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Received - 2021-12-14 04:45:46 PM

Control Number - 52551

ItemNumber - 10

DOCKET NO. 52551

JOINT PETITION OF BLACKLAND	§	PUBLIC UTILITY COMMISSION
WATER SUPPLY CORPORATION AND	§	
THE CITY OF ROCKWALL FOR	§	OF TEXAS
APPROVAL OF SERVICE-AREA	§	
CONTRACT UNDER TEXAS WATER	§	
CODE § 13.248 AND TO AMEND	§	
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY UNDER TEXAS	§	
WATER CODE § 13.254(a) IN	§	
ROCKWALL COUNTY	§	

ORDER NO. 2
FINDING APPLICATION DEFICIENT, ESTABLISHING
DEADLINES AND OPPORTUNITY TO CURE, AND PROVIDING NOTICE OF
INTENT TO SEVER

I. BACKGROUND

In Order No. 1 filed on September 15, 2021, the administrative law judge (ALJ) asked a number of questions and directed Commission Staff to, by October 11, 2021, provide responses to the questions and make recommendations on administrative completeness and sufficiency of notice.

Commission Staff made such a filing on October 11, 2021. In it, Commission Staff agreed that the petition of Blackland Water Supply Corporation and the City of Rockwall could not be granted in its current form, recommended that the petition be found administratively incomplete, stated that it was still considering the issue of notice, and asked that the style of the case be changed.

The ALJ has issued no orders since Order No. 1. Nevertheless, the parties have continued filing pleadings. On October 11, 2021, Blackland WSC and Rockwall stated that they agreed with all of Commission Staff's recommendations. On November 10, 2021, Blackland WSC and Rockwall again stated that they agreed with Commission Staff's recommendations and provided copies of annexation ordinances and attempted to cure various mapping deficiencies identified by Commission Staff. On November 17, 2021, Blackland WSC and Rockwall attempted to cure various other mapping deficiencies identified by Commission Staff. On December 1, 2021, Commission Staff asked for clarification of deadlines for this case.

II. ADMINISTRATIVE COMPLETENESS, SUFFICIENCY OF NOTICE, AND NOTICE OF INTENT TO SEVER

On December 10, 2021, Commission Staff recommended that the petition be found administratively complete, and that all notice requirements should be waived.

The ALJ disagrees with Commission Staff's recommendation as to administrative completeness and finds the application administratively incomplete and deficient. At this time, the record consists, in essence, of the following:

- An application requesting X;
- Commission Staff's recommendation that X cannot be granted and that the application should be read as one requesting Y; and
- Agreement from the applicants that their application should be read as one requesting Y.

What is missing, however, is an actual application requesting Y. Therefore, if the applicants agree that what they are actually requesting is:

- (1) to have the agreements reflected in Exhibits B-1, B-2, and B-4 to be processed under Texas Water Code (TWC) § 13.255(a); and
- (2) to have the agreements reflected in Exhibits B-3 and D-1 to be processed under TWC § 13.254(a);

then they should file an amended application seeking such relief.

Under 16 Texas Administrative Code (TAC) § 24.8(d), the Commission does not consider an application filed until it makes a determination that the application administratively complete. Thus, at this time the application is not considered filed with the Commission.

By January 14, 2022, the applicants must file an amended petition that accurately states the relief they seek. By February 14, 2022, Commission Staff must file comments on the administrative completeness of the amended petition and sufficiency of notice, and propose a procedural schedule, if appropriate.

At this time, the ALJ denies Commission Staff's request that the docket be restyled. The ALJ suspects that the amended petition will include a revised style that more accurately reflects what is being sought.

The ALJ is not prepared to rule on Commission Staff's recommendations as to notice. Once the amended petition is filed, the parties can restate their notice arguments.

Under 16 TAC § 22.34(b), the ALJ may, on his own initiative and after providing prior notice to the parties, order the severance of proceedings if he finds that severance would serve the interests of efficiency or prevent unwarranted expense or delay. The parties are hereby notified that the ALJ believes this case warrants severance into two dockets – one involving the agreements reflected in Exhibits B-1, B-2, and B-4 and TWC § 13.255(a), and the other involving the agreements reflected in Exhibits B-3 and D-1 and TWC § 13.254(a).

Further, by January 14, 2022, Commission Staff and the applicants must each file a response explaining whether they agree or disagree that severance is warranted. Alternatively, the applicants may, by the same date, simply file two petitions—an amended petition in this docket dealing with Exhibits B-1, B-2, and B-4 and TWC § 13.255(a), and a new petition in a new docket number addressing Exhibits B-3 and D-1 and TWC § 13.254(a).

Signed at Austin, Texas the 14th day of December 2021.

PUBLIC UTILITY COMMISSION OF TEXAS



HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE