

Control Number: 43452



Item Number: 68

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APPLICATION OF THE TOWN OF	§	PUBLIC UTILITY COMMISSION PUBLIC UTILITY COMMISSION FILING CLERK OF TEXAS
LITTLE ELM TO AMEND ITS	§	
CERTIFICATES OF CONVENIENCE	§	
AND NECESSITY AND TO	§	
DECERTIFY PORTIONS OF	§	
CERTIFICATES HELD BY MUSTANG	§	
SPECIAL UTILITY DISTRICT AND	§	
TERRA SOUTHWEST INC. IN	§	
DENTON COUNTY (37896-C, 37897-C)	§	

**COMMISSION STAFF'S CLARIFICATION RECOMMENDATION
REGARDING DECERTIFICATION AND CONSENT**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this response to Order No. 24, Staff's Clarification Recommendation Regarding Decertification and Consent. Staff recommends that Valencia be given an opportunity to file signed consent to the cancellation of their sewer CCN No. 21015 and water CCN No. 13138. In support thereof, Staff shows the following:

I. BACKGROUND

On October 3, 2014, the Town of Little Elm (Little Elm) filed an application to amend its water certificate of convenience and necessity (CCN) No. 11202 and sewer CCN No. 20931 in Denton County, Texas. The application would add to Little Elm's service areas and decertify portions of the certificated service areas currently served by Mustang Special Utility District (Mustang SUD), Valencia on the Lake Water Control Improvement District (Valencia), the City of Hackberry (Hackberry), and the City of Oak Point (Oak Point).

On January 13, 2017, Staff filed its Final Recommendation, recommending that the application be approved. On January 20, 2017, Staff filed a motion to admit evidence and a proposed notice of approval. On March 2, 2017, the administrative law judge (ALJ) issued Order No. 24, requesting (1) clarification from Staff as to the effect of the requested decertifications on Valencia's water and sewer CCNs and (2), if necessary, to provide the consent of Valencia and Oak Point to the requested decertifications. Order No. 24 required Staff's response by March 10, 2017. Therefore, this pleading is timely filed.

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II. CLARIFICATION

In regard to Order No. 24's request for clarification on the application's effect on Valencia's water and sewer CCNs, Staff notes that approval of the application would fully decertify and cancel both Valencia's water CCN No. 13138 and sewer CCN No. 21015. As noted by Little Elm in its Completed Responses to Commission Staff's Status Update, filed on March 12, 2015, the intent of this application with regard to the sewer and water CCNs of Valencia is to decertify the entirety of Valencia's service areas held under sewer CCN No. 21015 and water CCN No. 13138 in order to transfer those service areas to Little Elm. Little Elm represented that Valencia has agreed to "effectively terminating" its water and sewer CCNs.¹

Pursuant to Tex. Water Code § 13.254(a) (TWC) and 16 Tex. Admin. Code § 24.113(a) (TAC), absent certain specified findings by the Commission, the Commission may amend or revoke a CCN by the written consent of the certificate holder. However, the signed consents filed by Valencia only indicate that portions of water CCN No. 13138 and sewer CCN No. 21015 will be decertified, not that these will both be fully decertified and cancelled.² Staff also inadvertently neglected to indicate in its final recommendation that Valencia's water and sewer CCNs would be cancelled by approval of Little Elm's application. To rectify this, Staff emailed revised consent documents to Valencia on March 8, 2017 which give Valencia the opportunity to consent to the cancellation of water CCN No. 13138 and sewer CCN No. 21015 if that is their intent. Staff requested that Valencia sign and file that consent by March 28, 2017. If Valencia consents to such cancellations by that date, Staff will provide a supplemental final recommendation and attach an amended memorandum in support indicating that Valencia's sewer and water CCNs will be cancelled. Staff proposes a procedural schedule below to account for these supplemental filings.

In regard to the necessity for further consent from Oak Point, Staff recommends that no further consent from Oak Point is necessary. A portion of Oak Point's sewer CCN No. 20908 is being decertified and the signed consent filing filed on December 28, 2016 satisfactorily indicates Oak Point's consent to this.³

¹ Town of Little Elm's Completed Responses to Commission Staff's Status Update at 2-3 (Mar. 12, 2015).

² See Consent Form at 1 (Dec. 28, 2016) (with Ross Martin signing on behalf of Valencia to authorize decertification of portions of Valencia's water and sewer CCN nos. 13138 and 21015 in accordance with the maps attached to that filing).

III. PROPOSED SUPPLEMENTAL PROCEDURAL SCHEDULE

In accordance with Staff's above clarifying recommendation, Staff proposes the following supplemental procedural schedule:

Event	Date
Valencia to file amended consent	March 28, 2017
Staff to file supplemental final recommendation	April 11, 2017
Staff to file supplemental motion to admit evidence	April 11, 2017
Staff to file amended proposed notice of approval	April 11, 2017

IV. CONCLUSION

For the above stated reasons, Staff respectfully recommends that Valencia file consent to cancellation of its water CCN No. 13138 and sewer CCN No. 21015 and that the above proposed supplemental procedural schedule be adopted.

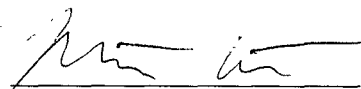
Dated: March 10, 2017

Respectfully Submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Margaret Uhlig Pemberton
Division Director

Katherine Lengieza Gross
Managing Attorney

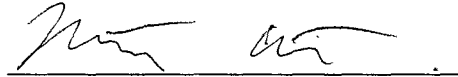


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³ *Id.* at 5.

P.U.C. DOCKET NO. 43452
CERTIFICATE OF SERVICE

I, Matthew Arth, staff attorney for the Public Utility Commission of Texas, certify that a copy of this document was served on all parties of record in this proceeding on March 10, 2017 in accordance with the requirements of 16 Tex. Admin. Code § 22.74.


Matthew A. Arth