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Received - 2022-05-13 08:45:34 AM

Control Number - 53184

ItemNumber - 21

DOCKET NO. 53184

JACOB AND JENNIE HILBIG'S § **PUBLIC UTILITY COMMISSION**
APPEAL OF THE COST OF §
OBTAINING SERVICE FROM AQUA § **OF TEXAS**
WATER SUPPLY CORPORATION §

ORDER NO. 4
DENYING MOTION TO DISMISS AND GRANTING EXTENSION

This Order addresses Aqua Water Supply Corporation's April 11, 2022 motion to dismiss and Commission Staff's May 11, 2022 request for an extension.

I. Motion to Dismiss

On April 11, 2022, Aqua WSC filed a motion to dismiss the petition under 16 Texas Administrative Code (TAC) § 22.181(d)(1), claiming that the Commission lacks jurisdiction over Jacob and Jennie Hilbig's appeal of the cost of obtaining service from Aqua WSC. Aqua WSC argues that the Hilbigs filed their appeal after the 90-day deadline for appeal established by Texas Water Code (TWC) § 13.043(g) and 16 TAC § 24.101(g).

On May 11, 2021, Dustin Wilhelm and Jacob Hilbig submitted a request for a feasibility study to Aqua WSC for their two adjacent residential lots. On July 8, 2021, Aqua WSC provided Mr. Wilhelm and Mr. Hilbig a preliminary study of the cost to provide service to the two tracts. On December 8, 2021, the Hilbigs submitted a request for a feasibility study to Aqua WSC for only their residential lot. On December 20, 2021, Aqua WSC provided the Hilbigs a preliminary study of the cost to provide service to the Hilbigs' lot. On February 3, 2022, the Hilbigs filed the appeal of the cost of obtaining service from Aqua WSC that is the basis of this docket.

Under TWC § 13.043(g) and 16 TAC § 24.101(g), an appeal for the cost of obtaining service must be filed within 90 days after written notice of the amount to be paid to obtain service is provided to the applicant. Aqua WSC argues that written notice of the cost to obtain service was provided to the Hilbigs on July 8, 2021, meaning that the Hilbigs' deadline to appeal the cost of obtaining service was October 6, 2021. Aqua WSC asserts that because the Hilbigs did not appeal the cost of obtaining service until February 2, 2022, the Commission lacks jurisdiction to hear the appeal and the matter should be dismissed under 16 TAC § 22.181(d)(1).

The administrative law judge (ALJ) disagrees with Aqua WSC's interpretation of the facts. The Hilbigs' December 8, 2021 request for a feasibility study and resulting preliminary cost study provided by Aqua WSC are substantially different from the May 11, 2021 request for a feasibility study submitted by Mr. Wilhelm and Mr. Hilbig and July 8, 2021 preliminary cost study. Not only are the two preliminary cost studies for two lots as opposed to the Hilbigs' single lot, but the two preliminary cost studies have different prices for what appear to be identical materials. Accordingly, the ALJ finds that the Hilbigs received written notice of the cost to obtain service on December 20, 2021. The Hilbigs filed an appeal of the cost to obtain service on February 2, 2022, well within the 90-day deadline imposed by TWC § 13.043(g) and 16 TAC § 24.101(g). Therefore, the ALJ denies Aqua WSC's motion to dismiss at this time without prejudice.

II. Request for Extension

Commission Staff requests additional time to receive and review responses to requests for information from Aqua WSC to complete its recommendation of the petition. Commission Staff indicates that Aqua WSC is unopposed to the extension.

The administrative law judge amends the procedural schedule as follows:

Event	Date
Deadline for Commission Staff to issue a final recommendation on the petition or to request a hearing	June 10, 2022
Deadline for parties to respond to Commission Staff's recommendation and/or to request a hearing, or if no hearing is requested, deadline to file a proposed order.	July 11, 2022

Signed at Austin, Texas the 13th day of May 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

Katie Moore Marx

**KATIE MOORE MARX
ADMINISTRATIVE LAW JUDGE**