



Control Number: 50543



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**DOCKET NO. 50543**

**APPLICATION OF SP UTILITY, INC.  
TO AMEND ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY AND  
FOR DUAL CERTIFICATION WITH  
DREW T. SPENCER DBA  
CYPRESSWOOD ESTATES IN  
MONTGOMERY COUNTY**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**COMMISSION STAFF'S SECOND SUPPLEMENTAL RECOMMENDATION ON  
ADMINISTRATIVE COMPLETENESS OF THE APPLICATION AND  
PROPOSED PROCEDURAL SCHEDULE**

**COMES NOW** the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and in response to Order No. 5, files this Second Supplemental Recommendation on Administrative Completeness of the Application and Proposed Procedural Schedule. Staff recommends that the application be deemed sufficient at this time. In support thereof, Staff shows the following:

**I. BACKGROUND**

On February 12, 2020, SP Utility, Inc. (SP Utility or Applicant) filed an application to amend its water certificate of convenience and necessity (CCN) No. 12978 and for dual certification with Drew T. Spencer dba Cypresswood Estates Water System in Montgomery County, Texas. The requested area consists of 256 acres and 151 customer connections. SP Utility filed supplemental information on April 10, 2020, April 13, 2020, April 16, 2020, and September 9, 2020.

On August 4, 2020, the administrative law judge (ALJ) issued Order No. 5, requiring Staff to file a supplemental recommendation regarding the administrative completeness of the application, along with a proposed procedural schedule, by October 2, 2020. Therefore, this pleading is timely filed.

**II. ADMINISTRATIVE COMPLETENESS**

Staff has reviewed the application and the supplemental information filed by SP Utility and, as detailed in the attached memoranda from Patricia Garcia, Infrastructure Division, and Fred Bednarski, Rate Regulation Division, recommends that the application be found

administratively complete as supplemented. Staff's recommendation does not address the merits of the application at this time.

Staff notes that while the Applicant has provided proof that it has submitted plans and specifications for the proposed water system to the Texas Commission on Environmental Quality (TCEQ), the Applicant has not yet received TCEQ approval for its plans and specifications, which are required for final approval of this application. Submission of SP Utility's plans and specifications for the proposed water system is sufficient for Staff to recommend that the application be found administratively complete. However, it should be noted that if the Applicant has not submitted proof of TCEQ approval by the deadline established for Staff's final recommendation, Staff will not be able to recommend that the application be approved.

### **III. NOTICE**

In accordance with Staff's recommendation that the application be deemed administratively complete, Staff recommends that SP Utility proceed with providing public notice of its application. Specifically, Staff recommends that SP Utility use the attached form titled *Notice to Neighboring Systems, Landowners, Customers and Cities* to provide notice to all required recipients, as detailed in Ms. Garcia's attached memorandum. Individual notice should also include a map of the requested area. Additionally, Staff recommends that SP Utility use the attached *Notice for Publication* form to publish notice of the application in a newspaper of general circulation in Montgomery County once each week for two consecutive weeks. Further, upon completion of notice, Staff recommends that SP Utility be required to file proof of notice as detailed in Ms. Garcia's attached memorandum using the attached *Affidavit of Notice to Current Customers, Landowners, Neighboring Utilities and Affected Parties* and *Publisher's Affidavit* forms.

### **IV. PROCEDURAL SCHEDULE**

Staff recommends the application be found administratively complete. Therefore, Staff proposes the following procedural schedule:

<b>Event</b>	<b>Date</b>
Deadline for SP Utility to file with the Commission signed affidavits that notice was given along with a copy of the notice and map sent to the affected parties and published in a newspaper of general circulation	November 18, 2020
Deadline for Staff to file a recommendation on sufficiency of notice	December 2, 2020
Deadline to intervene	Thirty (30) days after notice is issued

Further, Staff respectfully requests that the ALJ order the Applicant to notify the Commission within ten days upon receipt of any TCEQ correspondence related to the approval or denial of SP Utility's submitted plans and specifications for the proposed water system.

## **V. CONCLUSION**

For the reasons detailed above, Staff recommends that the application, as supplemented, be found administratively complete; that SP Utility be directed to provide notice as detailed above and in the attached memorandum; and that the proposed procedural schedule be adopted.

Dated: October 2, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Rachelle Nicolette Robles  
Division Director

Heath D. Armstrong  
Managing Attorney

/s/ Taylor P. Denison

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**DOCKET NO. 50543**

**CERTIFICATE OF SERVICE**

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on October 2, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Taylor P. Denison

Taylor P. Denison

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Taylor Denison, Attorney  
Legal Division

**FROM:** Patricia Garcia, Senior Engineering Specialist  
Infrastructure Division

**DATE:** October 2, 2020

**RE:** Docket No. 50543 – *Application of SP Utility, Inc. to Amend its Certificate of Convenience and Necessity and for Dual Certification with Drew T. Spencer dba Cypresswood Estates in Montgomery County*

On February 12, 2020, SP Utility, Inc. filed with the Public Utility Commission of Texas (Commission) an application to amend its water certificate of convenience and necessity (CCN) No. 12978 in Montgomery County, Texas pursuant to Texas Water Code (TWC) §§ 13.242 to 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237.

Staff from the Rate Regulation Division and Infrastructure Division have reviewed the additional information filed by the Applicant on September 9, 2020 and recommend that the application be deemed administratively complete. Staff further recommends the Applicant be ordered to do the following:

- 1) Provide notice of the application by first-class mail 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:
    - *Aqua Texas Inc (CCN No. 13203)*
    - *Bauer Landing Water Control & Improvement District*
    - *Clear Creek Forest Municipal Utility District (MUD) 1*
    - *Clear Creek Forest MUD 2*
    - *Coastal Water Authority*
    - *Gulf Coast Waste Disposal Authority*
    - *Harris-Galveston Coastal Subsidence District*
    - *H-M-W Special Utility District (CCN No. 10342)*
    - *North Harris County Regional Water Authority*
    - *Port of Houston Authority*
    - *Quadvest LP (CCN No. 11612)*
    - *San Jacinto River Authority*
    - *Harris County Flood Control District*
  - b. The county judge of each county that is wholly or partially included in the requested area:
    - *Montgomery County Judge*
  - c. Each groundwater conservation district that is wholly or partially included in the requested area:

- *Lone Star Groundwater Conservation District*

- d. Each landowner of a tract of land that is at least 25 acres and is wholly or partly located in the requested area. Notice must be mailed to the owner of the tract of land according to the most current tax appraisal rolls of the applicable central appraisal district at the time the application was filed.
- e. Any affected customers, and other affected parties in the requested area.

Addresses can be obtained by the Applicant from the Water Utility Database at <http://www.puc.texas.gov/watersearch>. Information related to districts including addresses can be obtained from the Texas Commission on Environmental Quality's (TCEQ) web site located at <http://www14.tceq.texas.gov/iwud/>.

- 2) Publish notice in a newspaper having general circulation in the county where the requested area is located, once each week for two consecutive weeks. Proof in the form of a publisher's affidavit must be filed within 30 days of the publication date. The affidavit must state with specificity each county in which the newspaper is of general circulation. Within 30 days of the date the notice was mailed, Applicant must file an affidavit specifying the notice that was provided to every person and entity to whom notice was provided and the date the notice was mailed.
- 3) Provide notice using the attached notice forms.
- 4) Provide a copy of a map delineating the requested area with each individual notice to neighboring utilities, other affected parties, landowners, and customers.
- 5) File in the docket a map and copy of notice along with the signed affidavit specifying every person and entity to whom notice was provided, the date that the notice was provided, and the publisher's affidavit and tear sheets for proof of newspaper publication.
- 6) Supplement the application with a copy of the approval letter for the plans and specifications and distribution system, if applicable, from the TCEQ once the letters are received. The Applicant must file the approval letters prior to Staff making a final recommendation on the application.

Staff may determine that additional information is needed to make a final recommendation in this docket. If additional information is needed, Staff may send requests for information (RFI) to the Applicant. The Applicant will have 20 days from the receipt of the RFI to respond.

# *Public Utility Commission of Texas*

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## **Memorandum**

**To:** Taylor Denison, Attorney  
Legal Division

**From:** Fred Bednarski III, Financial Analyst  
Rate Regulation Division

**Date:** October 2, 2020

**Re:** **Docket No. 50543**, *Application of SP Utility, Inc. to Amend its Certificate of Convenience and Necessity and for Dual Certification with Drew T. Spencer dba Cypresswood Estates in Montgomery County*

On February 12, 2020, SP Utility, Inc. filed an application to amend its water certificate of convenience and necessity (CCN) No. 12978 and for dual certification with Drew T. Spencer dba Cypresswood Estates in Montgomery County, Texas under the provisions of Texas Water Code §§ 13.242 to 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237.

I reviewed the answers and supplemental information provided to questions 30 and 31 of the application and did not identify any deficiencies in those answers for purposes of determining whether the application is administratively complete. Therefore, I recommend that the application, as supplemented, be deemed administratively complete from a financial perspective.



***Notice to Neighboring Systems, Landowners, Customers and Cities***  
NOTICE OF APPLICATION TO AMEND A CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE WATER UTILITY SERVICE AND FOR DUAL  
CERTIFICATION WITH CYPRESSWOOD ESTATES IN MONTGOMERY COUNTY,  
TEXAS

To: \_\_\_\_\_  
(Neighboring System, Landowner, Customer or City)

Date Notice Mailed: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City State Zip)

SP Utility Company, Inc. has filed an application with the Public Utility Commission of Texas to amend its Certificate of Convenience and Necessity (CCN) No. 12978 and for dual certification with Cypresswood Estates Water System, CCN No. 12498 for the provision of retail water utility service in Montgomery County.

The requested areas include the FM 2854 Tract and the Cypresswood Estates subdivision.

**FM 2854 Tract**

- The requested area is located approximately 4 miles west of downtown Conroe, TX, and is generally bounded on the north by San Jacinto River; on the east by Steve Owen Road; on the south by FM 2854; and on the west by Allen Drive.
- The requested area includes approximately 77 total acres and 7 current customers.

**Cypresswood Estates**

- The requested area is located approximately 7 miles west of downtown Tomball, TX, and is generally bounded on the north by Abel Lane; on the east by Sanders Cemetery Road; on the south by Spring Creek; and on the west by Spencer Boulevard.
- The requested area includes approximately 179 total acres and 144 current customers.

The total requested area includes approximately 256 total acres and 151 total 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. The letter must include the person's name, address, email address and fax number if applicable.*

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 request with the Commission to be excluded from the requested area ("opt out") within (30) days from the date that notice was provided by the Utility. All opt out requests must include a large-scale map, a metes and bounds description of the landowner's tract of land, landowner's name, address, email address and fax number, if applicable.

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

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

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

# PUBLIC UTILITY COMMISSION OF TEXAS



AFFIDAVIT OF NOTICE TO CURRENT CUSTOMERS, LANDOWNERS, NEIGHBORING  
UTILITIES AND AFFECTED PARTIES  
DOCKET NO. 50543

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

\_\_\_\_\_ has provided individual  
notice to the following entities, landowners 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 \_\_\_\_\_

***Notice for Publication***

**NOTICE OF APPLICATION TO AMEND A CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE WATER UTILITY SERVICE AND FOR DUAL  
CERTIFICATION WITH CYPRESSWOOD ESTATES IN MONTGOMERY COUNTY,  
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The requested areas include the FM 2854 Tract and the Cypresswood Estates subdivision.

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- The requested area includes approximately 77 total acres and 7 current customers.

**Cypresswood Estates**

- The requested area is located approximately 7 miles west of downtown Tomball, TX, and is generally bounded on the north by Abel Lane; on the east by Sanders Cemetery Road; on the south by Spring Creek; and on the west by Spencer Boulevard.
- The requested area includes approximately 179 total acres and 144 current customers.

The total requested area includes approximately 256 total acres and 151 total current customers

**A copy of the map showing the requested area is available at: 12111 Spring Cypress, STE C, Tomball, TX 77377**

*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. The letter must include the person's name, address, email address and fax number if applicable.*

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# PUBLIC UTILITY COMMISSION OF TEXAS



PUBLISHER'S AFFIDAVIT  
DOCKET NO. 50543

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 \_\_\_\_\_