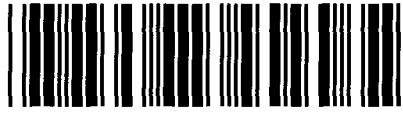




Control Number 46120



Item Number 5

Addendum StartPage 0

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

PUBLIC UTILITY COMMISSION

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CITY OF MIDLOTHIAN

COMMISSION STAFF'S RESPONSE

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

On July 1, 2016, 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 To the extent that monetary compensation is required due to property being rendered useless or valueless, appraisals may be necessary.³

On August 12, 2016, the City of Midlothian requested that the Commission refer this proceeding to the State Office of Administrative Hearings. Additionally, the City of Midlothian requested that the appraisal portion of this proceeding be abated and that the Commission issue a preliminary order similar to the preliminary orders issued in Docket No. 45679 and Docket No. 45848.⁴

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).

³ See generally Tex. Water Code § 13.254(f)-(g-1).

⁴ See generally *Zipp Road Utility Company LLC's Notice of Intent to Provide Sewer Service to Area Decertified from Guadalupe-Blanco River Authority in Guadalupe County*, Docket No. 45679, Preliminary Order (Jul. 20, 2016); *City of Celina's Notice of Intent to Provide Water and Sewer Service to Area Decertified from Aqua Texas, Inc. in Denton County*, Docket No. 45848, Preliminary Order (Jul. 20, 2016).

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II. Staff's Response

Staff supports the City of Midlothian's request to refer this proceeding to the State Office of Administrative Hearings. There is a factual issue of whether Mountain Peak Special Utility District's property has been rendered useless or valueless as a result of decertification. Thus, it is appropriate for the State Office of Administrative Hearings to adjudicate this factual issue.⁵

With regard to abatement, Staff neither supports nor opposes the City of Midlothian's request to abate the appraisal portion of this proceeding. The State Office of Administrative Hearings will issue an appropriate and comprehensive procedural schedule that will address all the issues involved in this proceeding.

With regard to the issuance of a preliminary order, Staff opposes the City of Midlothian's request for the Commission to issue preliminary order similar to the preliminary orders in Docket No. 45679 and Docket No. 45848. While this proceeding may have issues that are similar to the issues in Docket No. 45679 and Docket No. 45848, all parties in this proceeding should be given an opportunity to raise issues that they believe should be addressed in a preliminary order.

III. Conclusion

Staff supports the City of Midlothian's request to refer this proceeding to the State Office of Administrative Hearings. Additionally, Staff opposes the City of Midlothian's request for the Commission to issue a preliminary order similar to the preliminary orders in Docket No. 45679 and Docket No. 45848.

⁵ See generally 16 Tex. Admin. Code § 22.207.

Date: August 19, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS 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 August 19, 2016, in accordance with 16 TAC § 22.74.



Sam Chang