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DOCKET NO. 52453

APPLICATION OF SKYLINE DRIVE	§	PUBLIC UTILITY COMMISSION
LANDOWNERS ASSOCIATION TO	§	
DECERTIFY A PORTION OF ITS	§	OF TEXAS
WATER CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	
JOHNSON COUNTY	§	

**COMMISSION STAFF’S REQUEST TO LIFT THE ABATEMENT,
RECOMMENDATIONS ON GOOD CAUSE EXCEPTION AND CERTIFICATE NAME,
AND REQUEST TO RESTYLE THE DOCKET**

On August 20, 2021, Skyline Drive Landowners Association (SDLA) filed an application to amend its water Certificate of Convenience and Necessity (CCN) No. 12479 by decertifying a portion of the service area in Johnson County. SDLA filed supplemental information on September 15, 2021 and September 21, 2021. In the latter filing, SDLA clarified its intent that it is only requesting to decertify a portion of its water CCN. The requested service area for decertification consists of approximately 22 acres and zero existing customer connections. On January 10, 2022, the Staff (Staff) of the Public Utility Commission of Texas (Commission) was scheduled to provide SDLA with the final documents, including a final certificate for this docket, however identified an issue with the name in which the original certificate was granted and how SDLA is currently legally organized. As evidenced by the attached certificate, SDLA was issued CCN No. 12479 in the name of “Ellis Chitwood, John Drake and Kenny Armstrong dba Skyline Drive Landowners Association Water System.” SDLA is an investor owned utility, formed as a partnership,¹ but does not have its partnership registered with the Secretary of State. Pursuant to conversations with Randy Chitwood (Mr. Chitwood), the representative for SDLA, Staff understands that Ellis Chitwood, John Drake, and Kenny Armstrong are no longer partners or have ownership in the SDLA water system. Additionally, Staff understands that SDLA had an assumed name certificate on file with Johnson County to do business as “Skyline Drive Landowners Association Water System” that has since lapsed and is no longer effective. As such, “Ellis Chitwood, John Drake and Kenny Armstrong dba Skyline Drive Landowners Association Water System” cannot be used as the certificate name anymore. Therefore, Staff filed a request to abate

¹ Application at 3 (Aug. 20, 2021); *see also Year-End 2021 Water and Sewer Utility Annual Reports in Accordance With 16 TAC § 24.129*, Docket No. 52954, SDLA Updated Class D Annual Report (Feb. 17, 2022).

the proceeding stating that Staff required additional time to confer with SDLA on how to proceed on the name issue for the final certificate in this docket.

On January 13, 2022, the administrative law judge (ALJ) filed Order No. 5, granting Staff's request to abate and directing the parties to file monthly updates beginning on March 1, 2022 and continuing until a decision is made on how to proceed on the name issue. On March 3, 2022 and April 6, 2022, the ALJ filed Order Nos. 5 and 6, continuing the abatement with the latter establishing a deadline of April 18, 2022 for the parties to file a subsequent status report or request to lift the abatement. Therefore, this pleading is timely filed.

I. REQUEST TO LIFT THE ABATEMENT AND RECOMMENDATIONS ON GOOD CAUSE EXCEPTION AND CERTIFICATE NAME

On April 7, 2022, SDLA requested a good cause exception to any requirement for SDLA to provide complete proof of ownership of the SDLA water system. SDLA also requested that the final certificate in this docket be issued in the name of Skyline Drive Landowners Association Water System. Staff has reviewed SDLA's requests and recommends that both be approved and requests that the abatement in this proceeding be lifted.

On March 22, 2022, SDLA filed proof of ownership for Randy Chitwood, who has been the licensed operator for the water system since 1984 and has been acting on behalf of SDLA in this docket as well as other filings with the Commission and the Texas Commission on Environmental Quality (TCEQ). In regard to the good cause exception request, Staff recommends that it would not serve the public interest in this docket to require SDLA to provide proof of ownership for the rest of the owners, given the way in which the partnership and ownership of the water system was established and how ownership has changed over the years. Further, Staff recommends that this request is bolstered by SDLA's additional request for the certificate to be issued in the name of Skyline Drive Landowners Association Water System. Specifically, Staff recommends that, given the fluctuating nature of ownership in the partnership and the historical use of the name by the Commission and the TCEQ, the certificate should be issued in SDLA's requested name. Skyline Drive Landowners Association Water System is the assumed name that the water system currently operates under, despite not having it actively filed or registered with the Secretary of State or Johnson County. As such, Staff recommends that it would serve the public interest for SDLA to be allowed the continued use of this name.

II. REQUEST TO RESTYLE THE DOCKET

In line with Staff's recommendation on SDLA's request for the certificate in this docket to be issued in the name of Skyline Drive Landowners Association Water System, Staff respectfully requests that the docket be restyled as *Application of Skyline Drive Landowners Association **Water System** to Decertify a Portion of its Water Certificate of Convenience and Necessity in Johnson County*.

III. CONCLUSION

For the reasons detailed above, Staff respectfully recommends and requests that the abatement in this proceeding be lifted and that SDLA's requests for a good cause exception and certificate name be approved. Staff respectfully requests the entry of an order consistent with the foregoing recommendations.

Dated: April 18, 2022

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 April 18, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Scott Miles
Scott Miles