



Control Number: 47114



Item Number: 4

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DOCKET NO. 47114

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**PETITION OF II C.B., LP TO AMEND §
TALTY WATER SUPPLY §
CORPORATION'S WATER §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY IN KAUFMAN §
COUNTY BY EXPEDITED RELEASE §
§**

PUBLIC UTILITY COMMISSION

OF TEXAS

2017 JUN -1 PM 1:20
UTILITY COMMISSION
FILING CLERK

**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 and would show the following:

I. BACKGROUND

On May 1, 2017, II C.B., LP (II C.B.) filed a petition for expedited release from Talty Water Supply Corporation's (Talty) water certificate of convenience and necessity (CCN) No. 10850 in Kaufman County, pursuant to Tex. Water Code § 13.254(a-5) (TWC) and 16 Tex. Admin. Code § 24.113(r) (TAC).¹ II C.B. seeks to decertify 14.4 acres. II C.B. further asserted that the property is not currently receiving water service from Talty. On May 4, 2017, the administrative law judge (ALJ) issued Order No. 1 which required that Staff file comments on the administrative completeness of II C.B.'s application and proposed notice by June 1, 2017. This pleading is therefore timely filed.

II. JURISDICTION AND LEGAL AUTHORITY

As an alternative to decertification, the TWC and TAC permit a landowner to petition the Commission for an expedited release of land from a CCN. The TWC and TAC have separate provisions for landowners seeking an expedited release.² As it relates to II C.B.'s application, the relevant portion of the TWC states:

[T]he owner of a tract of land that is at least 25 acres and that is not receiving water or sewer service may petition for expedited release from a certificate of

¹ Commission rules regarding Expedited Releases and Streamlined Expedited Releases were amended on May 28, 2017. Because the Petition was filed on May 1, 2017, the previous version of § 24.113(r) applies.

² See generally TWC § 13.254(a-1), (a-5); 16 TAC § 24.113(b), (r).

public convenience and necessity and is entitled to that release if the landowner's property is located in a county with a population of at least one million, a county adjacent to a county with a population of at least one million, or a county with a population of more than 200,000 and less than 220,00 that does not contain a public or private university that had a total enrollment in the most recent fall semester of 40,000 or more, and not in a county that has a population of more than 45,500 and less than 47,500.³

The TAC similarly states:

[T]he owner of a tract of land that is at least 25 acres and that is not receiving water or sewer service may petition for expedited release of the area from a CCN and is entitled to that release if the landowner's property is located in Atascosa, Bandera, Bastrop, Bexar, Blanco, Brazoria, Burnet, Caldwell, Kaufman, Collin, Comal, Dallas, Denton, Ellis, Fort Bend, Galveston, Guadalupe, Harris, Hays, Johnson, Kaufman, Kendall, Liberty, Montgomery, Parker, Rockwall, Smith, Tarrant, Travis, Waller, Williamson, Wilson, or Wise County.⁴

Pursuant to TWC § 13.254(a-5) and 16 TAC § 24.113(r), the Commission must render a decision on an application for expedited release "not later than the 60th day after the date the landowner files the petition." However, at its March 31, 2015 Open Meeting, the Commission decided that counting for a determination of the 60th day does not begin until after a determination of the administrative completeness is made.⁵

III. COMMENTS ON ADMINISTRATIVE COMPLETENESS

Staff has reviewed II C.B.'s application and, as supported by the attached memorandum of Patricia Garcia of the Water Utilities Division, Staff recommends that the application be found administratively incomplete and deemed insufficient for filing. Staff recommends that II C.B. provide property deeds for the subject tract. Staff further recommends that II C.B. be required to cure the deficiencies by July 3, 2017, and that Staff file a supplemental recommendation by August 3, 2017.

IV. PROPOSED PROCEDURAL SCHEDULE

Due to the deficiencies in the application, Staff does not recommend a procedural schedule for evaluation of the merits at this time.

³ TWC 13.254(a-5).

⁴ 16 TAC § 24.113(r).

⁵ OM Transcript, at p. 114 (Mar. 31, 2015).

V. CONCLUSION

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

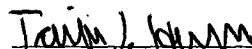
Dated: June 1, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

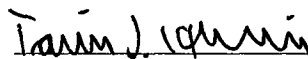
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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on June 1, 2017 in accordance with 16 TAC § 22.74.


TJ Harris

PUC Interoffice Memorandum

To: TJ Harris, Attorney
Legal Division

Thru: Lisa Fuentes, Manager
Water Utilities Division

From: Patricia Garcia, Engineering Specialist
Water Utilities Division

Date: May 30, 2017

Subject: **Docket No. 47114:** *Petition of II C.B., LP to Amend Talty Water Supply Corporation's Water Certificate of Convenience and Necessity by Expedited Release in Kaufman County*

On May 1, 2017, II C.B., LP (Petitioner) filed a petition with the Commission for an expedited release from Talty Water Supply Corporation's (Talty WSC) water Certificate of Convenience and Necessity (CCN) No. 10850 in Kaufman County, pursuant to Texas Water Code § 13.254(a-5) (TWC) and 16 Texas Administrative Code § 24.113(r) (TAC). The Petitioner asserts that the land is at least 25 acres, is not receiving water service, and is located in Kaufman County which is a qualifying county.

Staff has reviewed the information provided and recommends that the petition be deemed administratively incomplete and insufficient for filing. Staff recommends the Petitioner provide property deeds for review. The Petitioner should note that the landowner and Petitioner must be the same person.