



Control Number: 46120



Item Number: 52

Addendum StartPage: 0

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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
PUBLIC UTILITY COMMISSION
FILING CLERK
OF

ADMINISTRATIVE HEARINGS

**COMMISSION STAFF'S RESPONSE TO MOUNTAIN PEAK SPECIAL UTILITY
DISTRICT'S MOTION TO RECONSIDER SOAH ORDER NO. 3**

Commission Staff (Staff) of the Public Utility Commission (Commission) of Texas files its Response to Mountain Peak Special Utility District's Motion to Reconsider SOAH Order No. 3. In support of its Response, Staff states the following:

I. 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. 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.

Staff also opposes Mountain Peak Special Utility District's request to expand the scope of this proceeding to include the issue of compensation. The narrow issue in this proceeding – *i.e.* whether Mountain Peak Special Utility's property has become useless or valueless as a result of the decertification in Docket No. 44394 – preserves the parties' resources. This is because parties will not need to spend resources on the issue of compensation unless there is finding of that property has become useless or valueless as a result of decertification. Mountain Peak Special Utility District's request to expand the scope of this proceeding would cause parties to spend resources on an issue – *i.e.* the compensation due to Mountain Peak Special Utility District – that may never be relevant. The narrow scope of this proceeding is preferable because it preserves

52

parties' resources and at the same time preserves Mountain Peak Special Utility District's right to argue compensation at a later time (if necessary).

II. Conclusion

Mountain Peak Special Utility District's request to stay this proceeding should be denied and the scope of this proceeding should not be expanded to include the issue of compensation.

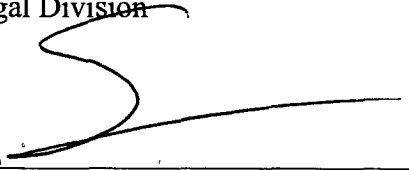
Date: January 4, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director
Legal Division

Stephen Mack
Managing Attorney
Legal Division

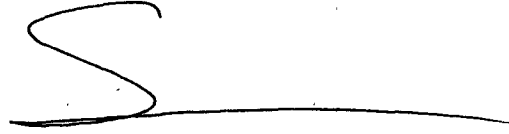


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DOCKET NO. 46120

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on January 4, 2017, in accordance with 16 TAC § 22.74.

A handwritten signature in black ink, appearing to be 'S' followed by a long horizontal line.

Sam Chang