

Control Number: 46128



Item Number: 9

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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	SEP 20 PM PUBLIC UTILITY COM FILING CLER
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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 the sufficiency of notice in response to Order No. 2. In support thereof, Staff would show the following:

I. BACKGROUND

On July 5, 2016, Hays Consolidated Independent School District (Hays CISD or Applicant) filed an application to revoke the certificated service area in Hays County currently held by Sweetwater Utility, LLC (Sweetwater) under sewer Certificate of Convenience and Necessity (CCN) No. 20887.¹ The application was filed pursuant to Tex. Water Code § 13.254 (a)(1) (TWC) and 16 Tex. Admin. Code § 24.113(a)(1) (TAC). Hays CISD owns land comprised of approximately 15 acres within the certified area, but is requesting revocation of the entire CCN. Hays CISD plans to develop the property for purposes of expanding its school system.

On August 5, 2016, the Administrative Law Judge (ALJ) issued Order No. 2, requiring Hays CISD to file affidavits of proof of notice by September 6, 2016. Order No. 2 also required Staff to file a recommendation on the sufficiency of notice and to propose an additional procedural schedule by September 20, 2016. Therefore, this pleading is timely filed.

**II. CLARIFICATION OF THE APPLICATION AND REQUEST
THAT DOCKET BE RESTYLED**

Staff has conferred with the Applicant, and the Applicant has stated that the application is for revocation of Sweetwater's CCN 20887 in Hays County, not merely to decertify the 15 acre

¹ Please refer to Section II.

tract of land owned by the Applicant. Staff wishes to clarify here that the Application is for revocation, not partial decertification. Further, as the application requirements for both partial decertification and revocation fall under the same provisions, TWC § 13.254 (a)(1) and 16 TAC § 24.113(a)(1), Staff recommends the continued processing of the application in accordance with the law and rules. Staff further respectfully recommends that the docket be restyled to reflect that Applicant seeks revocation of an existing certificated service area, not decertification from a portion of that certificated service area.

III. RECOMMENDATION ON SUFFICIENCY OF NOTICE

Notice requirements for CCN applications are governed by TWC § 13.246 and 16 TAC § 24.106. In this case, Hays CISD filed an affidavit on September 19, 2016, signed by Temple Noble and dated September 19, 2016, stating that notice was mailed in accordance with the notice requirements.² Hays CISD provided a mailing list and a copy of notice sent to districts, groundwater conservation districts, counties, utilities, cities, and other affected parties within a two mile radius of the proposed area for which it seeks revocation.³ Further, 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. Hays CISD filed an affidavit on September 7, 2016, signed by Temple Noble and dated September 7, 2016, which stated that proof of notice was sent by certified mail to the last known address of Sweetwater.⁴ Hays CISD also included copies of the post-marked mail receipts to confirm delivery.⁵ For these reasons, and in accordance with the attached memorandum of Janie Kohl, of the Commission's Water Utility Regulation Division, Staff recommends that Hays CISD's notice be found sufficient.

² Proof of Notice at 1-2 (Sept. 19, 2016).

³ *Id.* at 4-6.

⁴ Affidavit of Temple Noble at 73-74 (Sept. 7, 2016).

⁵ *Id.* at 75.

IV. PROCEDURAL SCHEDULE

Staff recommends the notice be found sufficient. Staff therefore proposes the following procedural schedule:⁶

Event	Date
Date that Applicant filed with the Commission evidence indicating notice was given	September 19, 2016
Deadline to intervene, file comments and/or request a hearing on the merits.	October 20, 2016
Deadline for Staff's final recommendation	November 21, 2016
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	December 21, 2016

V. CONCLUSION

Staff respectfully requests that the ALJ issue an order consistent with the above recommendation.

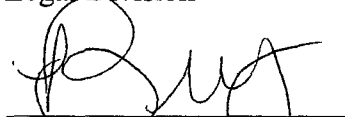
⁶ It is Staff's understanding that the 60 day deadline for a Commission decision under 16 TAC §§ 24.113 (d) and (s) do not apply under the Petitioner's request for relief under 16 TAC § 24.113(a)(1).

Filed: September 20, 2016

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on September 20, 2016 in accordance with 16 TAC § 22.74.



Brittany May Johnson

PUC Interoffice Memorandum

To: Brittany Johnson
Legal Division

Thru: Lisa Fuentes, Water Regulation Manager
Tammy Benter, Director
Water Utilities Division

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

Date: September 20, 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 to revoke 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).

On September 19, 2016, the Petitioner filed a copy of the actual notice sent along with a signed affidavit that the notice was given. Staff has reviewed the notice and affidavit and recommends the documents be deemed sufficient.