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DOCKET NO. 43712

**APPLICATION OF LAKE
LIVINGSTON WATER SUPPLY AND
SEWER SERVICE CORPORATION
AND TYLER COUNTY WATER
SUPPLY CORPORATION FOR SALE,
TRANSFER, OR MERGER OF
FACILITIES AND CERTIFICATE
RIGHTS IN TYLER COUNTY (37966-S)**

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PUBLIC UTILITY COMMISSION

OF TEXAS

COMMISSION STAFF'S RECOMMENDATION

Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) files this Recommendation. Based upon additional mapping information received by Staff, Staff has determined that additional parties must receive notice. In support of its Recommendation, Staff states the following:

I. Background

On June 30, 2014, Lake Livingston Water Supply and Sewer Service Corporation (Lake Livingston WSC) filed an application with the Texas Commission on Environmental Quality (TCEQ). Lake Livingston WSC requested approval of the sale and transfer of its certificate of convenience and necessity (CCN No. 10147) and the accompanying water system for the Wayward Winds Estates subdivision in Tyler County, Texas. Tyler County Water Supply Corporation (Tyler County WSC) is the purchaser/transferee. As part of the application, Lake Livingston WSC and Tyler County WSC also request an amendment to Tyler County WSC's CCN No. 11528 to reflect the sale and transfer of Lake Livingston WSC's CCN No. 10147 and water system for the Wayward Winds Estates subdivision. Lake Livingston WSC did not list a proposed effective date for the sale and transfer transaction.

Effective September 1, 2014, the Commission began the economic regulation of water and sewer utilities. This proceeding, which was pending at the TCEQ, was transferred to the Commission for processing.

On May 6, 2015, Lake Livingston WSC filed additional mapping data with the Commission.

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II. Applicable Statutes and Rules

A. Notice

An applicant requesting approval of the sale and transfer of assets and accompanying certificates of convenience and necessity must send notice “on the form required by the commission”¹ In previous sale and transfer applications, Staff has required that an applicant send notice: (1) current customers; (2) neighboring systems; (3) affected landowners; and (4) neighboring municipalities. With respect to the transfer of a certificate of convenience and necessity, an applicant must provide notice to “cities and neighboring retail public utilities providing the same utility service whose corporate limits or certificated service area boundaries are within two miles of the requested service area boundaries, and any city with an extraterritorial jurisdiction which overlaps the proposed service area boundaries.”² Additionally, the Commission may require the publication of notice of the transfer of a certificate of convenience and necessity.³

B. The 120-day deadline for sale and transfer applications

The Commission’s rules require that sale and transfer applications must be approved within 120 days of filing.⁴ This 120-day period begins on the last date of whichever of the following events occur:

1. The application filing date;
2. The last date the applicant mailed required notice; or
3. The last date of publication of notice.⁵

III. Staff’s Recommendation

Staff has reviewed the additional mapping submitted by Lake Livingston WSC. Based on Staff’s review of this additional mapping, Staff has determined that additional parties must be

¹ 16 Tex. Admin. Code § 24.109(a). The form notice is available on the Commission’s website: <http://www.puc.texas.gov/industry/water/Forms/Forms.aspx>.

² 16 Tex. Admin. Code § 24.112(c)(3).

³ 16 Tex. Admin. Code § 24.112(c)(2).

⁴ 16 Tex. Admin. Code § 24.109(e), (f).

⁵ 16 Tex. Admin. Code § 24.109(a)(1)-(3).

provided notice of Lake Livingston WSC's application. Staff has identified that the following additional parties must receive notice of Lake Livingston WSC's application:

1. Tyler County;
2. Angelina and Neches River Authority;
3. Lower Neches Valley Authority;
4. Upper Jasper County Water Authority; and
5. Lake Livingston Water Supply and Sewer Service.

With regards to the form of the notice to be provided to these additional parties, Staff recommends that Lake Livingston WSC use the original notice provided to parties, subject to the following corrections:

1. The general description of the service area should be revised as follows: On the north of the service area should be revised as follows (recommended revisions underlined): On the north by the intersection of CR 4175 and FM92; and
2. The total acreage should be revised from 120 acres to 93 acres.

With regards to the mapping that should accompany the notice provided to additional parties, Staff recommends that Lake Livingston be required to file with the Commission its proposed maps in a hard copy format. The hard copy format should contain:

1. A general location (small scale) map showing only the proposed service area subject to this transaction with enough detail to accurately locate the service area within a portion of Tyler County.
2. A large scale map delineating only the proposed water service area with enough detail to accurately locate the service area in the vicinity of surrounding roads, streets, and highways.

Thus, Staff recommends that Lake Livingston WSC file with the Commission corrected form notice and hard copy maps that are proposed to be sent to the additional parties identified in this Recommendation.

Once Lake Livingston WSC submits the corrected form notice and maps, Staff will determine whether such notice and maps are sufficient. In the event that Staff determines such notice and maps are sufficient, Staff will recommend that Lake Livingston WSC provide the submitted notice and maps to the additional parties identified in this Recommendation.

Additionally, Staff will recommend a supplemental procedural schedule for this proceeding. Staff's recommendations are based on the attached memorandum of Debbie Reyes Tamayo, Program Specialist in the Water Utilities Division

Given that additional parties have yet to receive notice of Lake Livingston WSC's application, it is Staff's position that the 120-day deadline has yet to start. The 120-day deadline will start on the date that Lake Livingston WSC provides notice to the additional parties identified in this Recommendation.⁶ Thus, Staff recommends the following procedural schedule for the processing of this application:

Event	Deadline
Deadline for applicant to file corrected proposed notice and hard copy maps.	May 22, 2015
Deadline for Commission Staff to file a recommendation on corrected proposed notice and hard copy maps.	June 5, 2015

IV. Conclusion

Staff recommends that Lake Livingston WSC be required to send notice of its application to the additional parties identified in this Recommendation and be required to address the other issues identified by Staff in this Recommendation.

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⁶ See 16 Tex. Admin. Code § 24.109(a)(1)-(3).

Date: May 8, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton
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CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record on May 8, 2015
in accordance with 16 Tex. Admin. Code 22.74.



Sam Chang

PUC Interoffice Memorandum

To: Sam Chang, Attorney
Legal Division

Through: Tammy Benter, Director
Water Utilities Division

From: Debbie Reyes Tamayo, Program Specialist
Tracy Harbour, GIS Specialist
Water Utilities Division

Date: May 7, 2015

Subject: Docket No. 43712, Application of Tyler County WSC (11528) to transfer a portion of Lake Livingston Water Supply and Sewer Service (Wayward Winds Estates) in Tyler County (37966-S)

On July 3, 2014, Tyler County WSC (Applicant), Certificate of Convenience and Necessity (CCN) No. 11528, filed an application with the Texas Commission on Environmental Quality (TCEQ) to transfer a portion CCN No. 10147 held by Lake Livingston Water Supply and Sewer Service (Wayward Winds Estates), in Tyler 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.

Insufficient Maps and Additional Notice Required:

Mapping Deficiencies:

Commission Staff has reviewed the additional mapping information provided by the Applicant on May 6, 2015, finds that it does not include hard copy maps. The Applicant must submit the required maps in a hard copy format in order to meet PUC's mapping requirements. Therefore, the Applicant has not submitted adequate maps, and has not satisfied the mapping requirements as required in the P.U.C. SUBST. R. 24.105(a)(2) and page 17 of the STM Application. Staff recommends the Applicant submit the following items to resolve the mapping deficiencies:

- A general location (small scale) map showing only the proposed service area subject to this transaction with enough detail to accurately locate the service area within a portion of Tyler County.
- A large scale map delineating only the proposed water service area with enough detail to accurately locate the service area in the vicinity of surrounding roads, streets, and highways.

Notice Deficiencies:

The Applicant has not satisfied the notice requirements as required in P.U.C. SUBST. Rule in Chapter 24.106 (a). The applicant provided an incomplete list of entities who must receive notice within a 2-mile buffer of the proposed water service area. In addition to those entities listed in the application, the Applicant must also notice the following entities:

- Tyler County
- Angelina and Neches River Authority
- Lower Neches Valley Authority
- Upper Jasper County Water Authority
- Lake Livingston Water Supply and Sewer Service

Also, Commission Staff has determined that the description of the service area was incorrect in the original notice provided by the Applicant.

Commission Staff therefore recommends the Applicant file corrected notice with the following revisions to the original notice provided by the Applicant:

- The general description of the service area should be revised as follows: On the north of the service area should be revised as follows (recommended revisions underlined): On the north by the intersection of CR 4175 and FM92; and
- The total acreage should be revised from 120 acres to 93 acres.

The Applicant will be instructed to mail a map with their amended notice documents upon approval by Commission staff.

TB/DRT