



## Filing Receipt

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**DOCKET NO. 50543**

<b>APPLICATION OF SP UTILITY</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>COMPANY, INC. TO AMEND ITS</b>	<b>§</b>	
<b>CERTIFICATE OF CONVENIENCE</b>	<b>§</b>	<b>OF TEXAS</b>
<b>AND NECESSITY AND FOR DUAL</b>	<b>§</b>	
<b>CERTIFICATION WITH DREW T.</b>	<b>§</b>	
<b>SPENCER DBA CYPRESSWOOD</b>	<b>§</b>	
<b>ESTATES IN MONTGOMERY</b>	<b>§</b>	
<b>COUNTY</b>	<b>§</b>	

**AGREED MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL**

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 d/b/a Cypresswood Estates Water System (Cypresswood Estates), CCN number 12498, in Montgomery County. The requested service area consists of approximately 256 acres with 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, June 14, 2021, June 30, 2021, and July 9, 2021.

On July 15, 2021, the administrative law judge (ALJ) filed Order No. 18, requiring SP Utility and the Staff (Staff) of the Public Utility Commission of Texas (Commission) (collectively, the parties) to file joint proposed findings of fact and conclusions of law by July 23, 2021, if no hearing was requested. Therefore, this pleading is timely filed.

**II. MOTION TO ADMIT EVIDENCE**

The parties request the entry of the following items into the record of this proceeding:

- (a) SP Utility's application, filed on February 12, 2020 (Interchange Item No. 1);
- (b) SP Utility's application amendment, filed on April 10, 2020 (Interchange Item No. 5);
- (c) SP Utility's Response to Commission Staff's Recommendation on Administrative Completeness and Proposed Notice and confidential attachment, filed on April 13, 2020 (Interchange Item Nos. 6 and 7);
- (d) SP Utility's confidential application amendment, filed on April 16, 2020 (Interchange Item No. 8);

(e) Notice of Plans and Specifications Submittal, filed on September 9, 2020 (Interchange Item No. 15);

(f) Commission Staff's Second Supplemental Recommendation on Administrative Completeness of the Application and Proposed Procedural Schedule and all attachments, filed on October 2, 2020 (Interchange Item No. 16);

(g) Commission Staff's Revised Second Supplemental Recommendation on Administrative Completeness of the Application and Proposed Procedural Schedule and all attachments, filed on October 9, 2020 (Interchange Item No. 18);

(h) SP Utility's Response to Commission Staff's First Request for Information and confidential attachment, filed on November 2, 2020 (Interchange Item Nos. 21 and 22);

(i) TCEQ Plans and Specifications Approval, filed on November 6, 2020 (Interchange Item No. 23);

(j) SP Utility's proof of notice, filed on November 18, 2020 (Interchange Item No. 24);

(k) Commission Staff's Clarification in Response to Order No. 11 and Supplemental Recommendation on Notice, filed on December 28, 2020 (Interchange Item No. 35);

(l) SP Utility's Response to Commission Staff's Second Request for Information, filed on March 17, 2021 (Interchange Item No. 50);

(m) SP Utility's Response to Commission Staff's Third Request for Information, filed on April 13, 2021 (Interchange Item No. 52);

(n) SP Utility's consent form, filed on May 10, 2021 (Interchange Item No. 53);

(o) Copy of letter to HMW Special Utility District, filed on June 4, 2021 (Interchange Item No. 57);

(p) SP Utility's Response to Commission Staff's Fourth Request for Information, filed on June 14, 2021 (Interchange Item No. 52);

(q) SP Utility's Supplemental Response to Commission Staff's Fourth RFI, filed on June 30, 2021 (Interchange Item No. 61);

(r) SP Utility Company, Inc.'s Response to Order No. 16 and attachments, filed on July 9, 2021 (Interchange Item No. 63);

(s) Cypresswood Estate's consent form, filed on July 14, 2021 (Interchange Item No. 67);

(t) Commission Staff's Final Recommendation and attachments, filed on July 16, 2021 (Interchange Item Nos. 69 and 70); and

(u) the attached map and certificate.

### **III. JOINT PROPOSED NOTICE OF APPROVAL**

The parties have agreed on the attached proposed Notice of Approval, which would grant SP Utility's application to amend water CCN number 12978 and dual certification with Cypresswood Estates, CCN number 12498. The parties request that the Commission adopt the findings of fact, conclusions of law, and ordering paragraphs included in the Notice of Approval.

### **IV. CONCLUSION**

The parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the attached proposed notice of approval be adopted.

Dated: July 23, 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 July 23, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Justin C. Adkins \_\_\_\_\_  
Justin Adkins

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<b>COUNTY</b>	<b>§</b>	

**PROPOSED NOTICE OF APPROVAL**

This Notice of Approval addresses the application of SP Utility Company, Inc. (SP Utility) to amend its water certificate of convenience and necessity (“CCN”) number 12978 and for dual certification with Drew T. Spencer d/b/a Cypresswood Estates Water System (Cypresswood Estates) to contain 256 acres and 151 connections in Montgomery County. The Commission amends SP Utility’s water CCN number 12978.

**I. Findings of Fact**

The Commission makes the following findings of fact:

**Applicant**

1. SP Utility is a Texas corporation registered with the Texas secretary of state under file number 0800200690.
2. SP Utility operates, maintains, and controls facilities for providing water service in Brazoria, Fort Bend, and Montgomery Counties under CCN number 12978.

**Application**

3. On February 12, 2020, SP Utility filed an application to amend its water CCN number 12978 and for dual certification with Cypresswood Estates in Montgomery County.
4. SP Utility amended the application on April 10, 2020 and filed supplemental information on April 13, and 16; September 9; November 2 and 6; December 7, 2020; March 17; April 13; June 4 and 14; and July 9, 2021.
5. The requested service area includes 256 acres and 151 current customers.
6. The FM 2854 Tract of the requested area is located approximately four miles west of downtown Conroe, Texas and is generally bounded on the north by the San Jacinto River; on the east by Steve Owen Road; on the south by FM 2854; and on the west by

Allen Drive; and the Cypresswood Estates Tract is located approximately seven miles west of downtown Tomball, Texas 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.

7. In Order No. 6 filed on October 5, 2020, the administrative law judge (ALJ) found the application administratively complete.

#### **Notice**

8. On November 18, 2020, SP Utility filed the affidavit of Harrison Williams, SP Utility's authorized representative, attesting that notice was mailed to neighboring utilities, county authorities, municipalities, and affected parties on October 13, 2020.
9. On November 18, 2020, SP Utility filed a publisher's affidavit attesting to publication of notice in the *Houston Chronicle dba Cypress Creek Mirror*, a newspaper of general circulation in Montgomery County, on October 21 and 28, 2020.
10. In Order No. 12 filed on January 5, 2021, the ALJ found notice sufficient.

#### **Map and Certificate**

11. On May 6, 2021, Commission Staff emailed the proposed maps and certificate to SP Utility.
12. On May 10, 2021, SP Utility filed its consent to the proposed maps and certificate.
13. On June 30, 2021, Commission Staff emailed the proposed maps to Cypresswood Estates.
14. On July 14, 2021, Cypresswood Estates filed its consent to the proposed maps.
15. On July 23, 2021, Commission Staff filed the proposed maps and certificate as attachments to its agreed motion to admit evidence and proposed notice of approval.

#### **Evidentiary Record**

16. On July 23, 2021 the parties filed an agreed motion to admit evidence and proposed notice of approval.
17. In Order No. \_\_\_\_ issued on July \_\_\_\_, 2021, the ALJ admitted the following into evidence: (a) SP Utility's application filed on February 12, 2020; (b) SP Utility's application amendment filed on April 10, 2020; (c) SP Utility's Response to Commission Staff's Recommendation on Administrative Completeness and Proposed Notice and confidential attachment filed on April 13, 2020; (d) SP Utility's confidential

application amendment filed on April 16, 2020; (e) Notice of Plans and Specifications Submittal filed on September 9, 2020; (f) Commission Staff's Second Supplemental Recommendation on Administrative Completeness of the Application and Proposed Procedural Schedule and all attachments filed on October 2, 2020; (g) Commission Staff's Revised Second Supplemental Recommendation on Administrative Completeness of the Application and Proposed Procedural Schedule and all attachments filed on October 9, 2020; (h) SP Utility's Response to Commission Staff's First Request for Information and confidential attachment filed on November 2, 2020; (i) TCEQ Plans and Specifications Approval filed on November 6, 2020; (j) SP Utility's proof of notice filed on November 18, 2020; (k) Commission Staff's Clarification in Response to Order No. 11 and Supplemental Recommendation on Notice filed on December 28, 2020; (l) SP Utility's Response to Commission Staff's Second Request for Information filed on March 17, 2021; (m) SP Utility's Response to Commission Staff's Third Request for Information filed on April 13, 2021; (n) SP Utility's consent form filed on May 10, 2021; (o) Copy of letter to HMW Special Utility District filed on June 4, 2021; (p) SP Utility's Response to Commission Staff's Fourth Request for Information filed on June 14, 2021; (q) SP Utility's Supplemental Response to Commission Staff's Fourth RFI filed on June 30, 2021; (r) SP Utility Company, Inc.'s Response to Order No. 16 and attachments filed on July 9, 2021; (s) Cypresswood Estate's consent form filed on July 14, 2021; (t) Commission Staff's Final Recommendation and attachments, filed on July 16, 2021; and (u) the attached map and certificate.

**Adequacy of Existing Service—TWC § 13.246(c)(1), 16 TAC § 24.227(a),(e)(1)**

18. Service is currently provided to the area by Cypresswood Estates' facilities. Cypresswood Estates has a Texas Commission on Environmental Quality (TCEQ) approved public water system (PWS) registered as Cypresswood Estates, PWS ID: 1700301.
19. The system is currently being operated by a Commission-appointed temporary manager due to poor management by the owner of the facilities.
20. Cypresswood Estates has several violations listed in the TCEQ database.



21. SP Utility's replacement of current facilities with new facilities and a distribution system for all of the requested area will result in an adequate water system.
22. There are 151 existing connections in the requested area currently served by Cypresswood Estates Water System public water supply.

**Need for Additional Service—TWC § 13.246(c)(2), 16 TAC §24.227(e)(2)**

23. There is a need for service as there are 151 existing customers in the requested areas.

**Effect of Granting the Amendment—TWC § 13.246(c)(3), 16 TAC § 24.227(e)(3)**

24. Amending the certificate will obligate SP Utility to provide adequate and continuous service to the requested area.
25. Cypresswood Estates consented to dual certification with SP Utility in the areas identified in the application.
26. The landowners in the areas will have a more reliable water provider available when they need to request water service.
27. There will be no effect on other retail public utilities in the proximate area.

**Ability to Serve: Managerial and Technical—TWC § 13.246(c)(4); 16 TAC § 24.227(a), (e)(4)**

28. SP Utility has authority to treat and distribute drinking water under PWS ID number 1700301 issued by the TCEQ.
29. SP Utility has a TCEQ approved non-public water system and distribution system registered as Cypresswood Subdivision Water System PWS ID number 1700918.
30. SP Utility's water system is operated and maintained by Harrison Williams, who holds a Class B Operator's License issued by the TCEQ.
31. SP Utility has access to an adequate supply of water and is capable of providing drinking water that meets the requirements of chapter 341 of the Health and Safety Code, chapter 13 of the TWC, and the TCEQ's rules.
32. SP Utility has the managerial and technical capability to provide continuous and adequate service to the requested area.

**Feasibility of Obtaining Service from an Adjacent Retail Public Utility—TWC § 13.246(c)(5); 16 TAC § 24.227(d)(5)**

33. SP Utility received TCEQ approval to build facilities in the requested area to serve the customers and will have sufficient capacity.
34. It is not feasible to obtain service from another utility.

**Regionalization or Consolidation—TWC § 13.241(d), 16 TAC § 24.227(b)**

35. SP Utility's owner Harrison Williams is already providing service to the existing 151 customers as the temporary manager of Cypresswood Estates.
36. The neighboring retail public utilities have either not responded to requests for service or stated that they will not extend water service to the requested area.
37. The new public water system, PWS ID number 1700918, Cypresswood Subdivision Water System, has approved plans from the TCEQ to build facilities and install a new distribution system in the requested areas to serve future customers and will have sufficient capacity to serve the areas.
38. Concerns of regionalization or consolidation do not apply.

**Ability to Serve: Financial Ability and Stability—TWC §§ 13.241(a), 13.246(c)(6), 16 TAC §§ 24.11(e), 24.227(a), (e)(6)**

39. SP Utility's affiliate Flow Tech has a debt-to-equity ratio of 0.00, which is less than one, satisfying the leverage test.
40. SP Utility's has sufficient cash on hand to cover any projected operations and maintenance shortages during the first five years of operations after completion of the CCN amendment, satisfying the operations test.
41. SP Utility demonstrated the financial ability and stability to pay for the facilities necessary to provide continuous and adequate service to the requested area.
42. SP Utility demonstrated the financial ability and financial stability to provide continuous and adequate service to the requested area.

**Financial Assurance—TWC § 13.246(d), 16 TAC § 24.227(f)**

43. There is no need to require SP Utility to provide a bond or other financial assurance to ensure continuous and adequate service.

**Environmental Integrity—TWC § 13.246(c)(7),(9); 16 TAC § 24.227(e)(7),(9) and Effect on the Land—TWC § 13.246(c)(9); 16 TAC § 24.227(d)(9)**

44. Providing service to the current 151 customers will have minimal effect on the land.
45. The environmental integrity of the land will be minimally affected during construction of the new water plant and installation of the new distribution system that is required to provide adequate service to the requested area.

**Improvement in Service and Lowering of Cost—TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)**

46. SP Utility will continue to provide water service to existing customers and future customers in the area.
47. Customers in the requested area will pay a lower rate because SP Utility's rates are lower than the temporary rate in place for Cypresswood Estates.

**Informal Disposition**

48. More than 15 days have passed since the completion of notice provided in this docket.
49. SP Utility, Robert J. Panuski, and Commission Staff are the only parties to this proceeding.
50. No hearing is needed.
51. Commission Staff recommended that the application be approved.
52. The decision is not adverse to any party.

**II. Conclusions of Law**

The Commission makes the following conclusions of law:

1. The Commission has authority over this proceeding under TWC §§ 13.241, 13.244, and 13.246.
2. SP Utility is a retail public utility as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. Notice of the application complies with TWC § 13.246 and 16 TAC § 24.235.
4. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,<sup>1</sup> the TWC, and Commission rules.
5. SP Utility possesses the financial, managerial, and technical capability to provide continuous and adequate service to the requested service area and its current service area in Brazoria, Fort Bend, and Montgomery Counties as required by TWC § 13.241(a) and 16 TAC § 24.227.
6. The amendment to CCN number 12978 is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(c).

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<sup>1</sup> Texas Gov't Code §§ 2001.001-.903.

7. SP Utility must record a certified copy of the approved map and certificate, along with a boundary description of the relevant service area, in the real property records of Montgomery County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording in accordance with TWC § 13.257(r) and (s).
8. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

### **III. Ordering Paragraphs**

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission amends SP Utility's water CCN number 12978 as described in this Notice of Approval and shown on the attached maps.
2. The Commission grants the certificate attached to this Notice of Approval.
3. SP Utility must serve every customer and applicant for service within the approved area under water CCN number 12978 who requests water service and meets the terms of SP Utility's water service, and such service must be continuous and adequate.
4. SP Utility must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Montgomery County affected by this application and submit to the Commission evidence of the recording no later than 45 days after receipt of this Notice of Approval.
5. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

**Signed at Austin, Texas the \_\_\_\_ day of \_\_\_\_\_ 2021.**

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**ISAAC TA  
ADMINISTRATIVE LAW JUDGE**