



Control Number: 52553



Item Number: 15

**DOCKET NO. 52553**

<b>APPEAL OF BROCOSKEY &amp;</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>SHONNAH MAXIE APPEALING THE</b>	<b>§</b>	
<b>COST OF OBTAINING SERVICE</b>	<b>§</b>	<b>OF TEXAS</b>
<b>FROM THE CONSOLIDATED WATER</b>	<b>§</b>	
<b>SUPPLY CORPORATION</b>	<b>§</b>	

**ORDER**

This Order addresses the petition of Brocoskey and Shonnah Maxie appealing the cost of obtaining water service from Consolidated Water Supply Corporation. The administrative law judge (ALJ) ordered the Maxies to cure deficiencies with their application. On the motion of Commission Staff, the ALJ extended the deadline for the Maxies to amend their application after the Maxies failed to meet the original deadline. After the Maxies failed to file a response by the extended deadline, Commission Staff filed a motion to dismiss.

The ALJ filed a proposal for decision recommending the Commission dismiss the application without prejudice for failure to prosecute.<sup>1</sup> The Commission adopts the proposal for decision, including findings of fact and conclusions of law; adds finding of fact 9A to establish that the Maxies' failed to prosecute their appeal; and revises proposed conclusion of law 4 so that it is a proper conclusion of law. The Commission also makes non-substantive changes for such matters as capitalization, spelling, grammar, punctuation, style, correction of numbering, and readability.

**I. Findings of Fact**

The Commission adopts the following findings of fact.

1. On September 10, 2021, Brocoskey and Shonnah Maxie filed an appeal of the decision of Consolidated WSC affecting the amount to be paid to obtain water service under Texas Water Code (TWC) § 13.043(g) and 16 Texas Administrative Code (TAC) § 24.101(g).

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<sup>1</sup> See 16 Tex. Admin. Code § 22.181(d)(6).

2. In Order No. 2 filed on October 12, 2021, the ALJ found the appeal insufficient for further processing and directed the Maxies to cure the insufficiencies by October 26, 2021.
3. The Maxies did not file information to cure the insufficiencies, or otherwise respond to Order No. 2, by October 26, 2021.
4. On November 22, 2021, Commission Staff requested an extension, after conferring with the Maxies, to allow the Maxies to file information to cure the insufficiencies in their appeal.
5. In Order No. 3 filed on November 23, 2021, the ALJ granted the extension and ordered the Maxies to cure the insufficiencies by December 6, 2021.
6. The Maxies did not file information to cure the insufficiencies in their appeal by December 6, 2021 or otherwise respond to Order No. 3.
7. On December 20, 2021, Commission Staff filed a motion to dismiss under 16 TAC § 22.181(d)(6) for failure to prosecute.
8. The Maxies did not respond to Commission Staff's motion to dismiss.
9. The Maxies have made no filings in this matter since September 10, 2021.
10. No hearing was held on the motion to dismiss.

## **II. Conclusions of Law**

The Commission adopts the following conclusions of law.

1. The Commission has authority over this matter under TWC § 13.043(g).
2. Under 16 TAC § 22.181(d)(6), the ALJ may recommend to the Commission that it dismiss a proceeding, with or without prejudice, for failure to prosecute.
3. Under 16 TAC § 22.181(f)(2), dismissal of a case for reasons other than those specified in 16 TAC § 22.181(g)(1) or (2) requires preparation of a proposal for decision.
4. The Maxies' failure to prosecute warrants dismissal of this proceeding without prejudice for failure to prosecute under 16 TAC § 22.181(d)(6).

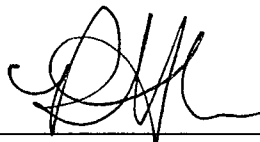
### III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission adopts the proposal for decision, including findings of fact and conclusions of law.
2. The Commission dismisses the appeal, without prejudice, due to the Maxies' failure to prosecute.
3. The Commission denies all other motions, and any other requests for general or specific relief if not expressly granted.

Signed at Austin, Texas the 21<sup>st</sup> day of April 2022.

#### PUBLIC UTILITY COMMISSION OF TEXAS



PETER M. LAKE, CHAIRMAN



WILL MCADAMS, COMMISSIONER



LORI COBOS, COMMISSIONER



JIMMY GLOTFELTY, COMMISSIONER