customers and areas identified in Rose Hill's Amended Petition, was Rose Hill's petition timely filed under 16 Tex. Admin. Code § 24.255(b)?
 - a. With respect to each such customer or area, when did Rose Hill become aware of the City's alleged interference, or provision or offering of service?
 - b. With respect to each such customer or area, did Rose Hill file the petition within 180 days of becoming aware of the City's alleged interference, or provision or offering of service?
 - c. With respect to each customer or area, if any, for which it is determined that Rose Hill did not file the petition within 180 days of becoming aware of the City's interference,

³ *Id.*

or unlawful provision or offering of service, does good cause exist for Rose Hill's failure to file its petition within those 180 days?

6. If the City is found to have violated of the applicable provisions of the Texas Water Code and Texas Administrative Code, then what are the appropriate remedies?

7. What agreements or purported agreements (*e.g.*, between Rose Hill and the City), if any, have the potential to affect any of the issues in this proceeding.

Issues that Should not be Addressed in this Docket

The ALJ should not address any legal issues related to the validity or enforceability of any agreement or purported agreement identified in the proceeding (see Issue No. 7, above), as such issues are outside of the Commission's jurisdiction.

Rose Hill reserves the right to add to or amend this proposed list of issues.

Respectfully submitted,



By: _____

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**ATTORNEYS FOR ROSE HILL SPECIAL
UTILITY DISTRICT**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was transmitted to counsel of record in this proceeding via email on September 16, 2022.

A handwritten signature in black ink, appearing to read "Drew Miller", is positioned above a horizontal line.

Andrew S. "Drew" Miller