

Control Number: 46727



Item Number: 5

Addendum StartPage: 0

APPLICATION OF H-M-W SPECIAL §
UTILITY DISTRICT FOR TO AMEND A §
WATER CERTIFICATE OF §
CONVENIENCE AND NECESSITY IN §
MONTGOMERY COUNTY §

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PUBLIC UTILITY COMMISSION
OF TEXAS
FILING CLERK

COMMISSION STAFF'S RECOMMENDATION ON SUFFICIENCY OF APPLICATION

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Recommendation on Sufficiency and Procedural Schedule. In support thereof, Staff shows the following:

I. BACKGROUND

On January 5, 2017, H-M-W Special Utility District (HMWSUD) filed a petition to amend water certificate of convenience and necessity (CCN) No. 10342 and to decertify a portion of CCN No. 10342 in Montgomery County. In Order No. 1, issued January 9, 2017, Staff was ordered to file a recommendation on the administrative completeness of the application by February 6, 2017. Staff and HMWSUD (the Parties) were also ordered to propose a procedural schedule. This pleading is therefore timely filed.

II. RECOMMENDATION ON ADMINISTRATIVE SUFFICIENCY

Staff has reviewed HMWSUD's application and recommends it be found sufficient for filing, as supported by the attached memorandum of Fred Bednarski of the Water Utilities Division (Attachment A). The Applicant should be ordered to provide notice and proof of that notice using the forms (Attachment B) and in the manner detailed in the attached memorandum.

Staff also recommends that the applicant provide the documents listed in the attached memorandum for Staff's technical review, and that the style of the docket be amended to read, "APPLICATION OF H-M-W SPECIAL UTILITY DISTRICT TO AMEND A WATER CERTIFICATE OF CONVENIENCE AND NECESSITY IN MONTGOMERY COUNTY."

III. JOINT PROPOSED PROCEDURAL SCHEDULE

Staff recommends the application be found administratively complete. Staff therefore proposes the following procedural schedule, to which HMWSUD has agreed:

Event	Date
Deadline for Applicant to file with the Commission signed affidavits that the notice was given along with a copy of the notice sent to the affected parties and published in a newspaper of general circulation	March 23, 2017
Deadline for Staff to file a recommendation on sufficiency of notice	Within 10 days of Applicant filing proof of completed notice with the Commission
Deadline to intervene	30 days after notice is issued

IV. CONCLUSION

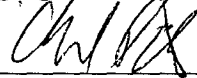
Staff respectfully requests the entry of an order consistent with the above recommendation.

Dated: February 6, 2017

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director - Legal Division

Karen S. Hubbard
Managing Attorney - Legal Division



Alexander Petak
Attorney-Legal Division
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DOCKET NO. 46727
CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record February 6, 2017, in accordance with 16 Texas Admin. Code § 22.74.



Alexander Petak

ATTACHMENT A

PUC Interoffice Memorandum

To: Alexander Petak, Attorney
Legal Division

Thru: Lisa Fuentes, Manager
Water Utilities Division

From: Fred Bednarski, Financial & Managerial Review Specialist
Water Utilities Division

Date: February 06, 2017

Subject: **Docket No. 46727;** *Application of H-M-W Special Utility District to Amend a Certificate of Convenience and Necessity in Montgomery County*

On January 05, 2017, the H-M-W Special Utility District (Applicant or H-M-W SUD) filed an application to amend its water Certificate of Convenience and Necessity (CCN) No. 10342 in Montgomery County pursuant to 16 Tex. Admin. Code §§ 24.8 and 24.102 - 24.106 (TAC) and Tex. Water Code § 13.246(c) (TWC). Specifically, the Applicant is seeking to amend its CCN service area boundary by incorporating uncertificated areas and by decertifying portions of neighboring utilities' CCN service area boundaries.

Staff has reviewed the information filed by the Applicant and recommends that the application be found administratively complete and sufficient for filing. Staff also recommends the following:

- 1) The Applicant be ordered to provide correct notice of the application to the following:
 - 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;
 - c) each city with an extraterritorial jurisdiction (ETJ) that is wholly or partly included in the proposed area to be certified;
 - d) landowners who own a tract of land that is at least 25 acres and is wholly or partly located in the proposed area to be certified. The landowner information may be obtained from the county appraisal district tax rolls for the county or counties in which the proposed CCN is located; and
 - e) publish notice once each week for two (2) consecutive weeks in a newspaper of general circulation in Montgomery County.
- 2) The Applicant must provide correct notice of the application to the following entities:
 - Aqua Texas Inc (CCN No. 11157 and CCN No. 13203)
 - Arch Utility (CCN No. 13218)
 - Bauer Landing WCID
 - Bayou Shadows (CCN No. 12869)
 - City of Magnolia (CCN No. 11466)
 - City of Tomball
 - City of Stagecoach
 - Clovercreek MUD
 - Coastal Water Authority

- Cypress Garden Mobile Home Sub (CCN No. 12999)
- Cypresswood Estates (CCN No. 12498)
- Everett Square Inc (CCN No. 12831)
- Grand Oaks MUD
- Gulf Coast Waste Disposal Authority
- Harris County FCD
- Harris County Judge
- Harris County MUD 441
- Harris County MUD 480
- Harris Galveston Coastal Subsidence District
- HOE WSC (CCN No. 12756)
- Johnston Water Utility LLC (CCN No. 12788)
- Lone Star GCD
- Monarch Utilities I LP (CCN No. 12983)
- Montgomery County Judge
- Montgomery County MUD 46
- Montgomery County MUD 47
- Montgomery County MUD 123
- Montgomery County MUD 130
- Montgomery County MUD 131
- Montgomery County MUD 136
- Montgomery County WCID 4
- MSEC Enterprises Inc (CCN No. 12887)
- Nerro Supply Investors Inc (CCN No. 10336)
- North Harris County Regional Water Authority
- Pinehurst Decker Prairie WSC (CCN No. 11768)
- Port of Houston Authority
- Quadvest LP (CCN No. 11612)
- Rosehill Ranchettes Water System (CCN No. 11955)
- San Jacinto River Authority
- South Central Water Company (CCN No. 13061)
- T & W Water Service (CCN No. 12892)
- Westwood North WSC (CCN No. 11599)
- Westwood Magnolia Parkway Improvement District
- Woodland Oaks Utility Co Inc (CCN No. 12947)
- Wood Trace MUD 1
- Wood Trace MUD 3

- 3) The Applicant must include a copy of a map showing the proposed service areas with the individual notices to neighboring utilities, other affected parties and each landowner. It is the Applicant's burden to provide an accurate map delineating both the proposed water and water service 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/>.

Staff recommends that the Applicant file a copy of the actual notice and map issued, along with signed affidavits indicating that the notice was given. It is recommended that the Applicant use the attached notices and affidavits to meet these requirements.

In order for Staff to complete the technical review of the application, the Applicant should file a written response addressing the items listed below.

Overlap of City Limits

The requested area overlaps the City of Stagecoach (M6, M13) and the City of Tomball (M14) city limits. The Applicant must provide written consent from each city allowing H-M-W SUD to serve in the overlapping area.

Overlap of CCN Boundaries

The requested area overlaps the CCN holders listed below. The Applicant must provide written consent from each CCN holder agreeing to decertify the overlapping area.

- a) Aqua Texas Inc (CCN No. 11157 and CCN No. 13203) – overlaps M1, M8, M10, M11, M12, M13, M15, M16
- b) Cypresswood Estates (CCN No. 12498) – overlaps M15
- c) Johnston Water Utility LLC (CCN No. 12788) – overlaps M3, M4, M5, M9
- d) Nerro Supply Investors LLC (CCN No. 10336) – overlaps M3, M4
- e) Pinehurst Decker Prairie WSC (CCN No. 11768) – overlaps M3, M4, M6, M7, M13, M14
- f) Quadvest LP (CCN No. 11612) – overlaps M7, M13
- g) South Central Water Company (CCN No. 13061) – overlaps M6

Financial

- The Applicant must provide an electronic copy of H-M-W SUD's most recent audited financial statements.
- The Applicant must provide an electronic copy of H-M-W SUD's updated water supply contract with a new expiration date.

Technical

- The Applicant must provide an updated Existing System Information table to include area M7.

ATTACHMENT B

Notice to Neighboring Systems, Landowners and Cities

**NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE AND
NECESSITY (CCN) TO PROVIDE WATER UTILITY SERVICE IN
MONTGOMERY COUNTY, TEXAS**

To: _____ Date Notice Mailed: _____, 2017
(Name of neighboring systems, cities and landowners)

(Address)

(City State Zip)

The H-M-W Special Utility District has filed an application with the Public Utility Commission of Texas to amend its water CCN No. 10342 and to decertify portions of Aqua Texas Inc.'s CCN Nos. 11157 and CCN No. 13203, Cypresswood Estates's CCN No. 12498, Johnston Water Utility LLC's CCN No. 12788, Nerro Supply Investors LLC's CCN No. 10336, Pinehurst Decker Prairie WSC's CCN No. 11768, Quadvest LP's CCN No. 11612, and South Central Water Company's CCN No. 13061 in Montgomery County.

The proposed utility service area is located in southwest Montgomery County, and is generally bounded on the north by FM 1488 (Magnolia Parkway); on the east by FM 2978; on the south by Montgomery/Harris County line; and on the west by Nichols Sawmill Road and Roberts Cemetery Road.

See enclosed maps of the proposed water service area.

The proposed water service area being requested includes approximately 6,720 acres and 2,880 current customers.

You may request a public hearing. A request for a public hearing must be in writing and include: (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, docket number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application which would satisfy your concerns and cause you to withdraw your request for a hearing.

Hearing requests, comments or requests to intervene should be filed with the:

Public Utility Commission of Texas
Central Records
1701 North Congress Avenue
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 will receive notice if a hearing is scheduled.

If a valid public hearing is requested, the Commission 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. An evidentiary hearing is a legal proceeding similar to a civil trial in state district court.

A landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the requested area, may file a written with the Commission to be excluded from the requested area ("opt out") within (30) days from the date that notice was provided by the applicant. All opt out requests must include a large scale map and a metes and bounds description of the landowner's tract of land.

Persons who wish to request this option should file the required documents with the:

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

In addition, the landowner must also send a copy of the opt out to the applicant. Staff may request additional information regarding your request.

Si desea informacion en Espanol, puede llamar al 1-888-782-8477

Notice for Publication

NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) TO PROVIDE WATER UTILITY SERVICE IN MONTGOMERY COUNTY, TEXAS

The H-M-W Special Utility District has filed an application with the Public Utility Commission of Texas to amend its water CCN No. 10342 and to decertify portions of Aqua Texas Inc.'s CCN Nos. 11157 and CCN No. 13203, Cypresswood Estates's CCN No. 12498, Johnston Water Utility LLC's CCN No. 12788, Nerro Supply Investors LLC's CCN No. 10336, Pinehurst Decker Prairie WSC's CCN No. 11768, Quadvest LP's CCN No. 11612, and South Central Water Company's CCN No. 13061 in Montgomery County.

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The proposed water service area being requested includes approximately 6,720 acres and 2,880 current customers.

Maps showing the proposed water service area are available at:
26726 Decker Prairie Rosehill Road, Magnolia, Texas 77355

You may request a public hearing. A request for a public hearing must be in writing and include: (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, docket number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application which would satisfy your concerns and cause you to withdraw your request for a hearing.

Hearing requests, comments or requests to intervene should be filed with the:
Public Utility Commission of Texas
Central Records
1701 North Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

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PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE TO NEIGHBORING SYSTEMS, LANDOWNERS AND CITIES

DOCKET NO. 46727

STATE OF TEXAS

COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared

who being by me duly sworn, deposes and that (s)he is the

_____ of the _____
(TITLE) (NAME OF UTILITY)

that the attached notice was provided to landowners and other affected parties by

(METHOD USED TO PROVIDE NOTICE)

on or about the following date, to wit _____,
(DATE)

(SIGNATURE OF UTILITY OFFICIAL)

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 _____

PUBLIC UTILITY COMMISSION



PUBLISHER'S AFFIDAVIT

DOCKET NO. 46727

STATE OF TEXAS

COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared

who being by me duly sworn, deposes and that (s)he is the

_____ of the _____
(TITLE) (NAME OF NEWSPAPER)

that said newspaper is regularly published in _____
(COUNTY/COUNTIES)

and generally circulated in _____, Texas;
(COUNTY/COUNTIES)_

and that the attached notice was published in said newspaper on the following dates, to wit:

(DATES)

(SIGNATURE OF NEWSPAPER REPRESENTATIVE)

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 _____