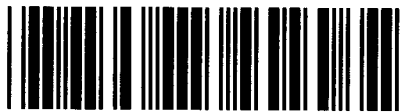




Control Number: 45342



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PETITION OF CONTINENTAL U.S. MANAGEMENT CORPORATION TO AMEND THE TOWN OF NORTH LAKE'S SEWER CERTIFICATE OF CONVENIENCE AND NECESSITY IN DENTON COUNTY BY EXPEDITED RELEASE	§ § § § § § § §	PUBLIC UTILITY COMMISSION 2015 DEC 16 PM 1:47 OF TEXAS PUBLIC UTILITY COMMISSION FILING CLERK
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COMMISSION STAFF'S RESPONSE TO ORDER NO. 1 AND RECOMMENDATION ON ADMINISTRATIVE COMPLETENESS

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this Commission Staff's Response to Order No. 1 and Recommendation on Administrative Completeness. In support thereof, Staff would show the following:

I. Background

On November 16, 2015, Continental U.S. Management Corporation (Continental) filed with the Public Utility Commission of Texas (Commission) a petition for streamlined expedited release from the Town of North Lakes' (TNL) sewer certificate of convenience and necessity (CCN) No. 20866 in Denton County, Texas pursuant to Tex. Water Code § 13.254(a-5) (TWC) and 16 Tex. Admin. Code § 24.114(r) (TAC). In the petition, Continental asserted that it owns approximately 138.907 contiguous acres in Denton County (Property), which it seeks to have released from sewer CCN No. 20866.¹ Continental also asserts that the Property is not receiving sewer service from TNL.² The Commission published notice of Continental's petition in the *Texas Register* on November 27, 2015.

In Order No. 1, issued November 17, 2015, the Administrative Law Judge (ALJ) ordered Staff to file comments on the administrative completeness of the petition and notice by December 16, 2015. Therefore, this pleading is timely filed.

¹ Petition at 2.

² *Id.*

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II. Jurisdiction and Legal Authority

As an alternative to decertification, the Texas Water Code and the Texas Administrative Code permit a landowner to petition the Commission for an expedited release of land from a CCN. The Texas Water Code and the Texas Administrative Code have separate provisions for landowners seeking an expedited release.³ The relevant portion of the Texas Water Code states:

[T]he owner of a tract of land that is at least 25 acres and that is not receiving water or sewer service may petition for expedited release from a certificate of public convenience and necessity and is entitled to that release if the landowner's property is located in a county with a population of at least one million, a county adjacent to a county with a population of at least one million, or a county with a population of more than 200,00 and less than 220,000 that does not contain a public or private university that had a total enrollment in the most recent fall semester of 40,000 or more, and not in a county that has a population of more than 45,500 and less than 47,500.⁴

The Texas Administrative Code similarly states:

[T]he owner of a tract of land that is at least 25 acres and that is not receiving water or sewer service may petition for expedited release of the area from a CCN and is entitled to that release if the landowner's property is located in Atascosa, Bandera, Bastrop, Bexar, Blanco, Brazoria, Burnet, Caldwell, Chambers, Collin, Comal, Dallas, Denton, Ellis, Fort Bend, Galveston, Guadalupe, Harris, Hays, Johnson, Kaufman, Kendall, Liberty, Montgomery, Parker, Rockwall, Smith, Tarrant, Travis, Waller, Williamson, Wilson, or Wise County.⁵

Pursuant to TWC § 13.254(a-5) and 16 TAC § 24.113(r), the Commission must render a decision on a petition for expedited release "not later than the 60th day after the date the landowner files the petition." A petition is not considered filed until it is deemed administratively complete.⁶ Continental's petition has not been deemed administratively complete; therefore, the 60 day count will begin with the issuance of an order on administrative completeness.

³ See generally TWC § 13.254(a-1), (a-5); 16 TAC § 24.113(b), (r).

⁴ TWC § 13.254(a-5).

⁵ 16 TAC § 24.113(r).

⁶ *Petition of City of Midlothian to Amend Mountain Peak Special Utility District's Certificate of Convenience and necessity by Expedited Release in Ellis County*, Docket No. 44394, Conclusion of Law No. 13 (May 1, 2015).

III. Recommendation on Administrative Completeness

Staff has reviewed Continental's petition and, as supported by the attached memorandum of Emily Sears of the Water Utilities Division, Staff recommends that the petition be found administratively complete. The maps and digital data submitted by Continental provide adequate information for Staff to continue its review of the petition and to make a recommendation on whether it satisfies the requirements of TWC § 13.254(a-5) and 16 TAC § 24.113(r). Specifically, the maps and digital data provided by Continental enable Staff to determine whether each tract of land is located within the subject Property, is at least 25 acres, and is owned by one property owner. Therefore, Staff recommends that Continental's petition be deemed administratively complete.

IV. Proposed Procedural Schedule

If the ALJ issues an order in accordance with Staff's recommendation that the petition be deemed administratively complete, Staff proposes the following procedural schedule:

Event:	Date:
Order regarding administrative completeness of Petition	Date of Order
Deadline for TNL to file a Response to the administratively complete petition	Seven (7) days from the date of the Order deeming the Petition administratively complete
Deadline for Commission Staff's final recommendation	Seven (7) days from the deadline for TNL to file its Response
Deadline for Continental to file a Reply to TNL's Response and Commission Staff's final recommendation; Reply must be limited to briefing and argument. Additional proof will be deemed a new petition.	Seven (7) days from the deadline for Staff to file its final recommendation
Sixty (60) day administrative approval	Date Sixty (60) days from the Order deeming the Petition administratively complete

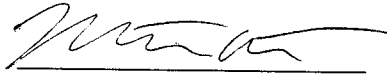
V. Conclusion

For the reasons stated above, Staff respectfully requests that an order be issued finding Continental's petition administratively complete and adopting the proposed procedural schedule.

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

Katherine Lengieza Gross
Managing Attorney
Legal Division



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DOCKET NO. 45342

CERTIFICATE OF SERVICE

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



Matthew A. Arth

Public Utility Commission of Texas

Memorandum

To: Matthew Arth, Attorney
Legal Division

Thru: Tammy Benter, Director
Lisa Fuentes, Manager
Water Utilities Division

From: Emily Sears, Financial Analyst
Water Utilities Division

Date: December 10, 2015

Subject: **Docket No. 45342;** *Petition of Continental U.S. Management Corporation to Amend the Town of North Lake's Sewer Certificate of Convenience and Necessity in Denton County by Expedited Release.*

On November 16, 2015, Continental U.S. Management Corporation (Petitioner) filed a petition for streamlined expedited release (SER) from Town of North Lake sewer Certificate of Convenience and Necessity (CCN) No. 20866, in Denton County. This petition is being reviewed under Texas Water Code § 13.254(a-5) (TWC) and 16 Texas Admin. Code §§ 24.113(r) through 24.113(s) (TAC). Petitioner asserts that the land is at least 25 acres, is not receiving sewer service, and is located in a qualifying county.

The Petitioner submitted an adequate large scale map delineating the requested area for decertification with enough detail to confirm the accurate positioning of their digital data. The large scale map and digital data are sufficient for determining the location of the requested area in the certificated area. Mapping Staff confirmed that the requested area, approximately 138.907 acres, is located completely within the existing sewer CCN service area belonging to Town of North Lake. The total acreage of the petitioner's property is 138.907 acres.

Staff recommends that this petition be found sufficient for filing.