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DOCKET NO. 50927

PETITION OF THE CITY OF	§	PUBLIC UTILITY COMMISSION
MESQUITE AND TALTY SPECIAL	§	
UTILITY DISTRICT FOR	§	
APPROVAL OF A SERVICE AREA	§	OF TEXAS
CONTRACT UNDER TEXAS	§	
WATER CODE § 13.248 AND TO	§	
AMEND CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY IN	§	
KAUFMAN COUNTY	§	

**COMMISSION STAFF'S RECOMMENDATION ON ADMINISTRATIVE
COMPLETENESS, NOTICE, AND PROPOSED PROCEDURAL SCHEDULE**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and in response to Order No. 1, files this Recommendation on Administrative Completeness, Notice, and Proposed Procedural Schedule. Staff recommends that the application be deemed administratively incomplete and that the applicant be ordered to address the deficiencies identified below. In support thereof, Staff shows the following:

I. BACKGROUND

On June 15, 2020, the City of Mesquite (Mesquite) and Talty Special Utility District (Talty SUD) (collectively, Applicants) filed an application for approval of a service area contract under Texas Water Code (TWC) § 13.248 and to amend water Certificates of Convenience and Necessity (CCN) in Kaufman County. The requested area totals approximately 6,180 feet in Kaufman County (2,700 feet along FM 741, 670 feet along Dozier Circle, and 2,810 feet along High Country Lane) and contains connections to 23 customers.

On July 1, 2020, Order No. 1 was issued, establishing a deadline of July 15, 2020 for Staff to file comments on the administrative completeness of the application and proposed notice, and to propose a procedural schedule. Therefore, this pleading is timely filed.

II. ADMINISTRATIVE COMPLETENESS

Staff has reviewed the application and, as detailed in the attached memorandum from Jolie Mathis in the Commission's Infrastructure Division, recommends that it be found administratively incomplete at this time. The Commission rule corresponding to TWC § 13.248 is 16 Texas

Administrative Code (TAC) § 24.253, which explicitly states: “This section only applies to the transfer of certificated service area and customers between existing CCN holders. Nothing in this provision negates the requirements of TWC § 13.301 to obtain a new CCN and document the transfer of assets and facilities between retail public utilities.”¹ The agreement submitted with the application indicates that Mesquite will acquire portions of water lines located along FM 741, Dozier Circle, and High Country Lane.² Accordingly, Staff recommends that this application cannot be processed under TWC § 13.248 and 16 TAC § 24.253 because it involves a transfer of facilities.

As explained by Ms. Mathis, Staff recommends that Applicants be ordered to file an amended application for a sale, transfer, or merger (STM) by August 14, 2020, and that Staff be given a deadline of September 14, 2020 to file a supplemental recommendation on the administrative completeness of the application. Staff notes that Applicants should not issue notice until the application is found administratively complete.

III. COMMENTS ON PROCEDURAL SCHEDULE

In accordance with Staff’s recommendation that the application be found administratively incomplete, Staff does not propose a procedural schedule for further processing of this docket at this time. Staff intends to propose a procedural schedule alongside a subsequent recommendation regarding administrative completeness.

IV. CONCLUSION

On the aforementioned basis, Staff respectfully requests that the application be found administratively incomplete at this time, and that Applicants be ordered to file an STM application by August 14, 2020.

¹ 16 TAC § 24.253(a).

² Petition by the City of Mesquite and Talty Special Utility District for Approval of a Service Area Contract Under Texas Water Code § 13.248 and to Amend Certificates of Convenience and Necessity in Kaufman County, Exhibit 1 at 2 (Jun. 18, 2020).

Dated: July 15, 2020

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

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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 15, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Justin C. Adkins
Justin C. Adkins

PUC Interoffice Memorandum

To: Justin Adkins, Attorney
Legal Division

From: Jolie Mathis, Utility Engineering Specialist
Infrastructure Division

Date: July 15, 2020

Subject: **Docket No. 50927:** *Petition of City of Mesquite and Talty Special Utility District for Approval of a Service Area Contract Under Texas Water Code § 13.248 and to Amend Certificates of Convenience and Necessity in Kaufman County*

On June 15, 2020, the City of Mesquite (Mesquite) and Talty Special Utility District (Talty SUD) (collectively, Petitioners) filed a petition for approval of a contract designating Certificate Convenience and Necessity (CCN) service areas under Texas Water Code (TWC) § 13.248, to amend the City of Mesquite's water certificate of convenience and necessity (CCN) No. 10060 and Talty SUD's CCN No. 10850 in Kaufman County, Texas. The Petitioners' service area contract is being reviewed in accordance with 16 Texas Administrative Code (TAC) § 24.253.

The Petitioners filed an agreement requesting Talty SUD be permitted to transfer a portion of its water service area under CCN No. 10850 to Mesquite under water CCN No. 10060. Specifically, Mesquite and Talty SUD entered into a contractual agreement, which permits the Mesquite to provide water services within the agreed upon water service area. Petitioners will transfer assets and facilities under the terms of the agreement. Because the agreement includes a transfer of facilities, Staff recommends that the petition be deemed administratively incomplete.

The agreement states that Talty SUD shall transfer, and Mesquite shall acquire, "approximately 2,700 feet of a six (6) inch water line located along FM741, 670 feet of six (6) water line located along Dozier Circle, and 2,810 feet of a six (6) inch water line located along High Country Lane in Kaufman County, Texas, with all the taps, meters, and valves and other appurtenances along and on the water line ("Facilities")." This qualifies as a transfer of assets and facilities between retail public utilities.

TWC § 13.248 is for a transfer of service area and customers only. If facilities are involved, then the transaction must be processed as a sale, transfer, or merger (STM).

Staff recommends that the petition be deemed administratively incomplete due to incorrect filing. Staff further recommends that the Petitioners file an amended application for approval of a STM.