

Control Number: 43368



Item Number: 11

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APPLICATION OF CURTIS J. SHUPAK §
AND HDU SERVICES, LLC FOR SALE, §
TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE OF §
CONVENIENCE AND NECESSITY IN §
BURLESON COUNTY §
§
§

PUBLIC UTILITY COMMISSION
TEXAS

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COMMISSION STAFF’S STATUS UPDATE AND RECOMMENDATION

Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) files this Status Update and Recommendation. In support of its Request, Staff states the following:

I. BACKGROUND AND STATUS UPDATE

On June 23, 2014, HDU Services, LLC (Applicant) filed with the Texas Commission on Environmental Quality (TCEQ) an Application for Sale, Transfer, or Merger of a Retail Public Utility pursuant to TEX. WATER CODE ANN. §§ 13.246(c), 13.254, 13.301 and 30 TEX. ADMIN. CODE § 291.109¹. The application addressed the proposed transfer of service area Certificate of Convenience and Necessity (CCN) No. 12254 and facilities in Burleson County, Texas from Curtis J. Shupak to the Applicant. According to the application, the Applicant will retain CCN No. 12254. No one contested to the Applicants’ Application; therefore no public hearing was required.

On October 21, 2014, Staff filed a recommendation that the application be deemed insufficient. By order, on October 24, 2014, the Commission Administrative Law Judge ordered Applicant to cure deficiencies identified by Staff. This order also directed Staff to propose a procedural schedule containing deadlines consistent with the 120-day period prescribed by the Commission’s substantive rules once Staff determines the Applicant’s application is administratively complete.

¹ Currently P.U.C. SUBST. R. 24.109.

II. SUFFICIENCY OF THE APPLICATION

Staff has reviewed the City's application for sufficiency and, based on the attached memoranda of Leila Guerrero of the Commission's Water Utility Division, Staff finds that the Applicant has cured all mapping deficiencies. Therefore, Staff recommends the application be deemed sufficient for filing. In order to continue its technical review of the application, Staff recommends the Applicant be ordered to file with the Commission additional maps of the proposed area(s) to show: all facilities, illustrating separately facilities for production, transmission, and distribution of the applicant's service(s); and any facilities, customers or area currently being served outside the applicant's certificated area including a map showing requests for water service within the proposed service area.

III. NOTICE REQUIREMENTS

P.U.C. SUBST. R. 24.106 provides the Commission's notice requirements for CCN applications. Specifically, Rule 24.106 requires the City in its notice to provide a map and description of the proposed service area. Since the deficiencies regarding the maps in this application have been resolved, Staff recommends Applicant be directed to: provide notice to the following:

- a) any districts, groundwater conservation districts, counties, utilities, cities, cities with an extraterritorial jurisdiction within two miles of the proposed service area;
- b) any city with an extraterritorial jurisdiction which overlaps the proposed service area; and
- c) any customers transferred, or other affected parties in the requested area.
- d) Lost Pines Groundwater Conservation District (GCD) (District ID 5448660) and Post Oak Savannah GCD (District ID 7145575) in addition to the neighboring entities listed in the application

In addition, Staff recommends the Applicant be ordered to include copy of a map showing the proposed service area with the individual notices to neighboring utilities, other affected parties and each landowner. Information related to districts including addresses can be obtained by the Applicant from the TCEQ web site located at <http://www14.tceq.texas.gov/iwud/>. Attached to this pleading is a model notice for the Applicant to use as a guide.

IV. PROPOSED PROCEDURAL SCHEDULE

The Commission Administrative Law Judge instructed Staff to file a procedural schedule based on the 120 day period pursuant to the Commission's substantive rules. P.U.C. SUBST. R. 24.109 states that the 120 day period begins on the last date of whichever of the following occurs:

- (1) the date the applicant files an application under this section;
- (2) if mailed notice is required, the last date the applicant mailed the required notice as stated in the applicant's affidavit of notice; or
- (3) if newspaper notice is required, the last date of the publication of the notice in the newspaper as stated in the affidavit of publication.

Therefore, Staff respectfully requests that it be given until after the Applicant files with the Commission proof of notice to provide a procedural schedule in accordance to the 120 day period set out in P.U.C. SUBST. R. 24.109.

V. CONCLUSION

Staff recommends that the Applicant's application sufficient for filing. Additionally, Staff recommends that the Applicant be given 30 days to file with the Commission a copy of actual notice and signed affidavit verifying that it provided notice to all proper parties.

DATED: December 22, 2014

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

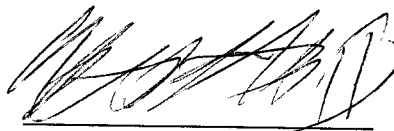
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P.O. Box 13326
Austin, Texas 78711-3326

**PUC DOCKET NO. 43368
CERTIFICATE OF SERVICE**

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



Hollis Henley

PUC Interoffice Memorandum

To: Hollis Henley, Attorney
Legal Division

Through: Tammy Benter, Director
Water Utilities Division

From: Leila Guerrero, Regulatory Accountant/Auditor
Water Utilities Division

Date: December 15, 2014

Subject: Docket No. 43368, Application of HDU Services, LLC and Curtis Shupak for Sale, Transfer or Merger of Facilities and Certificate of Convenience and Necessity in Burleson County (37955-S)

On June 23, 2014, the HDU Services, LLC (Applicant) filed an application with the Texas Commission on Environmental Quality (TCEQ) to purchase and transfer facilities from Certificate of Convenience and Necessity (CCN) No. 12254 held by Curtis Shupak in Burleson County, pursuant to the criteria in the Texas Water Code, Chapter 13, and the TCEQ's rules outlined in Title 30, Texas Administrative Code (TAC), Sections 291.109 and 291.112. On September 1, 2014, the rates and CCN programs were transferred from the TCEQ to the Public Utility Commission (PUC). This application was part of the transfer and is now under the PUC's purview. The application is now being reviewed under the PUC's Substantive Rules in Chapter 24, §§24.109 and 24.112.

Based on my review of the information in the application, I recommend that the application be deemed sufficient for filing. I further recommend the following:

- 1) The Applicant be ordered to provide notice of the application to the following:
 - a) any districts, groundwater conservation districts, counties, utilities, cities, cities with an extraterritorial jurisdiction within two miles of the proposed service area;
 - b) any city with an extraterritorial jurisdiction which overlaps the proposed service area; and
 - c) any customers transferred, or other affected parties in the requested area.

- 2) The Applicant include copy of a map showing the proposed service area with the individual notices to neighboring utilities, other affected parties and each landowner. It is the Applicant's burden to provide an accurate map delineating the proposed area with each individual notice. Information related to districts including addresses can be obtained by the Applicant from the TCEQ web site located at <http://www14.tceq.texas.gov/iwud/>.

- 3) The Applicant must notify **Lost Pines Groundwater Conservation District (GCD) (District ID 5448660) and Post Oak Savannah GCD (District ID 7145575)** in addition to the neighboring entities listed in the application.

- 4) The Applicant to provide PUC separate and additional maps of the proposed area(s) to show the following:
 - a) all facilities, illustrating separately facilities for production, transmission, and distribution of the applicant's service(s); and
 - b) any facilities, customers or area currently being served outside the applicant's certificated area including a map showing requests for water service within the proposed service area.
- 5) The Applicant be ordered to return within 30 days of the Commission order, a copy of the actual notice sent with attached signed affidavit that the notice was given.

Docket No. 43368 (Application No. 37955-S)
**Notice to Current Customers, Neighboring Systems,
Landowners and Cities**

HDU SERVICES, LLC'S NOTICE OF INTENT TO PURCHASE FACILITIES AND
TRANSFER CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 12254
HELD BY CURTIS SHUPAK IN BURLESON COUNTY, TEXAS

To: _____ Date Notice Mailed: _____, 2014
(Name of Customer, Neighboring System, Landowner or City)

(Address)

(City State Zip)

Curtis J. Shupak dba Shupak Utilities _____ 7575 FM 60 West Somerville, TX 77863
(Sellers or Transferor's Name) (Address) (City) (State) (Zip Code)

has submitted an application with the Public Utility Commission of Texas to transfer water CCN No. 12254 and sell facilities in Burleson County to:

HDU Services, LLC/Dustin J. Lozano 13193 County Road 424 _____ Somerville, TX 77879
(Purchaser's or Transferee's Name) (Address) (City) (State) (Zip Code)

The sale is scheduled to take place as approved by the Commission (V.T.C.A., Water Code §13.301). The transaction and proposed service area include the following subdivision and zip code: Birch Creek Village, 77879.

The area subject to this transaction is located approximately 6.75 miles **southwest** of downtown Lyons, Texas and is **generally** bounded on the north by **Lone Oak Road**; on the east by **Birch Creek**; on the south by **Lake Somerville**; and on the west by **State Park Rd 57**.

The total area being requested includes approximately 350 acres and serves 58 current customers. This transaction will have the following effect on the current customers' rates and services: provide a more reliable source of safe drinking water.

See enclosed map of the proposed service area.

Affected persons may file written protests and/or request a public hearing within 30 days of this notice.

To request a hearing, you must:

- (1) state your name, mailing address and daytime telephone number;
- (2) state the applicant's name, application number or another recognizable reference to this application;
- (3) the statement "I/we request a public hearing";
- (4) write a brief description of how you, the persons you represent, or the public interest would be adversely affected by the proposed transaction and transfer of the CCN; and
- (5) state your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Only those persons who submit a written request to be notified of a hearing will receive notice if a hearing is scheduled.

Persons who wish to protest or request a hearing on this application should write the:

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

Si desea informacion en Espanol, puede llamar al 1-512-936-7221.

Utility Representative

Utility Name