

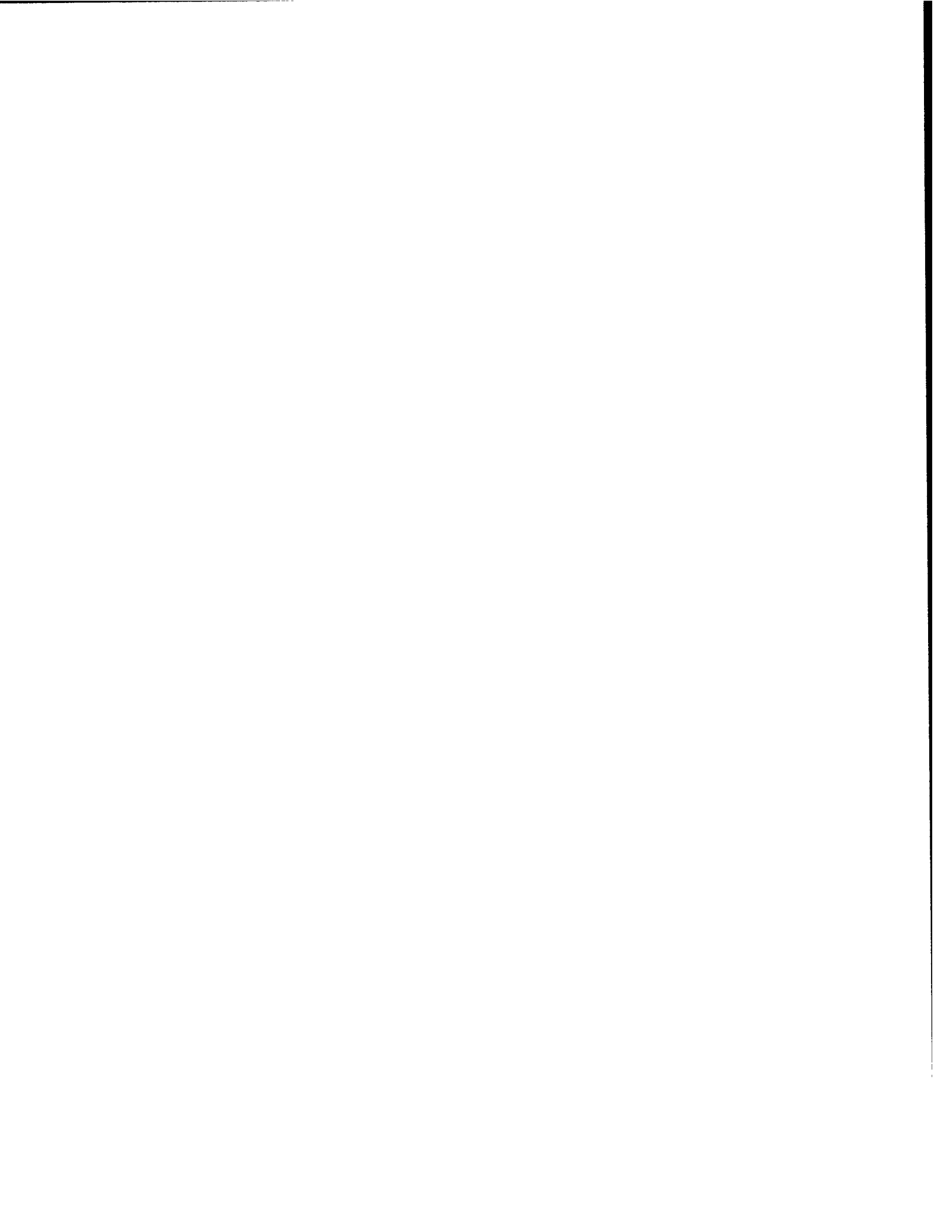


Control Number: 44267



Item Number: 12

Addendum StartPage: 0



DOCKET NO. 44267

APPLICATION OF DOUBLE
DIAMOND DBA THE CLIFFS
RESORT TO OBTAIN OR AMEND A
WATER/SEWER CERTIFICATE OF
CONVENIENCE AND NECESSITY IN
PALO PINTO COUNTY

§
§
§
§
§
§

PUBLIC UTILITY COMMISSION

OF TEXAS

FILING CLERK

2015 MAY 11: 14

COMMISSION STAFF'S RESPONSE TO ORDER NO. 3

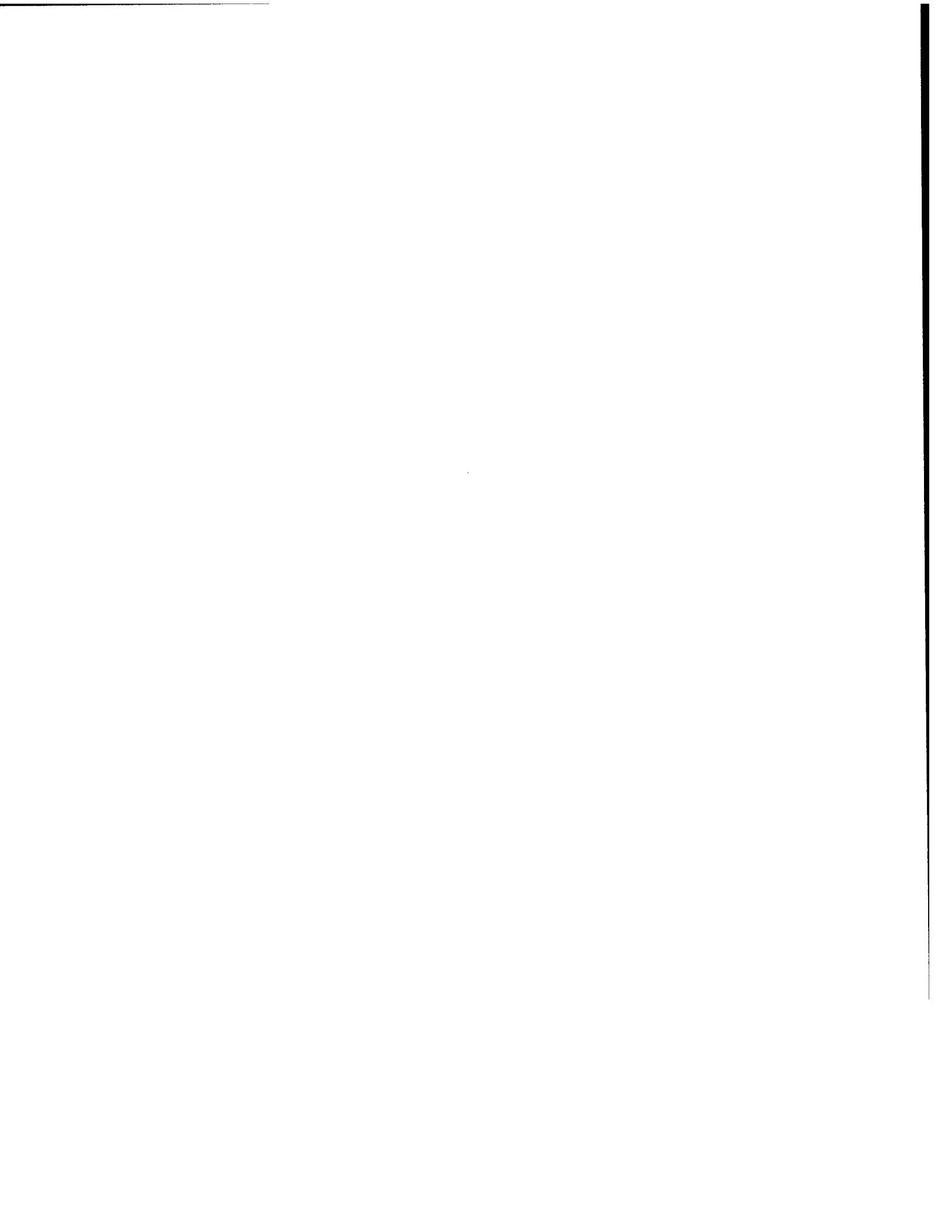
COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this Response to Order No. 3.

I. BACKGROUND

On January 13, 2015, Double Diamond d/b/a The Cliffs Resort (Double Diamond) filed an application to amend its water and sewer certificates of convenience and necessity (CCN) in Palo Pinto County, Texas. Double Diamond seeks to amend its CCNs to include an area developed subsequent to the original development and where services are already provided.

On January 20, 2015, Order No. 1 was issued, requiring Staff to file comments on the administrative completeness of the application, proposed notice, and a procedural schedule by February 12, 2015. On February 12, 2015, Staff filed comments on the application and determined it was administratively incomplete. On February 19, 2015, Order No. 2 was issued, requiring Double Diamond to cure deficiencies in its application by March 16, 2015 and requiring Staff to file a supplemental recommendation regarding administrative completeness by April 2, 2015. On March 13, 2015, Order No. 3 was issued, granting Double Diamond's request for an extension and setting a deadline of April 15, 2015 for Double Diamond to cure deficiencies. Order No. 3 also required Staff to file a supplemental recommendation regarding administrative completeness by May 4, 2105. Therefore, this Response is timely.

12



II. COMMENTS ON ADMINISTRATIVE COMPLETENESS

P.U.C. SUBST. R. 24.8 provides for the review for administrative completeness of CCN applications. If the Commission determines material deficiencies exist in the application, the application may be rejected.¹ P.U.C. SUBST. R. 24.105 provides the Commission's required contents for a CCN application. As detailed in the attached memo from Mary Lupo, in the Commission's Water Utilities Division, Staff has reviewed the application and recommends that the application be found administratively incomplete pursuant to P.U.C. SUBST. R. 24.105.

Staff identified deficiencies in the application and mapping requirements submitted by the Applicant. Specifically, Applicant failed to include all necessary documentation in the application as required by P.U.C. SUBST. R. 24.105. Further, the maps submitted by Applicant do not clearly delineate the proposed water and sewer service areas being requested and the digital data is not in the format requested by the Commission as required by P.U.C. SUBST. R. 24.105, 24.106 and 24.119.

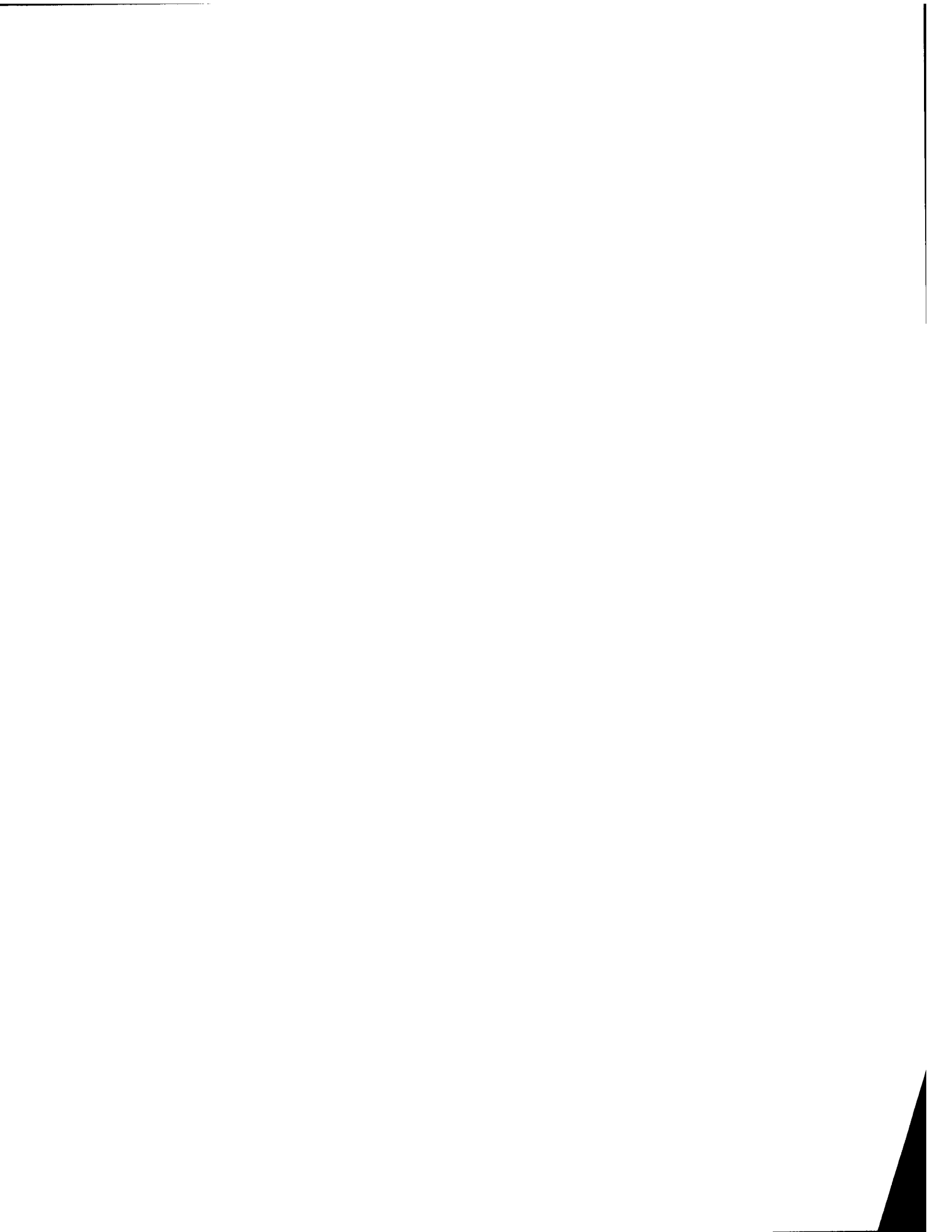
Finally, Staff cannot make a recommendation on notice until the other deficiencies are cured. Applicant *should not* send out notice until the Commission has issued an order approving the notice and directing Applicant to provide notice.

Pursuant to P.U.C. SUBST. R. 24.8(a), the application is not considered filed until the Commission determines that the application, mapping requirements and proposed notice are administratively complete. Staff has identified deficiencies in the application and, therefore, recommends that the application package be found administratively incomplete pursuant to TEX. WATER CODE ANN. Subchapter G and Title 30, TEX. ADMIN. CODE (30 TAC) Subchapter G.

III. PROPOSED PROCEDURAL SCHEDULE

Due to the deficiencies in the application, Staff does not recommend a procedural schedule for the evaluation of the merits of the application at this time. Staff recommends that Applicant be given until May 29, 2015 to cure the deficiencies identified in the attached memorandum. Staff proposes a deadline of July 8, 2015 for Staff to file additional comments regarding administrative completeness, along with a proposed procedural schedule if deemed administratively complete.

¹ P.U.C. SUBST. R. 24.8(a).



IV. CONCLUSION

Staff respectfully requests that the ALJ issue an order consistent with this Response.

DATE: May 4, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

Stephen Mack
Managing Attorney
Legal Division

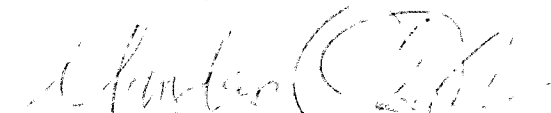


Mandeep Chafha
Attorney-Legal Division
State Bar No. 24082803
(512) 936-7163
(512) 936-7268 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

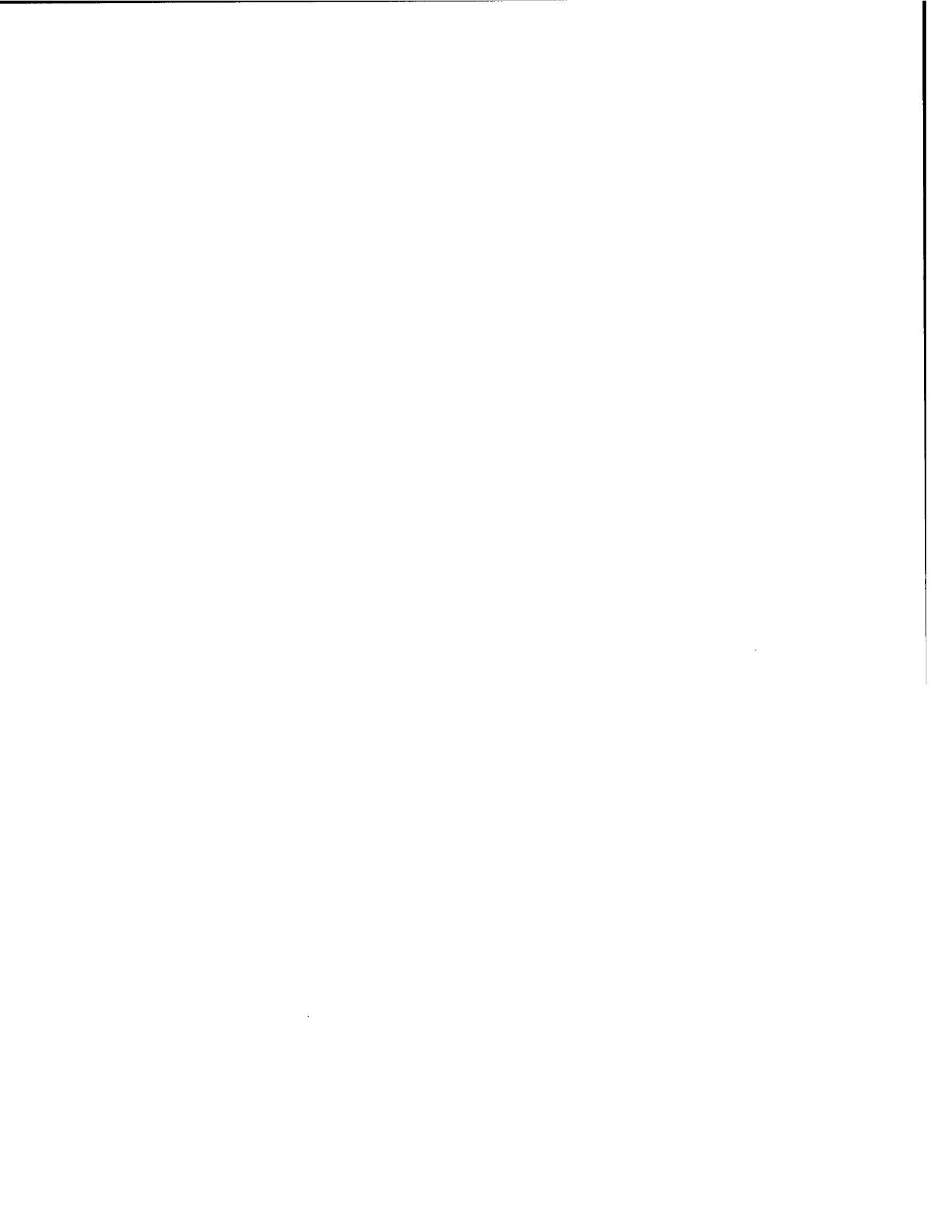
DOCKET NO. 44267

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this the May 4, 2015 in accordance with P.U.C. Procedural Rule 22.74.



Mandeep Chafha



PUC Interoffice Memorandum

To: Mandeep Chatha
Legal Division

Thru: Tammy Benter, Director
Water Utilities Division

Tracy Harbour, GIS Specialist
Water Utilities Division

From: Mary Lupo Utility Rates Analyst/Auditor
Emily Sears Utility Rates Analyst
Water Utilities Division

Date: April 30, 2015

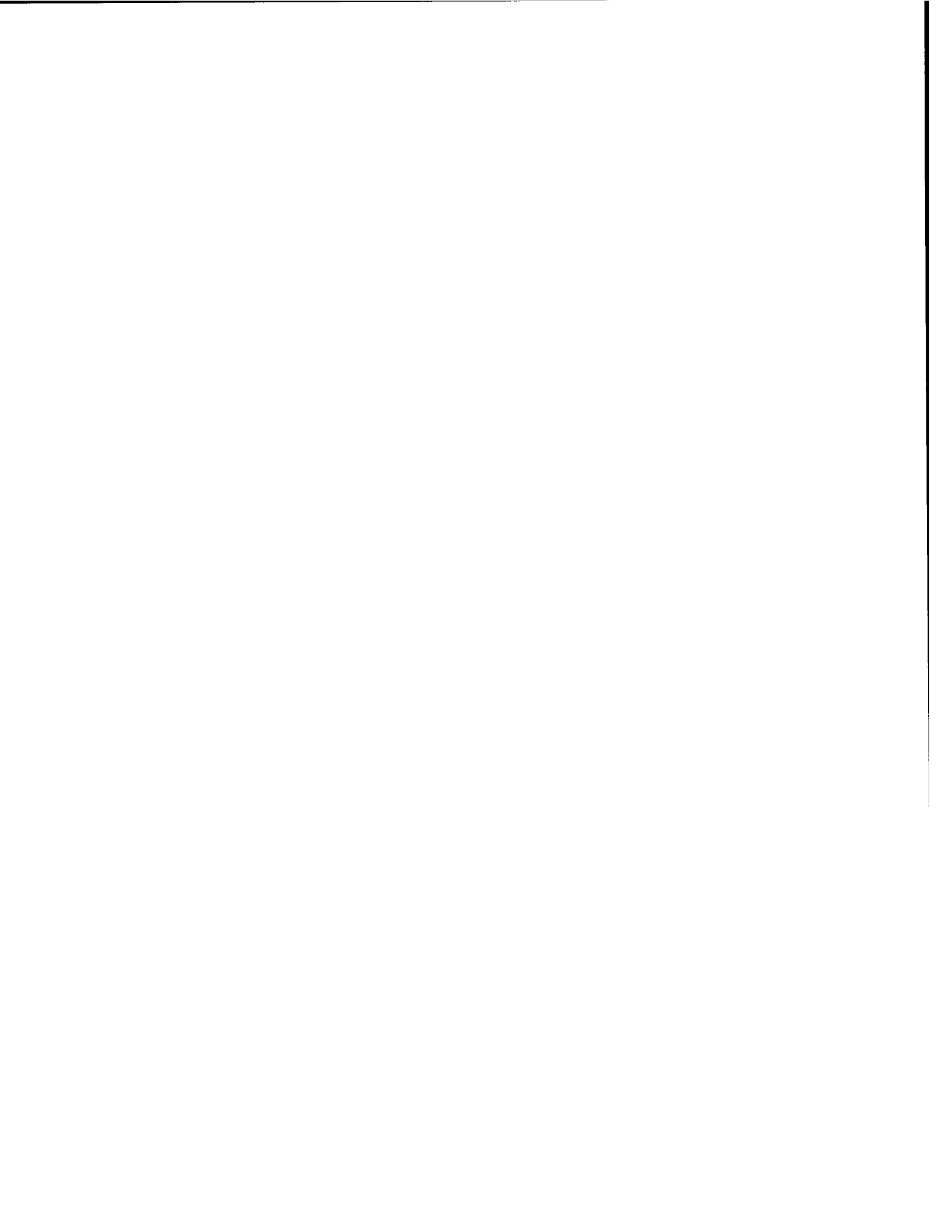
Subject: Staff Recommendation for Docket No. 44267

On January 13, 2015, Double Diamond d/b/a The Cliffs Resort (Applicant) filed an application with the Public Utility Commission (PUC) to amend water and sewer Certificate of Convenience and Necessity (CCN) Nos. 12087 and 20705 in Palo Pinto County. The application was filed under the P.U.C. SUBST. R. 24.102 - 24.107.

On April 10, 2015, the Applicant submitted additional information attempting to cure outstanding deficiencies with the application; however, the Applicant did not submit an adequate number of updated maps as required by PUC's filing procedures. Further, the maps and digital data submitted do not clearly delineate the proposed water and sewer service areas being requested with this case, and the digital data was not provided in the format requested by the PUC. The digital data submitted failed to clearly show within the shapefile (SHP) or AutoCAD drawing (DWG) which attribute or record is considered the proposed water and sewer service areas. Without this information, Staff is unable to accurately determine the location of the water and sewer service areas being requested in the application.

Furthermore, the agreement between Double Diamond Utilities Co. and Possum Kingdom WSC does not include a map showing the agreed upon service area to be decertified from Possum Kingdom WSC's CCN No. 12890, and amended into the Applicant's CCN No. 12087. The agreement also does not include a letter from the USDA Rural Development approving the transaction by releasing its lien on the portion(s) of land the Applicant is requesting to be decertified from Possum Kingdom WSC's CCN No. 12890.

Based on a review of the information in the application, the Applicant has not satisfied the mapping requirements as listed on page 5 of the CCN amendment application and as required in P.U.C. SUBST. R. 24.105(a)(2). Staff recommends the application be deemed insufficient for filing. Staff also recommends the Applicant should submit the following items to resolve the mapping deficiencies:



- 1) A general location (small scale) map only showing the proposed water and sewer service areas with enough detail to accurately locate the service areas in a portion of Palo Pinto County.
- 2) A large scale map only delineating the proposed water and sewer service areas with enough detail to accurately locate the service areas in the vicinity of surrounding roads, streets, and highways. Staff recommends Applicant submit a map in letter or tabloid size, since this map should be used for notice purposes.
- 3) Submit a written agreement between the Applicant and with Possum Kingdom WSC stating they approve the decertification of water CCN No. 12890 for the portion specified on the Applicant's CCN Overlap Map (Sheet 3).
- 4) Submit revised digital data only including the proposed water and sewer service areas in either an AutoCAD drawing (DWG) or shapefile (SHP) format on a data disk (CD):
 - a) The proposed digital data must be a single, continuous polyline or polygon record, which is clearly labeled as the proposed service area.
 - b) The proposed digital data must include the projection or coordinate system used to create the digital data.
 - i. If submitting a DWG formatted file, please include the world (WLD) or text file.
 - ii. If submitting a SHP formatted file, please include the projection (PRJ) file.
 - iii. Submit digital data on a CD labeled with the utility name and docket number assigned to this case.

In addition, Staff recommends the Applicant submit a letter or documentation from the USDA Rural Development releasing its lien on the portion of land the Applicant is requesting to be decertified from Possum Kingdom WSC's CCN No. 12890.

