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PUC DOCKET NO. 55142

PETITION OF CENTURY LAND § BEFORE THE
HOLDINGS II, LLC AND GRBK §
EDGEWOOD, LLC TO DECERTIFY A § PUBLIC UTILITY COMMISSION
PORTION OF AQUA WATER SUPPLY §
CORPORATION’S CERTIFICATE OF § OF TEXAS
CONVENIENCE AND NECESSITY IN §
BASTROP COUNTY §
§

RESPONSE TO ORDER NO. 4

COME NOW, CENTURY LAND HOLDINGS II, LLC and GRBK EDGEWOOD, LLC. (“*Petitioners*”) and file this Response to Order No. 4, and in support thereof, show the following:

I. BACKGROUND

On January 24, 2023, Petitioners filed a Petition to decertify a portion of water certificate of convenience and necessity (CCN) 10294 held by Aqua Water Supply Corporation in Bastrop County pursuant to (i) Texas Water Code Section 13.254; and (ii) 16 Texas Admin. Code Section 24.245(d). Aqua Water Supply Corporation previously consented to the decertification.

On July 14, 2023, Staff of the Public Utility Commission of Texas filed its recommendation on the sufficiency of the Petition recommending that that the Petition be deemed to be administratively incomplete due to alleged mapping deficiencies. On July 14, 2023, the Administrative Law Judge issued Order No. 2 ordering Petitioner to file information to cure the alleged mapping deficiencies by August 14, 2023 and that Commission Staff file a supplemental recommendation on administrative completeness by September 13, 2023.

On August 11, 2023 and August 15, 2023, Petitioners filed supplemental mapping in response to Order No. 2.

On September 13, 2023, Commission staff again recommended that the application be declared administrative incomplete based on a Staff Memorandum of even date therewith recommending that Petitioners “be ordered to provide additional information regarding the 6 residences inside the requested area that are receiving water service from Aqua WSC.” The Memorandum further requested that Petitioners “explain what effect this petition will have on these 6 residences.”

On September 14, 2023, the Administrative Law Judge issued Order No. 3 requesting clarification from Commission Staff. On September 28, 2023, Commission Staff clarified that the Petition be declared administrative incomplete because “the applicant did not state what effect this petition will have on the 6 residences inside the requested area as required under 16 Texas Administrative Code § 24.245(d)(2)(C)” and Commission Staff recommended that Petitioners “be ordered to state what effect this petition will have on the 6 residences inside the requested area that are receiving water service from Aqua WSC.”

On October 2, 2023, the Administrative Law Judge issued Order No. 4 finding the Petition administratively incomplete and ordering the Petitioners to cure by October 13, 2023 the alleged deficiencies as described in the September 28, 2023 Staff Memorandum attached to Commission Staff’s clarification filed on September 28, 2023.

This Response clarifies the impact of the Petition on existing customers pursuant to Order No. 4, is being filed prior to October 13, 2023, and is therefore timely.

II. IMPACT OF PETITION ON EXISTING CUSTOMERS

At the time the Petition was filed in this proceeding on January 24, 2023, there were no active customers within the territory that is the subject of this Docket. As of the date of this

Response, there are approximately 29 customers in the area. Additional residences are under construction within said property.

The September 28, 2023 Commission Staff Memorandum asserts that the customers are “receiving water service from Aqua WSC.” This is not correct. Elgin County Municipal Utility District No. 2 (“Elgin MUD 2”) is providing retail water service to all customers in the area that is the subject of this proceeding. Aqua WSC provides wholesale water service to Elgin MUD 2, and Elgin MUD 2 provides retail water service to the customers.

Although the customers served by Elgin MUD 2 are currently located in Aqua WSC’s water CCN, Elgin MUD 2 provides retail water service with the consent of Aqua WSC as authorized by PUC Rule §24.225(b). The contract pursuant to which Aqua WSC agreed to provide wholesale water service to Elgin MUD 2 so that Elgin MUD 2 may provide retail water service to the subject lands was filed by Petitioners as part of Item 1 in this Docket.

The decertification of the service territory that is the subject of this Docket will have no impact on the existing service provided to customers of Elgin MUD 2. They currently receive retail water service from Elgin MUD 2, and will continue to receive retail water service from Elgin MUD 2 after decertification of Aqua WSC.

The decertification of the service territory will eliminate potential customer confusion that may otherwise arise for so long as the lands remain in Aqua WSC’s CCN territory. Any person reviewing the CCN maps of the PUC would assume that Aqua WSC, and not Elgin MUD 2, is the retail water service provider. Similarly, for so long as the property remains in Aqua WSC’s CCN, a seller of property may furnish a Notice to Purchaser under Section 13.247 of the Water Code reciting that Aqua WSC is the retail water service provider because it is the holder

of a water CCN for the property when in fact it provides wholesale service, not retail service, to such lands.

In summary, decertification will have no impact on the existing water service furnished to customers by Elgin MUD 2, will remove the property from Aqua WSC's CCN in accordance with the contract between Aqua WSC and Elgin MUD 2, and will thereby eliminate the potential customer confusion caused by inclusion of the property in the CCN of an entity that is providing wholesale, not retail, water service. Elgin MUD 2 currently provides retail water service to the customers and will continue to do so after decertification.

IV. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Petitioners respectfully pray that the Commission grant the Petition and issue an order under the authority of Texas Water Code Section 13.254; and 16 Texas Admin. Code Section 24.245(d) releasing the Property identified in the Petition (being the same property identified in the mapping filed herewith) that is within the boundaries of water CCN No. 10294 held by Aqua Water Supply Corporation.

Respectfully submitted,

Anthony S. Corbett

Anthony S. Corbett
State Bar No. 04811760
McLean & Howard, LLP
4301 Bull Creek Road, Suite 150
Austin, Texas 78731
Telephone: (512) 328-2008
Facsimile: (512) 328-2409
Email: tcorbett@mcleanhowardlaw.com

**ATTORNEYS FOR CENTURY LAND
HOLDINGS II, LLC and GRBK EDGWOOD,
LLC**

CERTIFICATE OF SERVICE

I certify that notice of the filing of this document was provided to all parties of record via electronic mail on October 4, 2023, in accordance with the Order Suspending Rules, issued in Project No. 50664.

Anthony S. Corbett

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