



Control Number: 52666



Item Number: 16

**DOCKET NO. 52666**

**APPLICATION OF 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**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**ORDER**

This Order addresses the application of 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 administrative law judge (ALJ) filed four orders directing Schertz to cure deficiencies with its application. After Schertz failed to respond to the ALJ's orders, 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 and failure to amend the application such that it is sufficient after repeated determinations that the application is insufficient.<sup>1</sup> The Commission adopts the proposal for decision, including findings of fact and conclusions of law, for the reasons discussed in this Order.

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. 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.

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<sup>1</sup> See 16 Tex. Admin. Code § 22.181(d)(6), (7).

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 its 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 Commission adopts 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 Texas Administrative Code (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 proposal for decision.
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).

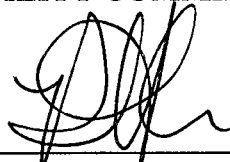
### **III. Ordering Paragraphs**

In accordance with these findings of fact and conclusions of law, the 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 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.
3. The Commission denies all other motions, and any other requests for general or special relief if not expressly granted.

Signed at Austin, Texas the 12<sup>th</sup> day of May 2022.

**PUBLIC UTILITY COMMISSION OF TEXAS**



**PETER M. LAKE, CHAIRMAN**



**WILL MCADAMS, COMMISSIONER**



**LORI COBOS, COMMISSIONER**



**JIMMY GLOTFELTY, COMMISSIONER**