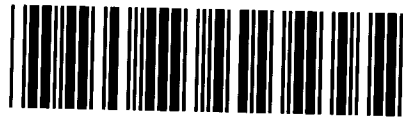


Control Number: 43403



Item Number: 18

Addendum StartPage: 0

APPLICATION OF AUGUST LAKES WATER SUPPLY CORPORATION (WSC) TO OBTAIN A WATER CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) IN WALLER COUNTY (APPLICATION NO. 38021-C)	§ § § § § § § § § §	2015 JUN 30 AM 10:22 PUBLIC UTILITY COMMISSION OF TEXAS FILING CLERK
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COMMISSION STAFF'S RESPONSE TO ORDER NO. 5

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest and files this Response to Order No. 5 and would show the following:

I. BACKGROUND

On August 18, 2014, August Lakes Water Supply Corporation (Applicant) filed an application to obtain a certificate of convenience and necessity in Waller County with the Texas Commission on Environmental Quality (TCEQ). On October 10, 2014, the application was transferred to the Commission. On April 8, 2015, the presiding officer issued Order No. 5, requiring Staff to file a recommendation or request a hearing by June 30, 2015; therefore, this filing is timely.

II. RECOMMENDATION

Applicant has successfully completed a significant portion of its application, but the final review and processing of this application requires a prior approval from the TCEQ and some additional information from the Applicant. The TCEQ approval and information needed are detailed in the attached memorandum of Elisabeth English and Tracy Harbour in the Commission's Water Utilities Division. Should the presiding officer adopt Staff's recommendation, Staff respectfully requests that the presiding officer order the Applicant to provide a timeline to satisfy Staff's recommendations. The amount of time required for the TCEQ approval may be substantial; therefore, it may be more appropriate to seek abatement of this proceeding rather than submit an amended procedural schedule.

III. CONCLUSION & PRAYER

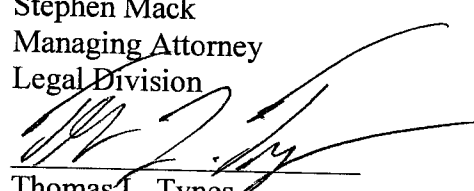
Staff requests that the presiding officer issue an order consistent with the recommendation above.

DATE: June 30, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

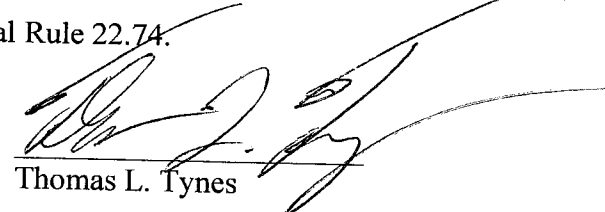
Stephen Mack
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Austin, Texas 78711-3326

PUC DOCKET NO. 43403

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this the 30th of June, 2015, in accordance with P.U.C. Procedural Rule 22.74.


Thomas L. Tynes

PUC Interoffice Memorandum

TO: Thomas Tynes, Attorney
Legal Division

THROUGH: Tammy Benter, Director
Water Utilities Division

FROM: Elisabeth English, Engineering Specialist
Tracy Harbour, GIS Specialist
Water Utilities Division

DATE: June 29, 2015

SUBJECT: Docket No. 43403, Application of August Lakes Water Supply Corporation (WSC) to Obtain a Water Certificate of Convenience and Necessity in Waller County

On August 18, 2014, August Lakes WSC (Applicant) filed an application to obtain a new water Certificate of Convenience and Necessity (CCN) in Waller and Harris Counties. The application was reviewed by Public Utility Commission (Commission) Staff (Staff) under the TEXAS WATER CODE ANN. (TWC) §§ 13.242–13.250 and TITLE 16 TEXAS ADMINISTRATIVE CODE (TAC) §§ 24.101–24.107. The application was deemed administratively complete via Order No. 5, filed April 8, 2015, which ordered the Applicant to notice affected parties and return proof of notice to the Commission prior to May 7, 2015. On April 30, 2015, the Applicant filed an affidavit of notice, along with a copy of the notices sent, and an affidavit verifying publication of notice. Order No. 5 also ordered Staff to provide a final recommendation no later than June 30, 2015.

In determining whether to grant or amend a CCN, the Commission shall ensure that the Applicant possesses the financial, managerial, and technical capability to provide continuous and adequate service pursuant to 16 TAC § 24.102(a). Because the Applicant is seeking to obtain a new water CCN, 16 TAC § 24.102(b) also requires that the information detailed therein be submitted to the Commission for review. The Commission shall also consider the nine elements listed in 16 TAC § 24.102(d).

According to the information available in this docket, the Applicant's public water system has only been *conditionally* approved for construction by the Texas Commission on Environmental Quality (TCEQ). The public water system is annotated as proposed in the TCEQ Drinking Water Watch (DWW) database. For water utility service, the Commission shall ensure that the applicant has a TCEQ approved system and that it is capable of providing drinking water that meets the requirements of Texas Health and Safety Code, Chapter 341 pursuant to 16 TAC § 24.102(a)(1). At this time, Staff cannot determine whether the water system will meet the requirements of the Texas Health and Safety Code because the wells have yet to be finally approved for use by the TCEQ. The public water system is only approved once activated in TCEQ DWW, following the submittal of well completion paperwork. The paperwork to

complete this process includes water quality samples supporting the claim that the Applicant is capable of providing water that meets the requirements of the Texas Health and Safety Code.

The Applicant provided copies of written requests seeking to obtain service from the public drinking water supply systems in proximity to the proposed area and copies of written responses from each of the systems from which written requests for service were made, pursuant to 16 TAC § 24.102(b). However, the Applicant did not provide an analysis of all necessary costs for constructing, operating, and maintaining the new system for at least the first five years, including such items as taxes and insurance, which are also required by 16 TAC § 24.102(b).

Without the TCEQ's confirmation of compliance with the Texas Health & Safety Code and the analysis of costs, Staff cannot recommend a final approval of this application. Therefore, Staff requests that the presiding officer allow the Applicant additional time to provide information, then for Staff to make a supplemental final recommendation. The necessary processes described above can take extended amounts of time to complete. Should that be the case, Staff requests that the Applicant provide a time estimate to complete the above actions and either recommend a procedural schedule going forward or abate the case until the above recommendation is completed.