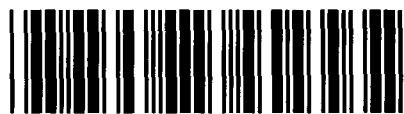




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Item Number: 8

Addendum StartPage: 0

PUC DOCKET NO. 47263

**PETITION OF 5732 WOODARD
PARTNERS, LTD. TO AMEND G&W
WATER SUPPLY CORPORATION'S
CERTIFICATE OF CONVENIENCE
AND NECESSITY IN WALLER
COUNTY BY EXPEDITED RELEASE** §
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§
§

PUBLIC UTILITY COMMISSION
JUL 11 2017 9:58
OF TEXAS

**COMMISSION STAFF'S SECOND ADMINISTRATIVE COMPLETENESS
RECOMMENDATION**

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. 2, Staff's Second Administrative Completeness Recommendation. Staff recommends that the petition be found sufficient. In support thereof, Staff shows the following:

I. BACKGROUND

On June 6, 2017, 5732 Woodard Partners, Ltd. (Woodard Partners) filed an application for streamlined expedited release (SER) of approximately 130 acres from G&W Water Supply Corporation's (G&W WSC) water certificate of convenience and necessity (CCN) No. 12391 in Waller County, Texas. This petition is governed by Texas Water Code § 13.254(a-5) (TWC) and 16 Texas Administrative Code § 24.113(l) (TAC).

On July 10, 2017, the Commission administrative law judge (ALJ) issued Order No. 2, finding Woodard Partners' application deficient and requiring Woodard Partners' to make a filing addressing that deficiency by July 21, 2017. Woodard Partners filed a Response to Commission Staff's First Administrative Completeness Recommendation on July 11, 2017. Order No. 2 also required Staff to file a supplemental recommendation on administrative completeness by August 4, 2017. Therefore, this pleading is timely filed.

II. JURISDICTION & LEGAL AUTHORITY

As an alternative to decertification, the Texas Water Code and the Texas Administrative Code permit a landowner to petition the Commission for an expedited release of land from a CCN. The Texas Water Code and the Texas Administrative Code have separate provisions for

landowners seeking an expedited release.¹ Subsection 13.254(a-5) of the Texas Water Code provides statutory authority for a streamlined expedited release. Section 24.113 of the Texas Administrative Code further clarifies the requirements to petition for such releases. This rule was recently amended in Project No. 16151.² Subsection 24.113(l)(2) specifies the requirements to receive a streamlined expedited release, stating that an owner of a tract of land may petition for SER if:

- (A) the tract of land is at least 25 acres in size;
- (B) the tract of land is not receiving service of the type that the current CCN holder is authorized to provide under the applicable CCN; and
- (C) at least part of the tract of land is located in the current CCN holder's certificated service area and at least some of that part is located in a qualifying county.³

Pursuant to TWC § 13.254(a-5) and 16 TAC § 24.113(l)(5), the Commission must render a decision on a petition for expedited release “not later than the 60th day after the date the landowner files the petition.” A petition is not considered filed until it is deemed administratively complete.⁴ Woodard Partners' petition has not yet been deemed administratively complete; therefore, the 60 day count will begin with the issuance of an order affirming administrative completeness.

III. APPLICATION SUFFICIENCY RECOMMENDATION

Staff has reviewed Woodard Partners' petition and its response filed on July 11, 2017 and recommends that the application, as supplemented, be found sufficient and therefore administrative complete. In response to Order No. 2, Woodard Partners filed a notarized affidavit in support of the required information to be included in the petition as required by 16 TAC § 24.113(l)(3)(A). Additionally, the maps and digital data submitted by Woodard Partners

¹ See generally Tex. Water Code §§ 13.254(a-1) & (a-5) (TWC); 16 Tex. Admin. Code §§ 24.113(k) & (l) (TAC).

² *Project to Amend 16 Tex. Admin. Code Section 24.113 Relating to Revocation or Amendment of a Water or Sewer Certificate and Section 24.120 Relating to Single Certification in Incorporated or Annexed Areas*, Project No. 46151, Order (May 4, 2017).

³ 16 TAC § 24.113(l)(2).

⁴ See 16 TAC § 24.8(d); see also *Petition of City of Midlothian to Amend Mountain Peak Special Utility District's Certificate of Convenience and necessity by Expedited Release in Ellis County*, Docket No. 44394, Conclusion of Law No. 13 (May 1, 2015).

meet the requirements of 16 TAC § 24.113(m). Therefore, Staff recommends that Woodard Partners' petition be deemed administratively complete. Staff notes that this sufficiency recommendation does not address a review of the petition on the merits.

IV. NOTICE SUFFICIENCY RECOMMENDATION

Woodard Partners' asserts in its petition that it provided notice to the CCN holder, G&W WSC, by certified mail on June 6, 2017.⁵ The Commission also published notice of this petition in the *Texas Register* on June 23, 2017.⁶ Such notice meets the requirement of 16 TAC § 24.113(l)(3)(A)(vi). Accordingly, Staff recommends that the notice issued be found sufficient.

V. PROPOSED PROCEDURAL SCHEDULE

In accordance with Staff's administrative completeness recommendation, Staff proposes the following procedural schedule:

Event:	Date:
Order regarding administrative completeness of petition	Date of Order
Deadline for G&W WSC to file a response to the administratively complete petition	Seven (7) days from the date of the Order deeming the petition administratively complete
Deadline for Staff's final recommendation	Seven (7) days from the deadline for G&W WSC to file its response
Deadline for Woodard Partners to file a reply to both G&W WSC's response and Staff's final recommendation ⁷	Seven (7) days from the deadline for Staff to file its final recommendation
Sixty (60) day administrative approval	Date sixty (60) days from the Order deeming the petition administratively complete

⁵ See Response to Commission Staff's First Administrative Completeness Recommendation at 5 (July 11, 2017).

⁶ Acknowledgement of Receipt (June 13, 2017).

⁷ Staff notes that such a reply must be limited to briefing and argument. Submission of any additional proof will be deemed a new petition.

VI. CONCLUSION

For the reasons stated above, Staff respectfully requests that an order be issued finding Woodard Partners' petition administratively complete, the notice sufficient, and adopting the proposed procedural schedule.

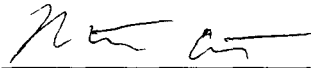
Dated: August 3, 2017

Respectfully Submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Margaret Uhlig Pemberton
Division Director

Katherine Lengieza Gross
Managing Attorney

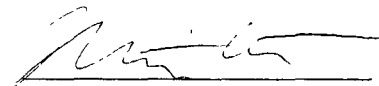


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PUC DOCKET NO. 47263

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record on August 3, 2017, in accordance with the requirements of 16 Tex. Admin. Code § 22.74.



Matthew A. Arth

PUC Interoffice Memorandum

To: Matthew Arth, Attorney
Legal Division

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

From: Greg Charles, Engineering Specialist
Kristy Nguyen, GIS Specialist
Water Utilities Regulation Division

Date: August 2, 2017

Subject: **Docket No. 47263:** *Petition of 5732 Woodard Partners, Ltd, to Amend G&W Water Supply Corporation's Water Certificate of Convenience and Necessity in Waller County by Expedited Release*

On June 6, 2017, 5732 Woodard Partners, Ltd. (Petitioner) filed a petition with the Commission for streamlined expedited release (SER) from G&W Water Supply Corporation's (WSC) water Certificate of Convenience and Necessity (CCN) No. 12391 in Waller County, under Texas Water Code § 13.254(a-5) (TWC) and 16 Texas Administrative Code § 24.113(l) (TAC). The Petitioner asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Waller County, which is a qualifying county.

The Petitioner submitted an adequate map delineating the requested area for expedited release with enough detail to confirm the accurate positioning of their digital data pursuant to 16 TAC §§ 24.113(m) and 24.119. The map and digital data are sufficient for determining the location of the requested release area within the WSC's certificated area. Mapping Staff were able to confirm the acreage of the subject property and determined that the requested area is located within the subject property. Furthermore, the Petitioner provided a warranty deed confirming the Petitioner's ownership of the tract of land within the subject property. The area being requested for expedited release is approximately 130 acres.

The affidavit provided in the Petitioner's supplement to the petition, filed on July 11, 2017, included a statement that, pursuant to Commission rules, a copy of the Petition was sent via certified mail to the WSC, the current holder of CCN No. 12391, on the date that the petition was filed with the Commission.

The petition meets the criteria set forth in TWC § 13.254(a-5) and TAC § 24.113(l). Therefore, Staff recommends that the petition be deemed sufficient for filing.