



Filing Receipt

Filing Date - 2024-03-14 02:28:21 PM

Control Number - 52445

Item Number - 97

DOCKET NO. 52445

APPLICATION OF HYDROTEX, LLC	§	PUBLIC UTILITY COMMISSION
FOR A CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY AND	§	OF TEXAS
FOR DECERTIFICATION OF A	§	
PORTION OF SOUTHERN HORIZON	§	
DEVELOPMENT'S CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	
LIBERTY COUNTY	§	

COMMISSION STAFF'S RESPONSE TO ORDER NO. 24

I. INTRODUCTION

On August 18, 2021, HydroTex, LLC (HydroTex) filed an application to obtain a water certificate of convenience and necessity in Liberty County under Subchapter G of Texas Water Code Chapter 13.

On January 18, 2024, the ALJ filed Order No. 24, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a supplemental recommendation of Southern Horizons Development, Inc.'s (Southern Horizons) request for partial decertification by February 12, 2024. On February 1, 2024, the ALJ filed Order No. 25, extending Staff's deadline to March 14, 2024. Therefore, this pleading is timely filed.

II. REQUEST FOR PARTIAL DECERTIFICATION

As detailed in the attached memorandum from Jolie Mathis of the Infrastructure Division, Staff has reviewed Southern Horizons' request for partial decertification and respectfully recommends that Southern Horizons' request be approved. Southern Horizons' request meets the applicable requirements for partial decertification in 16 Texas Administrative Code (TAC) § 24.245(d)(2). Staff notes that this analysis was previously included in its response to Order No. 21 as part of the attached memorandum.¹ Should the ALJ request a further analysis of this issue, Staff would respectfully request additional clarification on the matter.

¹ Item No. 86.

III. SUPPLEMENTAL MOTION TO ADMIT EVIDENCE

Pursuant to Order No. 24, Staff respectfully requests that this response be admitted into the record of this proceeding as evidence.

IV. CONCLUSION

For the reasons specified above, Staff respectfully requests that HydroTex be found to have met the requirements of 16 TAC § 24.245(d)(2) and this response and its separately filed confidential attachment be admitted into the record of this proceeding as evidence.

Dated: March 14, 2024

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Marisa Lopez Wagley
Division Director

John Harrison
Senior Managing Attorney

/s/ Tyler Xu
Tyler Xu
State Bar No. 24137713
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7251
(512) 936-7268 (facsimile)
Tyler.Xu@puc.texas.gov

DOCKET NO. 52445

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document will be provided to all parties of record via electronic mail on March 14, 2024, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Tyler Xu
Tyler Xu

Public Utility Commission of Texas

Memorandum

TO: Tyler Xu, Attorney
Legal Division

FROM: Jolie Mathis, Utility Engineering Specialist
Infrastructure Division

DATE: March 14, 2024

RE: Docket No. 52445 – *Application of HydroTex, LLC for a Certificate of Convenience and Necessity and for Decertification of a Portion of Southern Horizon Development’s Certificate of Convenience and Necessity in Liberty County*

16 TAC § 24.245(d)(2) allows a retail public utility to file a written request with the Commission to revoke its CCN or to amend its CCN by decertifying a portion of the service area. Staff has reviewed the documents, information, and photos provided in light of the factors in 16 TAC § 24.245(d)(2). In Item No. 62, Southern Horizons consented to the map, tariff, and certificate provided by HydroTex as part of decertifying a portion of Southern Horizons’ CCN. Therefore, filings by HydroTex qualify in lieu of a separate application filed by Southern Horizons to amend its own CCN.

16 TAC § 24.245(d)(2)(A) – Notice of Request to Each Customer and Landowner

Per HydroTex’s application, the area of land in question does not have any customers, and The Landing II, the sole landowner of the area being decertified from Southern Horizons’ CCN, is owned by applicant HydroTex.¹ Therefore, under 16 TAC § 24.2(b), there exists good cause to grant an exception to the requirement.

16 TAC § 24.245(d)(2)(B) – Specified Area to be Revoked or Removed from CCN Area

Per HydroTex’s application, the area of land in question to be decertified from Southern Horizons’ CCN was sufficiently described in maps and digital mapping data submitted by HydroTex.² Therefore, Southern Horizons meets the requirement set in 16 TAC § 24.245(d)(2)(B).

16 TAC § 24.245(d)(2)(C) – Effect of Decertification on Current CCN Holder, Existing Customers, and Landowners

¹ Item No. 54, p. 6.

² Item No. 48, p. 6.

Per HydroTex's application, there are no existing customers. HydroTex did not include information about the effect of decertification on Southern Horizons or The Landing II, the landowner. However, given that Southern Horizons has consented to HydroTex's application for decertification based on the consent to maps, tariff, and certificate provided by HydroTex³ and that The Landing II is owned by HydroTex, there exists good cause under 16 TAC § 24.2(b) to grant an exception to the requirement.

16 TAC § 24.245(d)(2)(D) – Required Mapping Information

HydroTex's initial application was deficient with respect to 16 TAC § 24.245(d)(2)(D) and 16 TAC § 24.257 due to the lack of digital mapping data. In Item No. 19, HydroTex supplemented its application with various digital mapping data submissions, including shapefile format files. In Item No. 48, Staff reviewed the maps and digital mapping data and found them sufficient. Therefore, Southern Horizons meets the requirement set in 16 TAC § 24.245(d)(2)(D).

16 TAC § 24.245(d)(2)(E) – Commission May Deny Request if Customers or Landowners are Adversely Affected

Per HydroTex's application, there are no current existing customers on the area of land to be decertified. Per Item No. 54, the sole landowner, The Landing II, is owned by applicant HydroTex. Therefore, there are no customers or landowners that can be adversely affected by Southern Horizons' decertification via HydroTex.⁴

16 TAC § 24.245(d)(2)(F) – No Compensation under this Paragraph

HydroTex has stated that no compensation was provided to Southern Horizons as part of the decertification amendment, and Southern Horizons has consented to and has not contested this application.⁵ Accordingly, Staff respectfully recommends that HydroTex has met the requirements of 16 TAC § 24.245(d)(2)(F).

1. Recommendation

Based on the mapping review by Tracy Montes, Infrastructure Division, and my technical and managerial review, I recommend that HydroTex meets all the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations and is capable of providing continuous and adequate service. I further recommend that approving this application to obtain water CCN No. 13309 is necessary for the service, accommodation, convenience, and safety of the public.

HydroTex consented to the attached map, tariff, and certificate on June 9, 2023.

³ Item No. 62.

⁴ Item No. 94, p. 2.

⁵ *Id.*, p. 3.