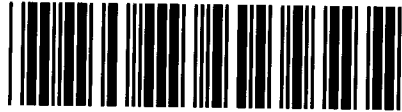




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DOCKET NO. 43114

RECEIVED

APPLICATION OF CITY OF
MIDLOTHIAN AND MOUNTAIN
PEAK SPECIAL UTILITY DISTRICT
FOR SALE, TRANSFER, OR MERGER
OF CERTIFICATE RIGHTS IN ELLIS
COUNTY (36233-C)

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PUBLIC UTILITY COMMISSION

OF TEXAS

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PUBLIC UTILITY COMMISSION
FILING CLERK

**ORDER NO. 2
ESTABLISHING A PROCEDURAL SCHEDULE**

On October 30, 2008, the City of Midlothian (Midlothian) and Mountain Peak Special Utility District (Mountain Peak) (collectively Applicants) filed an application for the sale, transfer, or merger (STM) of facilities and certificates of convenience and necessity (CCN) in Ellis County with the Texas Commission on Environmental Quality (TCEQ). On September 1, 2014, the Public Utility Commission of Texas (Commission) began the economic regulation of water and sewer utilities. This case, once pending at TCEQ, was received by the Commission on September 24, 2014. On August 21, 2015, Order No. 1 was issued, requiring Commission Staff to provide an update on the status of this application.

On September 10, 2015, Commission Staff filed a response to Order No. 1. Commission Staff stated that the Applicants indicated to TCEQ that this application was intended to be processed under Tex. Water Code § 13.248 (TWC), not as an STM. Commission Staff stated that the application states that “[t]he City of Midlothian is transferring a portion of its existing water CCN to Mountain Peak SUD in exchange for a portion of Mountain Peak SUD’s existing water CCN that is being transferred to the City of Midlothian.” Commission Staff stated that in December 2008 a TCEQ interoffice memorandum indicates that TCEQ Staff had determined that Mountain Peak had demonstrated financial, managerial and technical capability to operate the certificated area transferred from Midlothian and that 3 years later, in April 2011, TCEQ had received consents from the Applicants to proposed revised maps. However, Commission Staff was unable to locate a final order.

Commission Staff stated that, if granted, this application would result in CCN amendments and CCN decertification under TWC § 13.248, which the Commission has determined does not contain the standards for revocation or amendment of a CCN. Therefore,

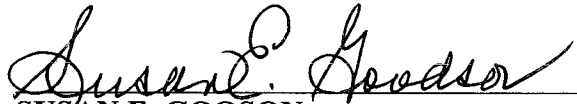
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unless the Applicants can show the intent of the application to be otherwise, the application should be processed under TWC §§ 13.241, 13.246 and 13.254. Commission Staff stated a possible need for additional notice, and asked that the Applicants be provided an opportunity to provide proof of publication of notice. Accordingly, the following procedural schedule, as proposed by Commission Staff, shall apply:

Deadline for the Applicants to clarify the intent of the Application and to provide proof of notice issued (including affidavits, evidence of publication of notice, a sample of the notice issued and accompanying map).	September 29, 2015
Deadline for Commission Staff to file a recommendation or an additional procedural schedule.	October 14, 2015

SIGNED AT AUSTIN, TEXAS on the 14th day of September 2015.

PUBLIC UTILITY COMMISSION OF TEXAS



SUSAN E. GOOSON
ADMINISTRATIVE LAW JUDGE