



Control Number: 48328



Item Number: 6

Addendum StartPage: 0

APPLICATION OF EL PASO WATER UTILITIES PUBLIC SERVICE BOARD TO DECERTIFY A PORTION OF ITS CERTIFICATES OF CONVENIENCE AND NECESSITY IN EL PASO COUNTY	§ § § § §	PUBLIC UTILITY COMMISSION OF TEXAS	COMMISSION
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COMMISSION STAFF'S ADMINISTRATIVE COMPLETENESS RECOMMENDATION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this response to Order No. 1, Staff's Administrative Completeness Recommendation. Staff recommends that the application be deemed administratively complete and that the applicant be ordered to issue notice. In support thereof, Staff shows the following:

I. BACKGROUND

On May 1, 2018, El Paso Water Utilities Public Service Board (EPWU) filed an application to decertify a portion of both its water certificate of convenience and necessity (CCN) No. 10211 and sewer CCN No. 21008 in El Paso County. EPWU seeks to relinquish approximately 487 acres from its sewer CCN and 342 acres from its water CCN. EPWU is not currently providing water or sewer service within the subject areas.¹

On May 2, 2018, the Commission Administrative Law Judge (ALJ) issued Order No. 1, requiring Staff to file a recommendation on the administrative completeness of EPWU's application and proposed notice by May 31, 2018. Therefore, this pleading is timely filed.

II. APPLICATION SUFFICIENCY RECOMMENDATION

As detailed in the attached memorandum of Sherrie Keylon of the Commission's Water Utility Regulation Division (Attachment A), Staff has reviewed EPWU's application and determined that it is sufficient. Therefore, Staff recommends that the application be deemed administratively complete and accepted for filing.

¹ Application at 29 (May 1, 2018).

III. PROPOSED NOTICE

Staff has included as Attachments B and C notice for EPWU to provide that meets the requirements of 16 Texas Administrative Code (TAC) § 24.106. Pursuant to 16 TAC § 24.106(a)(2), EPWU should include a map with the each notice showing the proposed service area to be relinquished.

Staff recommends that EPWU be directed to provide the attached approved notice to any cities, districts, and neighboring retail public utilities providing the same utility service whose corporate boundaries or certificated service area are located within two miles of the outer boundary of the requested area to be relinquished. As required by 16 TAC § 24.106(b), Staff also recommends that EPWU provide notice to the county judge of each county wholly or partially included within the proposed area to be relinquished, each groundwater conservation district wholly or partially included within the proposed area, each city with an extraterritorial jurisdiction (ETJ) wholly or partially included in the proposed area, any affected customers, and any potential water or sewer utility customers located wholly or partially within the proposed area.² The attached memorandum includes a non-exhaustive list of entities to whom EPWU should issue notice. Additionally, Staff recommends that EPWU publish the approved notice once each week for two consecutive weeks in a newspaper of general circulation in El Paso County, as required by 16 TAC § 24.106(c).

After EPWU has completed issuance of such notice and in accordance with 16 TAC §§ 24.106(b)(4) and (c), Staff recommends that EPWU file within 30 days of the latest date of notice a copy of the actual notice sent, including attachments. EPWU should include with its notice filing the attached affidavits (Attachments D and E), completed and signed, affirming that such notice was issued and listing each entity and person to whom notice was issued.

² Pursuant to 16 Texas Administrative Code § 24.106(b)(2) (TAC), an applicant is also required to, “mail notice to each owner of a tract of land that is at least 25 acres and is wholly or partially included in the requested area.” The purpose of this notice section is to ensure that landowners above a certain threshold have the opportunity to opt-out of a service area being expanded. *See* Texas Water Code §§ 13.254(a-1) and (a-5); *see also* 16 TAC §§ 24.113(k) and (l). However, because no additional service area is being requested by the applicant in this proceeding, the purpose of such notice requirement does not apply. Therefore, Staff recommends a good cause exception be granted to the requirement of 16 TAC § 24.106(b)(2).

IV. PROPOSED PROCEDURAL SCHEDULE

Staff recommends that the application be found administratively complete. In accordance with that recommendation, Staff proposes the following procedural schedule:

Event	Date
Deadline for EPWU to file signed affidavits affirming that notice was issued via mail and publication, as well as copies of the mailed and published	July 13, 2018
Deadline for Staff to file a recommendation regarding the sufficiency of EPWU's notice	July 27, 2018
Deadline to intervene	30 days after notice is issued

Staff intends to file an additional proposed procedural schedule with its recommendation on the sufficiency of notice that includes subsequent proposed deadlines.

V. CONCLUSION

For the reasons stated above, Staff respectfully recommends that the application be found administratively complete, that EPWU be ordered to provide notice using the attached templates, and that the above proposed procedural schedule be adopted.

Dated: May 23, 2018

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
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**DOCKET NO. 48328
CERTIFICATE OF SERVICE**

I certify that a copy of this document was served on all parties of record in this proceeding on May 23, 2018 in accordance with the requirements of 16 TAC § 22.74.



Matthew A. Arth

Attachment A

Staff Memorandum

PUC Interoffice Memorandum

To: Matthew Arth, Attorney
Legal Division

Thru: Lisa Fuentes, Manager
Water Utility Regulation Division

From: Sherrie Keylon, Financial Analyst
Water Utility Regulation Division

Date: May 22, 2018

Subject: **Docket 48328**, *Application of El Paso Water Utilities Public Service Board to Decertify a Portion of its Certificates of Convenience and Necessity in El Paso County*

On May 1, 2018, El Paso Water Utilities Public Service Board filed (El Paso Water Utilities PSB or Applicant) with the Public Utility Commission of Texas (Commission) an application to amend its water Certificate of Convenience and Necessity (CCN) No. 10211 and sewer CCN No. 21008 to relinquish portions of its service area in El Paso County, Texas. Applicant seeks to relinquish approximately 487 acres from sewer CCN No. 21008 and approximately 342 acres from water CCN No. 10211. This application was filed pursuant to Texas Water Code (TWC) §§ 13.241 to 13.250 and the 16 Texas Administrative Code (TAC) §§ 24.101 to 24.107.

Based on Staff's review of the above referenced application, Staff recommends that the application be deemed sufficient for filing and be found administratively complete. Staff also recommends the following:

- 1) Provide notice of the application to the following:
 - a) cities, districts, and neighboring retail public utilities providing the same utility service whose corporate boundaries or certificated service area are located within two miles from the outer boundary of the requested area to be relinquished;
 - b) the county judge of each county that is wholly or partially included in the requested area to be relinquished;
 - c) each groundwater conservation district that is wholly or partially included in the requested area to be relinquished;
 - d) affected customers;
 - e) every potential water or sewer utility customer within the requested area to be relinquished; and
 - f) publish notice once each week for two (2) consecutive weeks in a newspaper of general circulation in El Paso County.
- 2) Provide correct notice of the application to the following entities:
 - El Paso County, CCN No. 12127
 - Paseo Del Este MUD No. 1, CCN Nos. 13137 & 21014
 - Horizon Regional MUD
 - Lower Valley Water District
 - Paseo Del Este MUD No. 2
 - Paseo Del Este MUD No. 4
 - Paseo Del Este MUD No. 5
 - Paseo Del Este MUD No. 7

- Paseo Del Este MUD No. 8
 - Paseo Del Este MUD No. 9
 - Paseo Del Este MUD No. 10
 - Paseo Del Este MUD No. 11
 - Horizon City
 - El Paso County Judge Ruben John Vogt
- 3) Provide an accurate map delineating the requested service area relinquishment with each individual notice to neighboring utilities and other affected parties. Information related to districts, including addresses, can be obtained by the Applicant from the Texas Commission on Environmental Quality (TCEQ) web site located at <http://www14.tceq.texas.gov/iwud/>.
- 4) Within 30 days of the date of the notice, file in this docket a map and copy of notice along with an affidavit specifying every person and entity to whom notice was provided, the date that the notice was provided, and including the publisher's affidavit for proof of newspaper publication. It is recommended that the Applicant use the attached notices and affidavits to meet these requirements.

Attachment B

Proposed Notice for Mailing

***Notice to Neighboring Utilities, County Authorities, Cities, Landowners,
Customers, and Affected Parties***

**NOTICE OF APPLICATION TO RELINQUISH PORTIONS OF WATER AND SEWER
CERTIFICATES OF CONVENIENCE AND NECESSITY IN EL PASO COUNTY, TEXAS**

To: _____ Date Notice Mailed: _____, 2018
(Neighboring System, Customer or City)

(Address)

(City State Zip)

El Paso Water Utilities Public Service Board has filed an application with the Public Utility Commission of Texas to decertify portions of its Certificates of Convenience and Necessity (CCN) No. 10211 (water) and CCN No. 21008 (sewer) in El Paso County.

The requested area is located approximately 2.5 miles north of downtown Horizon City, Texas, and is generally bounded on the north by Pellicano Drive; on the east by La Joya Road; on the south by Paseo del Este Drive; and on the west by Berryville Street. The total requested area includes approximately 487 acres for sewer and 342 acres for water and 0 current customers. **See enclosed map showing the requested area.**

Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date.

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.

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

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

Si desea información en español, puede llamar al 1-888-782-8477.

Attachment C

Proposed Notice for Publication

Notice for Publication

**NOTICE OF APPLICATION TO RELINQUISH PORTIONS OF WATER AND SEWER
CERTIFICATES OF CONVENIENCE AND NECESSITY IN EL PASO COUNTY, TEXAS**

El Paso Water Utilities Public Service Board has filed an application with the Public Utility Commission of Texas to decertify portions of its Certificates of Convenience and Necessity (CCN) No. 10211 (water) and CCN No. 21008 (sewer) in El Paso County.

The requested area is located approximately 2.5 miles north of downtown Horizon City, Texas, and is generally bounded on the north by Pellicano Drive; on the east by La Joya Road; on the south by Paseo del Este Drive; and on the west by Berryville Street. The total requested area includes approximately 487 acres for sewer and 342 acres for water and 0 current customers.

A copy of the map showing the requested area is available at: 1154 Hawkins Blvd., El Paso, 79925, (915)594-5500.

Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date.

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

Si desea información en español, puede llamar al 1-888-782-8477.

Attachment D

Proof of Mailed Notice Affidavit

PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE TO NEIGHBORING UTILITIES, COUNTY AUTHORITIES, MUNICIPALITIES, LANDOWNERS, CUSTOMERS, AND AFFECTED PARTIES DOCKET NO. 48328

STATE OF TEXAS
COUNTY OF _____

_____ has provided individual
notice to the following entities, persons, and customers:

DATE OF NOTICE

OATH

I, _____, being duly sworn, file this form as
_____ (indicate relationship to applicant, that is,
owner, member of partnership, title of officer of corporation, or other authorized representative of
applicant); that in such capacity, I am qualified and authorized to file and verify such form, am
personally familiar with the notices given with this application, and have complied with all notice
requirements in the application and application acceptance letter; and that all such statements made
and matters set for therein are true and correct.

Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant,
or its' attorney, a properly verified Power of Attorney must be enclosed.

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 _____

Attachment E

Proof of Published Notice Affidavit

PUBLIC UTILITY COMMISSION



PUBLISHER'S AFFIDAVIT
DOCKET NO. 48328

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 _____