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DOCKET NO. 50543

**APPLICATION OF SP UTILITY
COMPANY, 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 MOTION TO COMPEL

On February 12, 2020, SP Utility Company, Inc. (SP Utility) filed an application to amend its water certificate of convenience and necessity (CCN) number 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, September 9, 2020, November 2, 2020, November 6, 2020, December 7, 2020, March 17, 2021, April 13, 2021, June 4, 2021, and June 14, 2021.

On May 26, 2021, Staff of the Public Utility Commission of Texas (Staff) filed Staff's Fourth Request for Information (RFI) to SP Utility. SP Utility filed their responses to Staff's Fourth RFI on June 14, 2021. Under 16 Texas Administrative Code (TAC) § 22.144(e), the party seeking discovery shall file a motion to compel no later than five working days after the objection is received. Therefore, this pleading is timely filed.

I. MOTION TO COMPEL

Staff moves to compel SP Utility's response to question Staff RFI 4-1, which requests an approval letter from the Texas Commission on Environmental Quality (TCEQ) for the new water distribution system to be installed by SP Utility to serve customers in the area it is seeking approval to amend its water certificate of convenience and necessity (CCN) for in this docket.¹ Staff previously asked an essentially identical question in its Third Request for Information filed on April 13, 2021.²

¹ Commission Staff's Fourth Request for Information to SP Utility Company, Inc. at 5 (May 26, 2021).

² Commission Staff's Third Request for Information to SP Utility Company, Inc. at 5 (Mar. 24, 2021).

SP Utility provided a TCEQ approval letter for its proposed water plant in response to Staff RFI 3-1 on May 26, 2021;³ however, Staff continues to need the TCEQ approval letter for the water distribution system it intends to invest in order to “replace the old, dilapidated system.”⁴

Under 16 Texas Administrative Code (TAC) § 24.233(a)(14)(A), an application to amend the CCN involving the construction of a new public water system (PWS) or facilities to provide retail water service must contain a copy of the TCEQ approval letter for the plans and specifications for the PWS or facilities. The rule provides that “Any approval letter for the proposed... system or facilities must be filed with the commission before the issuance of a...CCN amendment. Failure to provide such approvals within a reasonable amount of time after the application is found administratively complete may result in dismissal of the application without prejudice.”⁵ Further, 16 TAC § 24.233(a)(16) requires an application to contain “any other item or information required by the commission.”⁶

In order to make its final recommendation as to approval of SP Utility’s application in this docket, Staff requires a copy of the TCEQ approval letter for the water distribution system to be constructed by SP Utility.

In its response to Staff RFI 4-1, SP Utility cites 16 TAC § 24.233(a)(14)(A) for the proposition that it is only required to submit plans and specifications for the intended facilities if there is an anticipated change in existing capacity.⁷ However, Staff has not asked for plans and specifications but rather the TCEQ approval letter. Therefore, this objection is moot. Under 16 TAC § 24.233(a)(14)(A) and (a)(16), SP Utility is required to provide the TCEQ approval letter.

II. CONCLUSION

On the aforementioned basis, Staff respectfully requests that the ALJ compel SP Utility to respond to Staff’s Fourth RFI 4-1.

³ SP Utility Company, Inc.’s Response to Commission Staff’s Third Request for Information at 3, 4-6 (Apr. 13, 2021).

⁴ SP Utility Company, Inc.’s Response to Commission Staff’s Fourth Request for Information at 2 (Jun. 14, 2021) (Response to Fourth RFIs).

⁵ 16 TAC § 24.233(a)(14)(A).

⁶ 16 TAC § 24.233(a)(15).

⁷ Response to Fourth RFIs at 2.

Dated: June 21, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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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 June 21, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Justin C. Adkins

Justin C. Adkins