



Control Number: 43712



Item Number: 25

Addendum StartPage: 0

2015 JUN 19 PM 1:38  
PUBLIC UTILITY COMMISSION  
FILING CLERK  
OF TEXAS

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) §

### COMMISSION STAFF'S RECOMMENDATION

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

#### I. Background

On June 30, 2014, 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 water 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 requested an amendment to Tyler County WSC's water CCN No. 11528 to reflect the sale and transfer of Lake Livingston WSC's water CCN No. 10147 and water system for the Wayward Winds Estates subdivision.

Effective September 1, 2014, the Commission began the economic regulation of water and sewer utilities. Lake Livingston WSC's application, which was pending at the TCEQ, was transferred to the Commission for processing.

On May 8, 2015, Staff filed its recommendation identifying additional parties that need to receive notice of Lake Livingston WSC's application and identifying mapping issues related to notice. Staff recommended that Lake Livingston WSC be given an opportunity to submit corrected form notice and hard copy maps. In the event that the corrected form notice and hard copy maps submitted by Lake Livingston WSC are sufficient, Staff stated that it will recommend that Lake Livingston WSC provide the submitted notice and maps to the identified additional

parties that need to receive notice of Lake Livingston WSC's application.

On June 3, 2015, Lake Livingston WSC filed its corrected proposed notice and hard copy maps. Additionally, Lake Livingston WSC filed an affidavit regarding notice. Lake Livingston WSC provided notice of its application on May 28, 2015 to the additional parties identified by Staff in its May 8, 2015 recommendation.

On June 5, 2015, the Administrative Law Judge entered Order No. 8. Order No. 8 extended the deadline for Staff to file its recommendation on Lake Livingston WSC's corrected proposed notice and hard copy maps to June 19, 2015. Staff's Recommendation is timely filed.

## **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 . . . ."<sup>1</sup> 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."<sup>2</sup> Additionally, the Commission may require the publication of notice of the transfer of a certificate of convenience and necessity.<sup>3</sup>

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

The Commission's rules require that sale and transfer applications must be approved

---

<sup>1</sup> 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>.

<sup>2</sup> 16 Tex. Admin. Code § 24.112(c)(3).

<sup>3</sup> 16 Tex. Admin. Code § 24.112(c)(2).

within 120 days of filing.<sup>4</sup> 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.<sup>5</sup>

### III. Staff's Recommendation

Staff has reviewed the revised small and large scale maps submitted by Lake Livingston WSC on June 3, 2015. Both the small and large scale maps submitted by Lake Livingston WSC must show the exact same proposed service area. The large scale map submitted by Lake Livingston WSC accurately shows the proposed service area to be transferred. The general location (small scale) map submitted by Lake Livingston WSC is incorrect. Specifically, the proposed service area to be transferred is not accurately shown on the small scale map.

However, Staff recommends that the notice provided by Lake Livingston WSC on May 28, 2015 be deemed sufficient. Additionally, Staff recommends that Lake Livingston WSC's application be continued to be processed so long as Lake Livingston WSC files a corrected small scale map. Staff recommends the following proposed procedural schedule for the processing of this application:

Event	Date
Deadline to intervene and deadline for intervenors to request a hearing (30 days from the May 28, 2015 provision of notice)	June 29, 2015 <sup>6</sup>
Deadline for Lake Livingston WSC to file a corrected small scale map	July 3, 2015

<sup>4</sup> 16 Tex. Admin. Code § 24.109(e), (f).

<sup>5</sup> 16 Tex. Admin. Code § 24.109(a)(1)-(3).

<sup>6</sup> The thirtieth day is June 27, 2015, a Saturday. Under the Commission's procedural rules, the thirtieth day is computed as being June 29, 2015, the next day in which the Commission is open for business. See 16 Tex. Admin. Code § 22.4(a).

Deadline for Staff to request a hearing or file its recommendation on final disposition	July 20, 2015
Deadline for Lake Livingston WSC to respond to Staff's recommendation on final disposition or, if no disputed issues, deadline for parties to file a joint proposed notice of approval	August 3, 2015
120-day deadline for Commission action on Lake Livingston WSC's application (120 days from the May 28, 2015 provision of notice) <sup>7</sup>	September 25, 2015

#### IV. Conclusion

Staff recommends that Lake Livingston WSC's application to be continued to be processed and that Lake Livingston WSC be required to file a corrected small scale map. Staff also recommends that the Commission adopt the proposed procedural schedule.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

---

<sup>7</sup> See 16 Tex. Admin. Code 24.109(e).

Date: June 19, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director  
Legal Division

Shelah J. Cisneros  
Managing Attorney  
Legal Division



Sam Chang  
State Bar No. 24078333  
Attorney, Legal Division

Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7261  
(512) 936-7268 (facsimile)  
sam.chang@puc.texas.gov

**DOCKET NO. 43712**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on June 19, 2015 in accordance with 16 Tex. Admin. Code 22.74.



Sam Chang