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DOCKET NO. 46128

APPLICATION OF HAYS CONSOLIDATED INDEPENDENT SCHOOL DISTRICT TO DECERTIFY A PORTION OF SWEETWATER UTILITY LLC'S SEWER SERVICE AREA IN HAYS COUNTY	§ § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS 2016 AUG -4 PM 2:51 PUBLIC UTILITY COMMISSION FILING CLERK
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**COMMISSION STAFF'S RECOMMENDATION ON
ADMINISTRATIVE COMPLETENESS**

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

I. BACKGROUND

On July 5, 2016, Hays Consolidated Independent School District (Hays CISD) filed an application to decertify a portion of certificated service area in Hays County currently held by Sweetwater Utility, LLC (Sweetwater) under sewer Certificate of Convenience and Necessity (CCN) No. 20887. The area requested is owned by Hays CISD and comprises approximately 15 acres. Hays CISD plans to develop the property for purposes of expanding its school system. The application was filed pursuant to Tex. Water Code § 13.254 (a)(1) (TWC) and 16 Tex. Admin. Code § 24.113(a)(1) (TAC). On July 6, 2016, the Administrative Law Judge (ALJ) issued Order No. 1, requiring Staff to file comments on administrative completeness of the petition and notice by August 4, 2016. Therefore, this pleading is timely filed.

II. RECOMMENDATION ON ADMINISTRATIVE COMPLETENESS

Pursuant to TWC § 13.254 (a)(1) and 16 TAC § 24.113(a)(1), the Commission at any time after notice and hearing may revoke or amend any CCN if the Commission finds that the certificate holder has never provided, is no longer providing, is incapable of providing, or has failed to provide continuous and adequate service in the area, or part of the area, covered by the certificate. However, an application is not considered filed until it is deemed administratively complete.

Staff has reviewed Hays CISD's application, and based on the attached memorandum of Janie Kohl and Kristy Nguyen of the Commission's Water Utilities Division, Staff recommends the application be found administratively complete. The maps and digital data submitted by Hays CISD provide adequate information for Staff to continue its review of the application and make a recommendation on whether it satisfies the requirements of TWC § 13.254(a)(1) and 16 TAC § 24.113(a)(1). Specifically, Hays CISD provided information that enables Staff to determine that tract of land located within the subject property has never received water or sewer service from the current CCN holder, and that the tract of land is owned by Hays CISD. Staff therefore recommends that the application be found administratively complete

III. NOTICE

Pursuant to 16 TAC § 24.113(s) the applicant must file proof that a copy of the application was sent via certified mail to the current CCN holder. However, Hays CISD states in its application that it used best efforts to locate Sweetwater, and was unsuccessful.¹ As described in the attached memorandum of Janie Kohl and Kristy Nguyen, Sweetwater, the current holder of CCN No. 20887, has discontinued its operations in Central Texas. Further, the utility's Texas Commission on Environmental Quality (TCEQ) TPDES wastewater permit WQ-001409400 has expired, and Sweetwater is no longer registered with the Texas Secretary of State to do business in Texas. Finally, Hays CISD has attached as Exhibit 8 to their application a letter from Sweetwater Utilities LLC's president dated May 21, 2008 which states that Sweetwater has discontinued operations in Central Texas and does not oppose the cancellation of CCN No. 20887. Staff recommends that Hays CISD's show proof of notice sent by certified mail being undeliverable to the last known address of Sweetwater. Staff also recommends notice to the following entities, pursuant to 16 TAC § 24.106(b)(2):

- 1) The Applicant be ordered to provide correct notice of the application to the following as detailed in TWC §24.106(b)(2):
 - a) any districts, utilities, and cities within two (2) miles of the proposed service area;
 - b) the county judge of each county and each groundwater conservation district that is

¹ Hays ICSD Application at 2 (July 5, 2016).

- wholly or partly included in the proposed area to be certified; and
- c) each city with an extraterritorial jurisdiction (ETJ) that is wholly or partly included in the proposed area to be certified.
- 2) The Applicant should include copy of a map showing the proposed service areas with the individual notices to neighboring utilities and other affected parties. It is the Applicant's burden to provide an accurate map delineating the proposed areas with each individual notice. Information related to districts including addresses can be obtained by the Applicant from the TCEQ web site located at <http://www14.tceq.texas.gov/iwud/>.
- 3) The Applicant must notice the following neighboring entities located within a 2-mile buffer of the proposed sewer service area:
- Sweetwater Utility LLC (CCN No. 20887)
 - The Railyard WWTP (CCN No. 20875)
 - Aqua Texas Inc (CCN No. 20453)
 - Parklands MUD 1
 - Guadalupe-Blanco River Authority
 - Canyon Regional Water Authority
 - City of Niederwald
 - City of Uhland
 - Plum Creek Conservation District
 - Barton Springs/Edwards Aquifer Conservation District
 - Hays County
- 4) The Applicant be ordered to return within 30 days of the Commission order, a copy of the actual notice sent with attached signed affidavit that the notice was given. Staff has prepared appropriate notice and affidavit documents which are attached to this memo.

IV. PROCEDURAL SCHEDULE

If the ALJ issues an order in accordance with Staff's recommendation that the application be deemed administratively complete, Staff proposes the following procedural schedule: ²

Event	Date
Deadline for Applicant to file with the Commission evidence indicating notice was given	September 6, 2016
Deadline to intervene, file comments and/or request a hearing on the merits.	30 days from the date notice is given
Deadline for Staff's final recommendation	Thirty (30) days from the deadline to intervene
Deadline for Hays CISD to request a hearing or file a Reply to Staff's final recommendation; or, if no disputed issues exists, deadline for parties to file proposed findings of fact, conclusions of law, and ordering paragraphs	Thirty (30) days from the deadline for Staff to file its final recommendation

V. CONCLUSION

Staff respectfully requests that the ALJ issue an order finding Hays CISD's application administratively complete, and adopting Staff's proposed procedural schedule.

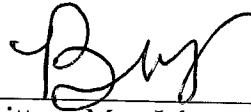
² It is Staff's understanding that the 60 day deadlines for a Commission decision under 16 TAC §§ 24.113 (d) and (s) do not apply under the Petitioner's request for relief under 16 TAC § 24.113(a)(1).

Filed: August 4, 2016

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

Katherine Lengieza Gross
Managing Attorney
Legal Division

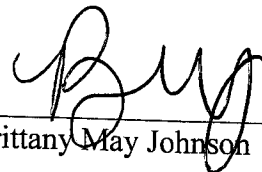


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Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on August 4, 2016 in accordance with 16 TAC § 22.74.



Brittany May Johnson

PUC Interoffice Memorandum

To: Brittany Johnson
Legal Division

Thru: Heidi Graham, Engineering Manager
Tammy Benter, Director
Water Utilities Division

From: Janie Kohl, Financial Analyst
Kristy Nguyen, GIS Specialist
Water Utilities Division

Date: August 4, 2016

Subject: Docket No. 46128, Application of Hays Consolidated Independent School District to Decertify a Portion of Sweetwater Utility LLC's Sewer Service Area in Hays County

On July 5, 2016, Hays Consolidated Independent School District, (Applicant) filed for an application for partial decertification from Sweetwater Utility LLC's (Sweetwater) sewer Certificate of Convenience and Necessity (CCN) No. 20887 in Hays County. This application is being reviewed under Water Code §13.254 (a)(1), and 16 Texas Administrative Code §24.113(a)(1) (TAC). The Applicant asserts that the certificate holder has never provided, is incapable of providing service, and has failed to provide continuous and adequate service in the subject area covered by the certificate. The property is comprised of two parcels of land totaling approximately 14.5 acres which is owned by the Applicant.

The Applicant is planning to build out an elementary school, middle school, high school, or some combination of the three which will require sewer service. The Applicant noted that Parkland Municipal Utility District (MUD) 1 is currently certified to provide sewer service for the subject property. Thus, the Applicant will seek sewer service from Parkland MUD #1 once the subject property has been decertified from Sweetwater's certificated area.

The Petitioner submitted an adequate map delineating the requested area for decertification with enough detail to confirm the accurate positioning of their metes and bounds. The mapping content is sufficient for determining the location of the requested release area within Sweetwater's certificated area. Staff was able to confirm the acreage of the total property, and determined that the tract is located within the subject property. Furthermore, the Applicant provided warranty deeds confirming the Applicant's ownership of approximately 14.5 acres within the subject property.

Additionally, Sweetwater has:

- Discontinued operations in Central Texas and does not oppose the cancellation of CCN No. 20887 as stated in a letter from Sweetwater Utilities LLC's president dated May 21, 2008.

- An expired Texas Commission on Environmental Quality TPDES wastewater permit WQ-001409400. Therefore, Sweetwater is no longer authorized to collect, treat, or dispose of wastewater.
- Forfeited its existence as a domestic LLC in Texas as of July 7, 2006, according to Texas Secretary of State and Texas Comptroller records. Therefore, Sweetwater has lost all rights to do business in Texas.

The Application meets the criteria set forth in TWC §13.254 (a)(1) and TAC §24.113(a)(1). Therefore, Staff recommends that the application be deemed sufficient for filing and found administratively complete. Staff further recommends the following:

- 1) The Applicant be ordered to provide correct notice of the application to the following as detailed in TWC §24.106(b)(2):
 - a) any districts, utilities, and cities within two (2) miles of the proposed service area;
 - b) the county judge of each county and each groundwater conservation district that is wholly or partly included in the proposed area to be certified; and
 - c) each city with an extraterritorial jurisdiction (ETJ) that is wholly or partly included in the proposed area to be certified.
- 2) The Applicant should include copy of a map showing the proposed service areas with the individual notices to neighboring utilities and other affected parties. It is the Applicant's burden to provide an accurate map delineating the proposed areas with each individual notice. Information related to districts including addresses can be obtained by the Applicant from the TCEQ web site located at <http://www14.tceq.texas.gov/iwud/>.
- 3) The Applicant must notice the following neighboring entities located within a 2-mile buffer of the proposed sewer service area:
 - Sweetwater Utility LLC (CCN No. 20887)
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 - City of Niederwald
 - City of Uhland
 - Plum Creek Conservation District
 - Barton Springs/Edwards Aquifer Conservation District
 - Hays County
- 4) The Applicant be ordered to return within 30 days of the Commission order, a copy of the actual notice sent with attached signed affidavit that the notice was given. Staff has prepared appropriate notice and affidavit documents which are attached to this memo.

Mailed Notice

**NOTICE OF PETITION TO DECERTIFY A PORTION OF A SEWER CERTIFICATE OF
CONVENIENCE AND NECESSITY (CCN) IN HAYS COUNTY, TEXAS**

To: _____
(Affected Party)

(Address)

(City State Zip)

Date Notice Mailed: _____, 2016

Hays Consolidated Independent School District filed a petition with the Public Utility Commission of Texas to decertify a portion CCN No. 20887 held by Sweetwater Utility LLC in Hays County, Texas.

The proposed utility service area to be decertified is located approximately 5 miles southwest of downtown Mustang Ridge, Texas, and is generally bounded on the north by Rohde Rd; on the east at the intersection of Rohde Rd and Buffalo Pass; on the south at the end of Las Brisas Blvd; on the west by .3 miles west at the intersection of Rohde and Buffalo Pass.

The total area for the sewer CCN being requested includes approximately 15 acres and ____ current customers.

See enclosed map of the proposed service area.

Affected persons may file written protests and/or request a public hearing within 30 days of this notice.

To request a hearing, you must:

- (1) State your name, mailing address and daytime telephone number;
- (2) State the applicant's name, application number or another recognizable reference to this application;
- (3) The statement "I/we request a public hearing";
- (4) Write a brief description of how you, the persons you represent, or the public interest would be adversely affected by the proposed transaction and transfer of the CCN; and
- (5) Stat you proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for hearing.

Persons who wish to intervene or comment should write the:

Public Utility Commission of Texas
Central Records
1701 N. Congress, P.O. Box 13326
Austin, Texas 78711-3326

Within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the Commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the Commission will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

Si desea informacion en Espanol, puede llamar al 1-512-936-7221

PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE DOCKET NO. 46128

STATE OF TEXAS
COUNTY OF _____

_____ has provided individual notice to
the following:

DATE

OATH

I, _____, being duly sworn, file this form as
_____ (indicate relationship to applicant, that is, owner,
member of partnership, title of officer of corporation, or other authorized representative of applicant);
that in such capacity, I am qualified and authorized to file and verify such form, am personally familiar
with the notices given with this application, and have complied with all notice requirements in the
application and application acceptance letter; and that all such statements made and matters set for
therein are true and correct.

Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant, or
its' attorney, a properly verified Power of Attorney must be enclosed.

Subscribed and sworn to before me this _____ day of _____, 20____, to
certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____