



Control Number: 44621



Item Number: 7

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DOCKET NO. 44621

**JOINT APPLICATION OF YES PREP
PUBLIC SCHOOLS AND SUBURBAN
UTILITY COMPANY TO DECERTIFY
YES PREP PROPERTY FROM
SUBURBAN WATER COMPANY'S
CERTIFIED SERVICE AREA**

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PUBLIC UTILITY COMMISSION

OF TEXAS

2015 MAY 8 AM 10:00
PUBLIC UTILITY COMMISSION
FILED CLERK

COMMISSION STAFF'S RESPONSE TO ORDER NO. 1

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Response to Order No. 1.

I. BACKGROUND

On April 8, 2015, YES Prep Public Schools (YES Prep) and Suburban Utility Company (Suburban) filed a Joint Application for Decertification of YES Prep Property from Suburban's Retail Water Certificated Service Area (Application). The Application seeks to decertify YES Prep's property from Suburban's service area Certificate of Convenience and Necessity (CCN) No. 10835. This Application was filed pursuant to the Emergency Order issued by the Commission in Docket No. 44322.¹ On April 16, 2015, YES Prep and Suburban filed an Amendment to the Application (Amendment). On May 4, 2015, YES Prep filed a Supplement to its Application (Supplement).

On April 10, 2015, the Administrative Law Judge (ALJ) issued Order No. 1 requiring Staff to file comments regarding administrative completeness of the application and notice by May 8, 2015. Therefore, this response is timely filed.

II. STAFF'S RECOMMENDATION ON ADMINISTRATIVE COMPLETENESS

Staff reviewed the Application, Amendment, and Supplement pursuant to Tex. Water Code §§ 13.242-.250 (TWC) and 16 Tex. Admin. Code §§ 24.101-.107 (TAC). As detailed in the attached memorandum of Elisabeth English, in the Commission's Water Utilities Division, Staff recommends the Application be found administratively incomplete pursuant to 16 TAC § 24.105.

Staff identified deficiencies in the mapping requirements submitted in the Application, Amendment, and Supplement. Specifically, Staff finds the general location map provided in the

¹ Request of YES Prep Public Schools for Emergency Order to Obtain Water Service from Sunbelt Fresh Water Supply District, Docket No. 44322, Emergency Order at 6 (Mar. 17, 2015).

Amendment does not accurately identify Suburban's CCN service area. YES Prep and Suburban provided maps from the Commission CCN Viewer with the service area drawn on the map. However, maps from the Commission CCN Viewer may not be used for CCN amendment applications and the drawing was not done to scale. Staff also reviewed a map provided in the Supplement and recommends it also be found insufficient to satisfy the mapping requirements because the location map does not accurately delineate the proposed CCN area to be removed from Suburban's CCN service area.

In order to cure the identified mapping deficiencies, Staff recommends that YES Prep and Suburban amend the Application by filing a general location map delineating the proposed CCN area to be decertified and a map or survey document identifying only the proposed area in one of the three options described in the attached memo of Elisabeth English. Additionally, Staff further recommends that YES Prep and Suburban be directed to not provide notice of the application until the deficiencies have been resolved and the Commission orders the Applicant to do so.

Pursuant to 16 TAC § 24.8(a), the Application is not considered filed until the Commission determines that the mapping requirements are administratively complete. Staff has identified deficiencies in the application and, therefore, recommends that the application package be found not administratively complete pursuant to 16 TAC § 24.105.

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 respectfully recommends that YES Prep and Suburban be given until **May 15, 2015** to cure the deficiencies identified by Staff. Staff proposes a deadline of **May 27, 2015** for Staff to file additional comments regarding administrative completeness. In the event that Staff determines that the Applicant's amended application is administratively complete, Staff will propose a procedural schedule for processing the matter.

IV. CONCLUSION

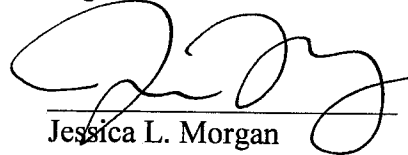
Staff respectfully requests that an order be issued consistent with this Response.

Dated: May 8, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

Karen S. Hubbard
Managing Attorney
Legal Division

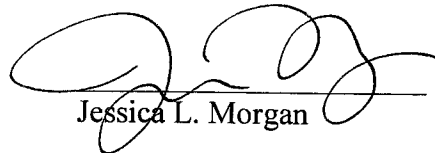


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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this May 8, 2015 in accordance with 16 TAC § 22.74.



Jessica L. Morgan

Public Utility Commission of Texas

Memorandum

TO: Jessica Morgan, Attorney
Legal Division

FROM: Elisabeth English, Engineering Specialist
Suzanne Burt, GIS Specialist
Water Utilities Division

THRU: Tammy Benter, Director
Water Utilities Division

DATE: May 7, 2015

RE: Docket No. 44621: *Joint Application of YES Prep Public Schools and Suburban Utility Co. (Suburban) to Decertify YES Prep's Property From Suburban Water Company's Certificated Service Area*

On April 8, 2015, YES Prep Public Schools (YES Prep) and Suburban Utility Company (Suburban) filed an application to decertify a portion of Suburban's water service area, Certificate of Convenience and Necessity (CCN) No. 10835, in Harris County. The application was filed as required by the Emergency Order executed in Docket No. 44322,¹ which permits YES Prep to receive retail water service from a utility other than the utility certificated to provide retail water service, Suburban. The application is being reviewed pursuant to Texas Water Code (TWC) §§ 13.242- 13.250 and 16 Tex. Admin. Code §§ 24.101-24.107.

A Staff review of the above referenced application and supplemental filings on April 16 and May 4, 2015, found that it is deficient in the required mapping information, specifically 16 Tex. Admin. Code §24.105(2); therefore, I recommend that the application be deemed insufficient for filing and found administratively incomplete.

The general location map filed April 16, 2015, does not accurately show the CCN area for Suburban. It appears the Applicant used the PUC's CCN Viewer to create a map for this application and drew in the CCN area; therefore the applicants map is not drawn to scale. Maps from the PUC CCN Viewer cannot be used for CCN amendment applications.

The location map submitted on May 4, 2015, does not accurately delineate the proposed CCN area to be removed from Suburban's water service area. Specifically, it includes areas that are not within the boundaries of the certificated area and therefore cannot be decertified.

In order to meet mapping requirements, Applicant must submit the following:

- A. A general location (small scale) map delineating the proposed CCN area to be removed with enough detail to accurately locate it. This map should not include existing CCNs, should be clearly labeled, and should only include the area's to be decertified from Suburban's certificated area.

¹ *Request of YES Prep Public Schools for Emergency Order to Obtain Water Service from Sunbelt Fresh Water Supply District*, Docket No. 44322, Emergency Order (Mar. 17, 2015).

B. A map or survey documents identifying **ONLY** the proposed area by:

- metes and bounds survey certified by a licensed state or registered professional land surveyor; or
- a hardcopy map created by using digital data of the proposed area submitted with enough base map data to verify its location. Also the digital data of the proposed area should be copied to a CD with metadata (coordinate system/projection information) and labeled with applicant's name and PUC Docket Number. Digital data can be in shape or DWG formats. If submitting a DWG, the proposed area should be in a single record (continuous polyline) and include a world file (coordinate system/projection information). If submitting a shape file, include a PRJ file; or
- a copy of recorded plat map with metes and bounds.

Applicant should be instructed not to notice neighboring entities, customers, landowners or other parties until digital data and/or maps are approved by Staff.