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## ***Public Utility Commission of Texas***

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TO: Stephen Journeay  
Commission Counsel

All Parties of Record

FROM: Christina Denmark   
Administrative Law Judge

RE: **Docket No. 52666** – *Application of the City of Schertz to Amend its Certificate of Convenience and Necessity and for Decertification of a Portion of Green Valley Special Utility District's Certificate of Convenience and Necessity in Comal County*

DATE: March 24, 2022

Enclosed is the Proposal for Decision (PFD) in the above-referenced case. By copy of this memo, the parties to this proceeding are being served with the PFD.

Please place this docket on an open meeting agenda for the Commissioners' consideration. Please notify me and the parties of the open meeting date, as well as the deadline for filing exceptions to the PFD, replies to the exceptions, and requests for oral argument.

**If there are no corrections or exceptions, no response is necessary.**

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**DOCKET NO. 52666**

<b>APPLICATION OF CITY OF</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>SCHERTZ TO AMEND ITS</b>	<b>§</b>	
<b>CERTIFICATE OF CONVENIENCE</b>	<b>§</b>	<b>OF TEXAS</b>
<b>AND NECESSITY AND FOR</b>	<b>§</b>	
<b>DECERTIFICATION OF A PORTION</b>	<b>§</b>	
<b>OF GREEN VALLEY SPECIAL</b>	<b>§</b>	
<b>UTILITY DISTRICT'S CERTIFICATE</b>	<b>§</b>	
<b>OF CONVENIENCE AND NECESSITY</b>	<b>§</b>	
<b>IN COMAL COUNTY</b>	<b>§</b>	

**PROPOSAL FOR DECISION**

In this Proposal for Decision (PFD), the administrative law judge (ALJ) recommends that the Commission dismiss the application by the City of Schertz to amend its water certificate of convenience and necessity (CCN) number 10645 and to decertify a portion of Green Valley Special Utility District's CCN number 10646 in Comal County. The ALJ recommends the application be dismissed due to Schertz's failure to prosecute and failure to amend the application such that it is sufficient after repeated determinations that the application is insufficient, under 16 Texas Administrative Code (TAC) § 22.181(d)(6) and (7). The ALJ recommends that the dismissal be without prejudice.

**I. Findings of Fact**

The ALJ makes the following findings of fact.

1. Schertz is a municipality located in Comal County.
2. Schertz provides retail water service to customers in Comal County under CCN number 10645.
3. On October 4, 2021, Schertz filed an application to amend its CCN number 10645 and to decertify a portion of Green Valley SUD's CCN number 10646 in Comal County.
4. On October 14, 2021, Schertz supplemented its application.
5. In Order No. 2 filed on November 5, 2021, the ALJ found the application incomplete and deficient, and ordered Schertz to cure the deficiencies by November 18, 2021.
6. Schertz did not attempt to cure the deficiencies or otherwise respond to Order No. 2.

7. In Order No. 3 filed on December 3, 2021, the ALJ found the application remained incomplete and deficient, and ordered Schertz to cure the deficiencies by December 16, 2021.
8. Schertz did not attempt to cure the deficiencies or otherwise respond to Order No. 3.
9. In Order No. 4 filed on January 4, 2022, the ALJ found the application remained incomplete and deficient, and ordered Schertz to cure the deficiencies by January 14, 2022.
10. Schertz did not attempt to cure the deficiencies or otherwise respond to Order No. 4.
11. In Order No. 5 filed on February 1, 2022, the ALJ found the application remained incomplete and deficient, and ordered Schertz to cure the deficiencies by February 11, 2022.
12. Schertz did not attempt to cure the deficiencies or otherwise respond to Order No. 5.
13. On March 2, 2022, Commission Staff filed a motion to dismiss without prejudice. Commission Staff stated a dismissal of this docket is appropriate because of Schertz's failure to prosecute and failure to amend an application such that it is sufficient after repeated determinations that the application is insufficient.
14. Schertz did not respond to the motion to dismiss.
15. No hearing was held on the motion to dismiss.
16. Schertz has filed nothing in this docket since October 14, 2021.

## **II. Conclusions of Law**

The ALJ makes the following conclusions of law.

1. The Commission has authority over this matter under Texas Water Code §§ 13.041, 13.241, 13.242, 13.244, 13.246, and 13.254.
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(d)(7), the ALJ may recommend to the Commission that it dismiss a proceeding, with or without prejudice, for failure to amend an application such that it is sufficient after repeated determinations that the application is insufficient.

4. 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 PFD.
5. Schertz has failed to prosecute and has failed to amend its application such that it is sufficient after repeated determinations that the application is insufficient, thereby warranting dismissal of this proceeding, without prejudice, under 16 TAC § 22.181(d)(6) and (7).

### **III. Ordering Paragraphs**

In accordance with these findings of fact and conclusions of law, the ALJ recommends the following ordering paragraphs.

1. The Commission dismisses Schertz's application, without prejudice, for failure to prosecute and failure to amend the application such that it is sufficient after repeated determinations that the application is insufficient.
2. The Commission denies all other motions, and any other requests for general or special relief if not expressly granted.

**Signed at Austin, Texas the 24th day of March 2022.**

**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**