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CITY OF MIDLOTHIAN NOTICE OF §  
INTENT TO PROVIDE WATER §  
SERVICE TO LAND DECERTIFIED §  
FROM MOUNTAIN PEAK SPECIAL §  
UTILITY DISTRICT §

BEFORE THE PUBLIC UTILITY COMMISSION  
STATE OFFICE OF FILING CLERK  
ADMINISTRATIVE HEARINGS

**MOUNTAIN PEAK SPECIAL UTILITY DISTRICT'S MOTION TO STAY  
PROCEEDING PENDING APPEAL**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

NOW COMES, Mountain Peak Special Utility District ("Mountain Peak") and, pursuant to PUC Procedural Rule 22.77 files this Motion to Stay Proceeding Pending Appeal. In support thereof, Mountain Peak would respectfully show as follows:

This case involves the notice by the City of Midlothian ("Midlothian") to serve water to an approximately 97.7-acre tract of land that was decertified from Mountain Peak's water CCN in PUC Docket No. 44394.<sup>1</sup> Mountain Peak challenged the decertification and appealed the PUC decision by a petition for judicial review with the District Court in Travis County.<sup>2</sup> This petition for judicial review was set for oral argument in August 2016, and Mountain Peak anticipated a prompt response from the District Court. On November 4, 2016, the District Court denied Mountain Peak's petition for judicial review and upheld the PUC's final order in Docket No. 44394. On November 8, 2016, after the parties' preliminary hearing before the Honorable Administrative Law Judge in the instant docket, Mountain Peak's Board of Directors authorized counsel to file a further appeal to the Third Court of Appeals.<sup>3</sup> Because of this appeal, Mountain Peak respectfully requests that this proceeding be stayed until a ruling is had from the Third Court of Appeals.

<sup>1</sup> *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 (May 1, 2015).

<sup>2</sup> *See Mountain Peak Special Utility Dist. v. Public Utility Comm'n of Tex.*, No. D-1-GN-15-002843 (200<sup>th</sup> Judicial Dist. Ct., Travis County, Texas).

<sup>3</sup> Mountain Peak delayed filing this Motion in hopes that the District Court's decision would eliminate any need for the parties to continue this proceeding. Upon learning of the result, Mountain Peak promptly held a board meeting to discuss its options and determined to file an appeal to the Third Court of Appeals.

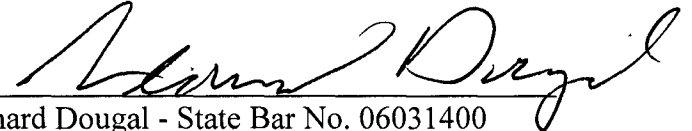
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Mountain Peak's appeal could entirely resolve the need for this compensation process. If the Third Court of Appeals finds that decertification was improper, the parties – and the PUC and SOAH – will have wasted time and resources in the instant docket for no reason. Thus, judicial economy favors staying this proceeding. Furthermore, Mountain Peak objects to continuing this proceeding which could ultimately result in another PUC Order which could be undermined by the Third Court of Appeals' decision. Mountain Peak's interests could be irreparably harmed by continuing this proceeding. Rather, the status quo should be maintained until the outcome of Mountain Peak's appeal to the Third Court of Appeals is determined.

For these reasons, Mountain Peak respectfully requests that the Honorable Administrative Law Judge issue an order staying this proceeding pending the outcome of Mountain Peak's appeal to the Third Court of Appeals.

Respectfully submitted,

JACKSON WALKER L.L.P.

By: 

Leonard Dougal - State Bar No. 06031400

Mallory Beck - State Bar No. 24073899

100 Congress, Suite 1100

Austin, Texas 78701

E: ldougal@jw.com

T: (512) 236 2233

F: (512) 391-2112

David A. Miller – State Bar No. 14067025

MILLER MENTZER WALKER, P.C.

P.O. Box 130

Palmer, Texas 75152

E: dmiller@milmen.com


T: (972) 845-2222

F: (972) 845-3398

ATTORNEYS FOR MOUNTAIN PEAK  
SPECIAL UTILITY DISTRICT

**CERTIFICATE OF CONFERENCE**

I hereby certify that I conferred with counsel for the Public Utility Commission of Texas and counsel for the City of Midlothian via e-mail on November 10, 2016. The City of Midlothian is opposed to a stay of the proceedings. The PUC staff takes no position on the stay.


  
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Leonard H. Dougal

**CERTIFICATE OF SERVICE**

I hereby certify that on the 10th day of November 2016, a true and correct copy of the foregoing document was served on the individuals listed below by Email.

Patrick W. Lindner *Attorney for City of Midlothian, Texas*  
Paul M. Gonzalez  
Davidson, Troilo, Ream, & Garza, P.C.  
601 NW Loop 410, Suite 100  
San Antonio, Texas 78216  
Telephone: (210) 349-6484  
Facsimile: (210) 349-0041  
Email: plindner@davidsontroilo.com  
Email: pgonzalez@dtrglaw.com

Sam Chang *Attorney for the Public Utility Commission of Texas*  
Stephen Mack  
Attorney-Legal Division  
Public Utility Commission  
1701 N. Congress  
P. O. Box 13326  
Austin, Texas 78711-3326  
sam.chang@puc.texas.gov  
stephen.mack@puc.texas.gov  
512-936-7261  
512-936-7442  
512-936-7268 (Facsimile)

  
\_\_\_\_\_  
Leonard H. Dougal