



Control Number: 46120



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

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STATE OFFICE

OF PUBLIC UTILITY COMMISSION
FILING CLERK

ADMINISTRATIVE HEARINGS

COMMISSION STAFF'S RESPONSE TO THE REQUEST TO STAY

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

I. Background

The City of Midlothian notified the Commission of its intent to provide retail water service to an approximately 97.7-acre tract of land that was decertified in Docket No. 44394.¹ The decertified area was in Mountain Peak Special Utility District's certificated service area. With regard to this type of proceeding, the Texas Water Code requires that the Commission determine whether any property has been rendered useless or valueless.²

Mountain Peak Special Utility District now requests that the Administrative Law Judge stay this proceeding. The basis for this request is that Mountain Peak Special Utility District intends to appeal the Commission's order in Docket No. 44394 to the Third Court of Appeals. Mountain Peak Special Utility District asserts that this proceeding should be stayed in order to preserve resources.

II. Staff's Response

Staff opposes the Mountain Peak Special Utility District's request to stay this proceeding. In deciding to appeal the Commission's order in Docket No. 44394, Mountain Peak Special Utility District has created the very reason it is requesting a stay: the necessity to incur additional time and resources to litigate the appeal before the Third Court of Appeals. This result from Mountain Peak Special Utility District's litigation decision is not a sufficient reason to stay this proceeding.

¹ See generally *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, Order (May 1, 2015).

² See generally *Tex. Water Code* § 13.254(d), (e).

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Additionally, there is no timeframe by which the Third Court of Appeals will decide Mountain Peak Special Utility District's appeal, potentially resulting in this proceeding being stayed indefinitely. Thus, Mountain Peak Special Utility District's request to stay this proceeding should be denied.

III. Conclusion

Mountain Peak Special Utility District's request to stay this proceeding should be denied because it has not presented sufficient reasons that justify a stay.

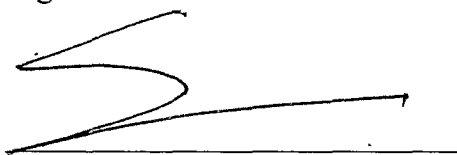
Date: November 17, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director
Legal Division

Stephen Mack
Managing Attorney
Legal Division

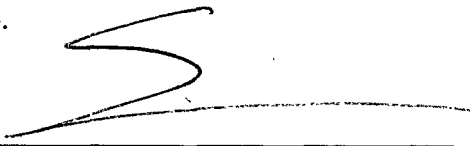


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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on November 17, 2016, in accordance with 16 TAC § 22.74.



Sam Chang