



Control Number: 43248



Item Number: 13

Addendum StartPage: 0

DOCKET NO. 43248

PETITION OF WALTON TEXAS, L.P. § PUBLIC UTILITY COMMISSION
FOR REVOCATION OF OR TO §
AMEND SWEETWATER UTILITY, §
LLC'S SEWER CERTIFICATE OF § OF
CONVENIENCE AND NECESSITY BY §
EXPEDITED RELEASE IN HAYS §
COUNTY § TEXAS

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PUBLIC UTILITY COMMISSION
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STAFF'S RESPONSE TO ORDER NO. 3

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this Staff's Response to Order No. 3, and would show the following:

I. BACKGROUND

On September 19, 2014, Walton Texas, L.P. (Walton) filed a petition for an expedited release to amend Sweetwater Utility, LLC's (Sweetwater) sewer Certificate of Convenience and Necessity (CCN) No. 20887 pursuant to TEX. WATER CODE ANN. § 13.254(a)(1), (a-1), and (a-5) and P.U.C. SUBST. R. 24.113(a)(1), (b), and (r). TEX. WATER CODE ANN. § 13.254(a)(1) and P.U.C. SUBST. R. 24.113(a)(1) provide a mechanism for the Commission to revoke a CCN. TEX. WATER CODE ANN. § 13.254(a-1) and (a-5) and P.U.C. SUBST. R. 24.113(b) and (r) provide a landowner with two different mechanisms for expedited release from a CCN.

In Order No. 1, the Administrative Law Judge (ALJ) directed Staff to file comments regarding the administrative completeness of Walton's petition and notice by September 29, 2014. Order No. 1 also directed Staff to propose a procedural schedule by October 6, 2014. On September 29, 2014, Staff filed comments on sufficiency and a proposed procedural schedule recommending that Walton's petition pursuant to TEX. WATER CODE ANN. § 13.254(a-5) and P.U.C. SUBST. R. 24.113(r) be dismissed for incurable deficiencies and that Walton be given until October 20, 2014 to cure the deficiencies of its petition pursuant to TEX. WATER CODE ANN. § 13.254(a)(1) and (a-1) and P.U.C. SUBST. R. 24.113(a)(1) and (b). Order No. 2 adopted Staff's recommendation to dismiss the petition pursuant to TEX. WATER CODE ANN. § 13.254(a-5) and P.U.C. SUBST. R. 24.113(r) and allowed Walton until October 20, 2014, to cure its

13

petition pursuant to TEX. WATER CODE ANN. § 13.254(a)(1), (a-1) and P.U.C. SUBST. R. 24.113(a)(1) and (b). Walton subsequently filed a request for an extension of time. Order No. 3 granted the requested extension giving Walton until October 31, 2014, to cure the deficiencies of its petition, and Walton filed supplemental information on that date. On November 13, 2014, a representative of Walton spoke with Staff and stated that its petition should be processed pursuant to TEX. WATER CODE ANN. § 13.254 (a-1) and filed a document (Attachment B) to support its intention. Order No. 3 also gave Staff until November 14, 2014 to make a recommendation regarding administrative completeness. Therefore, Staff's Response to Order No. 3 is timely filed.

As detailed in the attached memorandum from Ahmad Tavakoly (Exhibit A), Staff finds that the petition is deficient and administratively incomplete pursuant to TEX. WATER CODE ANN. § 13.254(a-1) and P.U.C. SUBST. R. 24.113(b), and recommends that Walton have until December 19, 2014 to cure the deficiencies.

II. COMMENTS ON ADMINISTRATIVE COMPLETENESS

Staff has reviewed Walton's petition and has determined it is insufficient pursuant to TEX. WATER CODE ANN. § 13.254(a-1) and P.U.C. SUBST. R. 24.113(b). Although Walton's supplemental filings provided helpful information necessary to further process its petition, more information is needed regarding the alternative provider from which Walton is seeking service.

III. PROPOSED PROCEDURAL SCHEDULE

Pursuant to TEX. WATER CODE ANN. § 13.254(a-1) and P.U.C. SUBST. R. 24.113(b), the petition shall be approved administratively provided that the applicable statutory factors are met. Accordingly, Staff recommends the following procedural schedule apply to this proceeding.

Proposed Deadline for Walton to file information to cure the petition's deficiencies pursuant to TEX. WATER CODE ANN. § 13.254(a-1) and P.U.C. SUBST. TEX. R. 214.113(b).	December 19, 2014
Proposed deadline for CCN holder to object.	January 9, 2015
Proposed deadline for Staff to file a recommendation on administrative completeness and proposed deadline for Staff to file a final recommendation or additional procedural schedule.	January 16, 2015
Deadline for the Commission to issue an order granting or denying the petition pursuant to TEX. WATER CODE ANN. § 13.254(a-1) and P.U.C. SUBST. TEX. R. 214.113(b).	60 days from the date the petition is deemed administratively complete.

IV. CONCLUSION

Staff respectfully requests the entry of an order consistent with the above discussion and recommendations

Respectfully Submitted,

Stephen Mack
Managing Attorney
Legal Division

Doug Brown *w/permission Stephen Mack*
Douglas M. Brown
Attorney-Legal Division
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Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

DOCKET NO. 43248

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on November 14, 2014 in accordance with P.U.C. Procedural Rule 22.74.

Doug Brown *w/permission Stephen Mack*
Douglas M. Brown

ATTACHMENT A
(SME Memo)

PUC Interoffice Memorandum

To: Douglas Brown
Legal Division

From: Ahmad A. Tavakoly, Staff Engineer
Water Utilities Division

Thru: Tammy Benter, Director
Water Utilities Division

Date: November 14, 2014

Subject: Docket No. 43248, Petition of Walton Texas, L.P., to amend sewer certificate of convenience and necessity (CCN) No. 20887 of Sweetwater Utility

On September 19, 2014, Walton Texas, L.P. (Petitioner), filed a Petition under Texas Water Code (TWC), §13.254(a)(1), §13.254(a-5), §13.254(a-1) and PUC Subst. R. 24.113(r) with the Public Utility Commission of Texas (Commission). The purpose of the petition is to request release of the Petitioner's property from Sweetwater Utility's sewer CCN, No. 20887. The petition is being processed pursuant to TWC §13.254 (a-1) and the PUC Subst. R. §24.113(b).

The Petitioner has not met all of the statutory requirements of TWC §13.254 (a-1) and the PUC Subst. R. §24.113(b). I reviewed the information provided by Petitioner and recommend that the application be deemed insufficient for filing because the Petitioner has not provided all the information required by TWC §13.254 (a-1) and the PUC Subst. R. §24.113(b) regarding the alternative service provider. I further recommend that Petitioner be given time to cure the Petitioner's deficiencies.

ATTACHMENT B
(Letter from Petitioner)

LAW OFFICES OF
JACKSON, SJOBERG, McCARTHY & TOWNSEND, L.L.P.

DAVID E. JACKSON*
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TEXAS BOARD OF LEGAL SPECIALIZATION

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November 13, 2014

EDMOND R. MCCARTHY, III

†Licensed in Texas and
Tennessee

Certified Mail, Return Receipt Requested

Sweetwater Utility LLC
Attn: Mr. Dwight Zemp
Member
220 Malibu St.
Castle Rock, Colorado 80109

Sweetwater Utility LLC
c/o CT Corporation System
350 North St. Paul St.
Dallas, Texas 75201

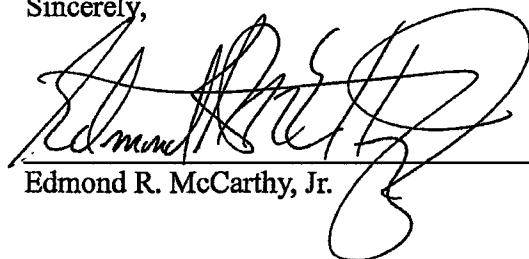
Re: Petition to Release Certificate of Adjudication No. 20887

Dear Mr. Zemp:

Enclosed please find a copy of the Third Supplement to and in Support of the Petition for Expedited Release from CNN No. 20887 filed today with the Public Utility Commission of Texas on behalf of Walton Texas L.P.

Should you have any questions, I can be reached at (512) 225-5606.

Sincerely,


Edmond R. McCarthy, Jr.

cc (w/encl): General Counsel
Public Utility Commission of Texas
P.O. Box 13326
Austin, Texas 78711-3326

Office of Public Utility Counsel
Public Utility Commission of Texas
P.O. Box 13326 (mailed)
Austin, Texas 78711-3326

PUC Docket No. 43248

APPLICATION BY	§	BEFORE THE PUBLIC UTILITY
	§	
WALTON TEXAS, L.P.	§	
	§	COMMISSION OF TEXAS
FOR REVOCATION OF	§	
	§	
OR EXPEDITED RELEASE	§	
	§	
FROM CCN No. 20887	§	

**THIRD SUPPLEMENT TO & IN SUPPORT OF WALTON'S
PETITION FOR REVOCATION OF CCN NO. 20887, OR, IN THE ALTERNATIVE,
AMENDMENT FOR EXPEDITED RELEASE FROM CCN NO. 20887**

TO THE PUBLIC UTILITY COMMISSION OF TEXAS:

COMES NOW Walton Texas, L.P. ("Petitioner"), and files this Third Supplement to and in support of its Petition with the Public Utility Commission of Texas ("PUC" or "Commission") in the above referenced docket for the limited purpose of requesting the Commission pursue review of the Petition based upon Texas Water Code Section 13.254(a-1) and the applicable Rules of the Commission, including Rule 24.113(b), (r) (16 TAC).

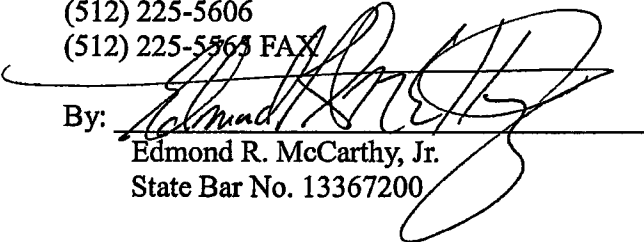
WHEREFORE, PREMISES CONSIDERED, the Petitioner respectfully requests that the Commission:

1. Process this Petition to exclude Petitioner's property from CCN No. 20887 as expeditiously as possible pursuant to Sections 13.254(a-1), Texas Water Code and Rule 24.113(b), (r) (16 TAC), by processing the Petition for Expedited Release of the Walton Tract in Hays County from CCN No. 20887; and, thereafter,
2. Issue an appropriate order amending CCN No. 20887 to release the burdened portion of Petitioner's Hays County Walton Tract from CCN No. 20887.

Respectfully submitted,

JACKSON, SJOBERG, MCCARTHY & TOWNSEND, L.L.P.

Edmond R. McCarthy, Jr.
711 W. 7th Street
Austin TX 78701
(512) 225-5606
(512) 225-5563 FAX

By: 
Edmond R. McCarthy, Jr.
State Bar No. 13367200

ATTORNEYS FOR THE PETITIONER,
WALTON TEXAS, L.P.

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Order Nos. 1-3 and the Commission's Rules 22.74 and 24.113(s), the above and foregoing Third Supplement to and in support of Walton's Petition for Expedited Release from CNN No. 20887 was served on the CCN Holder, and its Registered Agent, of CCN No. 20887 at the last known address as identified in the records of the Texas Secretary of State, and to all parties shown below, via certified mail, return receipt requested to the addresses shown below the on this 13th day of November, 2014:

CCN No. 20887 Holder:

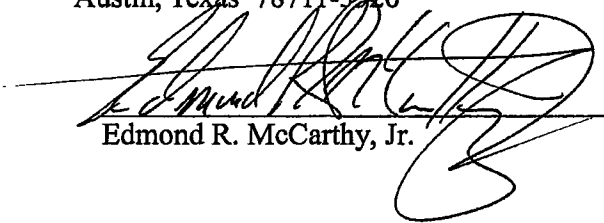
Attn: Dwight Zemp
Sweetwater Utility, LLC
220 Malibu St.
Castle Rock, Colorado 80109

Registered Agent (per SOS Records)

Sweetwater Utility LLC
c/o CT Corporation System
350 North St. Paul St.
Dallas, Texas 75201

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