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DOCKET NO. 52004

**PETITION OF DPSFLP LTD TO §
AMEND AQUA TEXAS, INC.'S §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY IN MONTGOMERY §
COUNTY BY EXPEDITED RELEASE §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

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**ORDER NO. 5
FINDING NOTICE SUFFICIENT**

In this proceeding, DPSFLP Ltd. (the petitioner) seeks to amend the water certificate of convenience and necessity (CCN) held by Aqua Texas, Inc. (the CCN holder) by streamlined expedited release.

This Order addresses the sufficiency of the notice provided by the petitioner. The petition was filed on April 9, 2021. The petitioner did not serve a copy of the petition on the CCN holder when it filed the petition. On May 27, 2021, the petitioner filed the affidavit of Pam Steward, petitioner's president, attesting that it mailed a copy of the petition to the CCN holder on May 11, 2021.

On June 1, 2021, Commission Staff recommended finding that sufficient notice of the petition had been provided.

By a pleading filed on June 7, 2021, the CCN holder contends that notice must be deemed insufficient, and the application denied, because the notice was not mailed on the day the petition was filed.

The administrative law judge finds notice to be sufficient. Under 16 Texas Administrative Code (TAC) § 24.245(h)(3)(F), a petitioner for streamlined expedited release must file "proof that a copy of the petition was mailed to the current CCN holder . . . on the day that the landowner filed the petition with the Commission." It is undisputed that this did not happen. The petition was filed on April 9, 2021, the notice was mailed to the CCN holder a month later, on May 11, 2021.

The purpose of notice, however, has been achieved in this matter. The CCN holder filed a timely motion to intervene on May 6, 2021, indicating that it was aware of the petition even before the petitioner mailed the notice. The CCN holder has fully participated in this matter and has not been prejudiced by the petitioner's failure to mail notice on the date it filed the petition.

Accordingly, the ALJ concludes that the petitioner has substantially complied with the notice requirement and notice is deemed to be sufficient.

The procedural schedule established in Order No. 3 remains in effect.

Signed at Austin, Texas the 2nd day of July 2021.

PUBLIC UTILITY COMMISSION OF TEXAS



HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE