

# State Office of Administrative Hearings



Cathleen Parsley  
Chief Administrative Law Judge

August 30, 2010

Les Trobman, General Counsel  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin Texas 78711-3087

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2010 AUG 30 PM 3:59  
CHIEF CLERKS OFFICE

Re: **SOAH Docket No. 582-06-1641; TCEQ Docket No. 2006-0631-URC; In Re: Application of the City of Princeton to Obtain Water and Sewer Certificates of Convenience and Necessity in Collin County**

Dear Mr. Trobman:

The purpose of this letter is to provide the Commission with my recommendations on the disposition of the exceptions filed by the Executive Director (ED) to the July 20, 2010, Proposal for Decision (PFD) and Proposed Order. No other party filed exceptions. Both the Office of the Public Interest Counsel (OPIC) and the City of Princeton (Princeton) replied, each contending that the PFD and Proposed Order should be adopted as proposed. It is my recommendation that the Commission deny all the ED's exceptions, and adopt the PFD and the Proposed Order without changes other than for non-substantive corrections.

## Clarification of Policy

The Administrative Law Judge (ALJ) makes no recommendation regarding the ED's discussion on clarification of the Commission's policy or guidance regarding certification of a city for service areas beyond its extraterritorial jurisdiction. Application of such a policy or guidance is a separate issue from the factual analysis that was made in the PFD regarding the applicant's capability to provide water and sewer service.

## Proposed Revisions to Findings of Fact, Conclusions of Law, and Ordering Provisions

The ED contended that the greater weight of the evidence does not support Findings of Fact Nos. 148 and 150, Conclusion of Law No. 5, and the ordering provisions in regard to Princeton's financial capacity. The ED proposed changes to those findings and conclusion that would find the Princeton failed to establish its financial capacity to serve the entire service area requested, and consequently to limit the size of the service areas. Princeton and OPIC both contended Princeton had met its burden of proof and recommended that no findings or conclusions be changed.

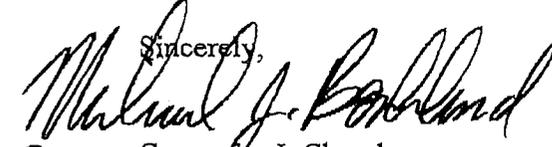
ALJ's reply to exceptions and replies  
SOAH DOCKET NO. 582-06-1641  
Page 2

The ALJ has reviewed the ED's contention, which re-states the position he has maintained throughout the proceeding. Having reviewed the argument, and the responses, the ALJ remains persuaded that Princeton met its burden of proof in this regard. The path of reasoning the ALJ took to reach her conclusions is discussed in the PFD at pp. 17 through 23. Briefly, the ALJ concluded that Princeton's analysis and financial evidence was the more persuasive in regard to the city's financial capability and was sufficient to support the findings as proposed.

#### Non-substantive Corrections

The ED proposed a number of non-substantive corrections, primarily typographical changes. The ALJ recommends that the Commission adopt these changes with one exception. Finding of Fact No. 113, on page 13 of the Proposed Order, should be amended to show the percentage of change of the City's debt as **57.5 percent**, rather than 166 percent.

Sincerely,

  
FOR Cassandra J. Church  
Administrative Law Judge

CJC/pp  
cc: Mailing List

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STYLE/CASE: CITY OF PRINCETON  
SOAH DOCKET NUMBER: 582-06-1641  
REFERRING AGENCY CASE: 2006-0044-UCR

STATE OFFICE OF ADMINISTRATIVE  
HEARINGS

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