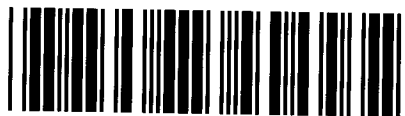




Control Number: 43355



Item Number: 9

Addendum StartPage: 0

**DOCKET NO. 43355**

**APPLICATION OF BEAR SPRINGS  
WATER CO., INC. AND BEAR SPRINGS  
TRAILS WATER SUPPLY  
CORPORATION, INC. FOR SALE,  
TRANSFER, OR MERGER OF  
FACILITIES AND CERTIFICATES OF  
CONVENIENCE AND NECESSITY IN  
BANDERA COUNTY (37912-C)**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

2014 OCT 22 AM 11:03  
FILED

**COMMISSION STAFF'S RESPONSE TO ORDER NO. 2**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Response to Order No. 2.

**I. Background**

On May 9, 2014, Bear Springs Water Co., Inc. and Bear Springs Trails Water Supply Corporation, Inc. (Applicants) filed an application for the sale, transfer, or merger of facilities and certificates of convenience and necessity in Bandera County pursuant to TEX. WATER CODE ANN. §§ 13.246(c), 13.254, 13.301 and 30 TEX. ADMIN. CODE Sections 291.109 and 291.112 (now 16 TEX. ADMIN. CODE Sections 24.109 AND 24.112). Subsequently on September 1, 2014, the Public Utility Commission of Texas (Commission or PUC) began the economic regulation of water and sewer utilities and this case was transferred from the TCEQ to the Commission for further review.

On October 1, 2014, the Administrative Law Judge issued Order No. 2, which requires Staff to file comments on the status of the application by October 22, 2014. Therefore, this response is timely filed.

**II. Response**

At this time the Commission has not received an administratively complete application and cannot be processed until such time as the following issues related to notice and mapping requirements are addressed:

1. Applicants should first receive approval of proposed notice from Commission Staff before sending notice to neighboring entities within 2 & 5 miles.

2. The current notice to neighboring utilities is insufficient because Applicants did not include a list of neighboring entities within 2 and 5 mile boundary of the proposed water service area.
3. Since Bear Springs Trails Water Supply Corporation, Inc. is acquiring a new water CCN, they must provide a list to the Commission of neighboring utilities, districts, counties, groundwater conservation districts, all cities and ETJ's, or any other entities providing the same type of service within a 2 and 5 mile boundary of the proposed service area.

With respect to processing this application moving forward, the Commission's substantive rules state:

On or before the 120th day before the effective date of any sale, acquisition, lease, rental, merger or consolidation of any water or sewer system required by law to possess a certificate of public convenience and necessity, the utility or water supply or sewer service corporation shall file a written application with the commission and give public notice of the action.<sup>1</sup>

The 120-day period begins on the later of: (i) the filing of a sale, transfer, merger application; (ii) if mailed notice is required, the date that the applicant mailed notice; or (iii) if newspaper notice is required, the last date of publication of the notice.<sup>2</sup> Sale, transfer, merger applications "shall be reviewed for administrative completeness within ten working days of receipt of the application."<sup>3</sup> An application is not considered filed until "a determination of administrative completeness is made."<sup>4</sup> "If the commission determines that material deficiencies exist in any pleadings, statement of intent, applications, or other requests for commission action addressed by this chapter, the notice or application may be rejected and the effective date suspended until the deficiencies are corrected."<sup>5</sup>

Given the deficiencies in the Application identified by Staff, Staff has determined that Application is not administratively complete. Thus, the Application is not considered filed with

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<sup>1</sup> P.U.C. SUBST. R. 24.109(a).

<sup>2</sup> P.U.C. SUBST. R. 24.109(a)(1)-(3).

<sup>3</sup> P.U.C. SUBST. R. 24.8(a).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

the Commission and the 120-day period prescribed in the Commission's substantive rules has yet to start.<sup>6</sup>

Staff proposes the following procedural schedule to continue the review of this application:

Date application was filed at TCEQ	May 9, 2014
Date application found to be administratively incomplete	October 22, 2014
Date by which Applicant is required to correct deficiencies	November 21, 2014
Date by which Staff files a supplemental recommendation on administrative completeness and proposes additional dates for a continued procedural schedule, as appropriate	December 5, 2014

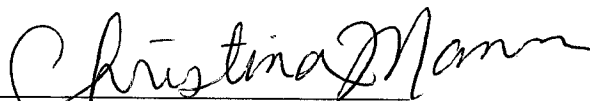
### III. Conclusion

Staff recommends that an order be issued consistent with this filing and proposed procedural schedule.

Respectfully Submitted,

Joseph P. Younger  
Division Director-Legal Division

Shelah J. Cisneros  
Managing Attorney-Legal Division



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Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

**DATED:** October 22, 2014

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<sup>6</sup> P.U.C. SUBST. R. 24.8(a); 24.109(a)(1)-(3).

**DOCKET NO. 43355**  
**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on October 22, 2014, in accordance with P.U.C. Procedural Rule 22.74.

  
Christina Mann