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DOCKET NO. 54283

PETITION BY SJWTX, INC. D/B/A	§	BEFORE THE
CANYON LAKE WATER SERVICE	§	
COMPANY AND SAN ANTONIO	§	
WATER SYSTEM FOR TEXAS	§	
WATER CODE § 13.248 APPROVAL	§	PUBLIC UTILITY COMMISSION
TO DESIGNATE WATER AND SEWER	§	
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY SERVICE AREAS BY	§	
CONTRACT IN KENDALL COUNTY,	§	OF TEXAS
TEXAS	§	

ASHTON SAN ANTONIO RESIDENTIAL, L.L.C.'S MOTION TO INTERVENE

TO THE HONORABLE COMMISSION:

COMES NOW, Ashton San Antonio Residential, L.L.C. ("Ashton" or "Intervenor") and files this Motion to Intervene ("Motion") and, in support thereof, would respectfully show the following.

I. AUTHORIZED REPRESENTATIVE

Ashton's authorized representative in this matter, who will be in charge of this case on behalf of Ashton, and shall be the attorneys of record to receive all communications from the other parties are as follows:

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II. STANDING TO INTERVENE

Title 16 Texas Administrative Code ("TAC") § 22.103(b) identifies who may intervene as a party in a Commission proceeding.¹ A person has standing to intervene if they have a personal

¹ 16 TAC § 22.103(b).

justiciable interest that may be adversely affected by the outcome of the proceeding. As a residential developer and a party that has requested service in the area at issue, Ashton has a justiciable interest in this docket, because it has a unique interest in ensuring that its development is provided safe, affordable, continuous and adequate water and sewer service.

On October 28, 2022, Petitioners SJWTX, Inc. d/b/a Canyon Lake Water Service Company (“SJWTX”) and the San Antonio Water System (“SAWS”) filed a Petition to designate certificate of convenience and necessity (“CCN”) service areas by contract pursuant to Texas Water Code (“TWC”) § 13.248 and 16 TAC § 24.253 (“Petition”). The Petition asserts that notice under 16 TAC § 24.235(c)(1) is inapplicable because no transfer of customers or facilities is contemplated as part of the transaction.² While there are no current customers in the previously unserved 520-acre water and 314-acre sewer service areas, Ashton is a landowner and future customer whose property is located wholly within both the water and sewer service areas to be transferred to water CCN No. 10692 and sewer CCN No. 20877 under the Petition.

This filing is made because Ashton has planned to develop a 120.04-acre subdivision called Lily Ranch. Ashton has been unable to obtain sufficient information to confirm that SJWTX will be able to provide continuous and adequate water and sewer service to Lily Ranch Subdivision and otherwise comply with the Commission’s CCN requirements. Since on or about July 26, 2022, Ashton has been requesting the source of SJWTX’s water supply, the sufficiency of that supply, and the associated costs to be borne by Lily Ranch residents, but, to date, no response has been received. Ashton has a legitimate and unique interest in ensuring that both water and sewer service are adequate and continuous and justly and reasonably priced.

TWC § 13.248 provides that contracts between retail public utilities may be approved by the Commission after public notice and hearing, but it does not establish specific notice and hearing procedures.³ Commission implementing rule 16 TAC § 24.253 likewise does not include specific hearing procedures, including the timeframe to request intervention.⁴ Additionally, 16 TAC § 24.253(c) expressly states that 16 TAC § 24.235 relating to general CCN notice requirements is

² SJWTX, Inc. d/b/a Canyon Lake Water Service Company and the San Antonio Water System Petition Under TWC § 13.248 at 2-3 (Oct. 28, 2022).

³ TWC § 13.248.

⁴ 16 TAC §§ 24.253(b)(4) and (c) do not identify how parties provide notice under TWC § 13.248.

inapplicable. As a result, the normal 30- or 45-day filing deadlines in 16 TAC § 22.104(b) do not apply. Finally, Order No. 7 establishes a deadline to intervene of April 27, 2023. Therefore, notwithstanding Commission Staff's premature recommendation filing, this Motion is timely filed.


Notwithstanding the foregoing, even if this Motion is deemed untimely, Ashton may be granted late intervention under 16 TAC § 22.104(d), because Ashton's intervention will not prejudice or burden any other party, it will not disrupt the proceeding, and the public interest will be served since Ashton is a future customer affected by the CCN transfer.

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, Ashton respectfully prays that the Commission grant its Motion to Intervene in this proceeding and declare it an affected person with a justiciable interest to fully participate in a hearing on the CCN transfer.

Respectfully submitted,

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By: 

Helen S. Gilbert

**ATTORNEY FOR ASHTON SAN
ANTONIO RESIDENTIAL, LLC**

CERTIFICATE OF SERVICE

I hereby certify that I have or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail, or Certified Mail Return Receipt Requested on all parties on the 27th of April 2023.



Helen S. Gilbert