



Control Number: 46996



Item Number: 31

Addendum StartPage: 0

2018 FEB -8 PM 3:03

APPLICATION OF CHUCK BELL DBA CHUCK BELL WATER SYSTEM, LLC AND UNDINE TEXAS, LLC FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN JOHNSON AND TARRANT COUNTIES	§ § § § § § § §	PUBLIC UTILITY COMMISSION <small>FILING CLERK</small> OF TEXAS
--	--------------------------------------	--

**COMMISSION STAFF’S SIXTH ADMINISTRATIVE COMPLETENESS
RECOMMENDATION AND UNOPPOSED MOTION TO DISMISS**

COMES NOW the Commission Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this response to Order No. 7, Staff’s Sixth Administrative Completeness Recommendation and Motion to Dismiss. Staff recommends that the application continue to be found deficient and further moves that this proceeding be dismissed without prejudice. In support thereof, Staff shows the following:

I. BACKGROUND

On March 27, 2017, Chuck Bell d/b/a Chuck Bell Water System, LLC (Chuck Bell) and Undine Texas, LLC (Undine) (collectively, applicants) filed an application with the Commission for sale, transfer, or merger (STM) of facilities and certificate rights in Johnson and Tarrant Counties, Texas. Undine seeks approval to acquire all of the water assets and certificate rights of Chuck Bell held under water Certificate of Convenience and Necessity (CCN) No. 12190.

On December 6, 2017, the Commission administrative law judge (ALJ) issued Order No. 7, finding that the application remains deficient and requiring the Applicants to file a supplement addressing the identified deficiencies by January 19, 2018. No response to Order No. 7 was filed by the applicants. Order No. 7 also required Staff to file a supplemental recommendation regarding the administrative completeness of the application by February 9, 2018. Therefore, this pleading is timely filed.

II. DEFICIENCY RECOMMENDATION

As addressed in Staff’s Fifth Administrative Completeness Recommendation, decertification or dual certification agreements are still outstanding from the City of Cleburne for the requested overlapping portion with CCN No. 10917 and from Johnson County SUD for the

requested overlapping portion with CCN No. 10081.¹ Because the application still lacks the identified decertification or dual certification agreements, Staff recommends that, in the event the ALJ declines to grant Staff's unopposed motion to dismiss (discussed below), the application continue to be found deficient and therefore not administratively complete.

III. MOTION TO DISMISS

Pursuant to 16 Texas Administrative Code (TAC) § 22.181(d)(7), dismissal of a proceeding may be based on, "failure to amend an application such that it is sufficient after repeated determinations that the application is insufficient." Furthermore, 16 TAC § 22.181(d)(11) allows for dismissal for "other good cause shown."

After discussions with counsel for the applicants, it is Staff's understanding that Chuck Bell no longer wishes to sell its water assets and certificate rights to Undine and has not wished to proceed with this transaction for some time. In combination with the continued failure of the applicants to provide the supplements to the application to make it sufficient, Staff asserts that the causes of action pursuant to 16 TAC §§ 22.181(d)(7) and (11) have been met. Accordingly, Staff moves to dismiss this proceeding without prejudice. Staff is authorized to represent that both Undine and Chuck Bell are unopposed to Staff's motion to dismiss without prejudice.

IV. CONCLUSION

For the reasons stated above, Staff moves for this proceeding to be dismissed without prejudice. In the event that the ALJ declines to grant Staff's unopposed motion to dismiss, Staff timely files its Sixth Administrative Completeness Recommendation and respectfully recommends that the application continue to be found administratively incomplete.

¹ Commission Staff's Fifth Administrative Completeness Recommendation at 1-2 (Dec. 1, 2017).

Dated: February 8, 2018

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Katherine Lengieza Gross
Managing Attorney

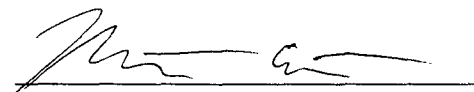


Matthew A. Arth
State Bar No. 24090806
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7021
(512) 936-7268 (facsimile)
Matthew.Arth@puc.texas.gov

PUC DOCKET NO. 46996

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record in this proceeding on February 8, 2018 in accordance with the requirements of 16 TAC § 22.74.


Matthew A. Arth