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DOCKET NO. 52460

**APPLICATION OF MOUNTAIN PEAK § PUBLIC UTILITY COMMISSION
SPECIAL UTILITY DISTRICT TO §
AMEND ITS CERTIFICATE OF § OF TEXAS
CONVENIENCE AND NECESSITY IN §
ELLIS AND JOHNSON COUNTIES §**

**COMMISSION STAFF’S SUPPLEMENTAL RECOMMENDATION ON
ADMINISTRATIVE COMPLETENESS AND NOTICE AND PROPOSED
PROCEDURAL SCHEDULE**

On August 23, 2021, Mountain Peak Special Utility District (Mountain Peak SUD) filed an application to amend its certificate of convenience and necessity (CCN) in Ellis and Johnson Counties. Mountain Peak SUD holds water CCN No. 10908. Mountain Peak SUD filed supplemental information on October 25, 2021.

On September 27, 2021, the administrative law judge (ALJ) filed Order No. 2, establishing a deadline of November 23, 2021 for the Staff of the Public Utility Commission of Texas (Staff) to file supplemental comments on the administrative completeness of the application and sufficiency of notice, and to propose a procedural schedule for the further processing of this docket. Therefore, this pleading is timely filed.

I. ADMINISTRATIVE COMPLETENESS

Staff has reviewed the application and supplemental information and, as detailed in the attached memoranda from Jolie Mathis of the Commission’s Infrastructure Division, and Fred Bednarski and Kathryn Eiland of the Commission’s Rate Regulation Division, recommends that the application is administratively complete. Staff’s recommendation on administrative completeness is not a comment on the merits of the application.

II. NOTICE

At this time, Staff recommends that Mountain Peak SUD proceed with providing public notice to all landowners, neighboring utilities, political subdivisions, and other persons listed in the attached memorandum using the notice form provided by Ms. Mathis. Along with each individual notice, Staff recommends that Mountain Peak SUD provide an accurate map delineating the requested service area. Staff further recommends that Mountain Peak SUD publish notice of

the application for two consecutive weeks in a newspaper of general circulation in Ellis County and in Johnson County.

Once notice has been provided, Staff recommends that Mountain Peak SUD file proof of notice as described in the attached memorandum, including an affidavit specifying the name and address of every person and entity to whom notice was provided, the date that the notice was provided, and a copy of the map provided with the notice. Mountain Peak SUD should also provide a completed publisher's affidavit and a copy of the newspaper tear sheets demonstrating publication. Finally, Staff recommends that Mountain Peak SUD use the attached notices and affidavits to meet these requirements.

III. PROCEDURAL SCHEDULE

Staff recommends the application be found administratively complete. Staff therefore proposes the following procedural schedule:

Event	Date
Deadline for Mountain Peak SUD to file with the Commission signed affidavits that the notice was given, along with a copy of the notice and map sent to the affected parties and published in a newspaper of general circulation	January 7, 2022
Deadline for Staff to file a recommendation on sufficiency of notice	January 19, 2022
Deadline to intervene	30 days after notice is issued

IV. CONCLUSION

For the reasons detailed above, Staff recommends that the application be found administratively complete, that Mountain Peak SUD be directed to provide notice as described in Ms. Mathis's attached memorandum, and that the proposed procedural schedule be adopted. Staff respectfully requests the entry of an order consistent with these recommendations.

Dated: November 23, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

Eleanor D' Ambrosio
Managing Attorney

/s/ Jenna Keller
Jenna Keller
State Bar No. 24123891
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7285
(512) 936-7268 (facsimile)
Jenna.Keller@puc.texas.gov

DOCKET NO. 52460

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 November 23, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Jenna Keller
Jenna Keller

Public Utility Commission of Texas

Memorandum

TO: Jenna Keller, Attorney
Legal Division

FROM: Jolie Mathis, Utility Engineering Specialist
Infrastructure Division

DATE: November 23, 2021

RE: Docket No. 52460 – *Application of Mountain Peak Special Utility District to Amend its Certificate of Convenience and Necessity in Ellis and Johnson Counties*

On August 23, 2021, Mountain Peak Special Utility District (Mountain Peak SUD) filed with the Public Utility Commission of Texas (Commission) an application to amend its water certificate of convenience and necessity (CCN) No. 10908 in Ellis and Johnson Counties, Texas under Texas Water Code (TWC) §§ 13.242 through 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 through 24.237.

The requested area includes two customer connections and approximately 33 acres of uncertificated area. The application proposes the addition of approximately 33 acres to CCN No. 10908.

Based on the mapping review by Tracy Montes, Infrastructure Division, the maps submitted with the application on August 23, 2021 and the digital mapping data submitted on October 25, 2021 are sufficient. Mountain Peak SUD is requesting a CCN amendment to add uncertificated area to its facilities plus 200 feet CCN to create a bounded service area CCN. Based on my technical and managerial review of the additional information filed by Mountain Peak SUD on October 25, 2021, I recommend that the application be deemed administratively complete. I further recommend that Mountain Peak SUD be ordered to do the following:

- 1) Provide notice of the application by first-class mail to the following:
 - a. Cities, districts, and neighboring retail public utilities providing the same utility service whose corporate boundaries or certificated service area are located within two miles from the outer boundary of the requested area:
 - *City of Midlothian (CCN No. 11706);*
 - *Sardis-Lone Elm WSC (CCN No. 10058); and*
 - *Trinity River Authority of Texas*

- b. The county judge of each county that is wholly or partially included in the requested area:
 - *Ellis County Judge*
 - *Johnson County Judge*
- c. Each groundwater conservation district that is wholly or partially included in the requested area:
 - *Prairielands Groundwater Conservation District*
- d. Each landowner of a tract of land that is at least 25 acres and is wholly or partly located in the requested area. Notice must be mailed to the owner of the tract of land according to the most current tax appraisal rolls of the applicable central appraisal district at the time the application was filed.
- e. Any affected customers, and other affected parties in the requested area.

Addresses can be obtained by Mountain Peak SUD from the Water Utility Database at <http://www.puc.texas.gov/watersearch>. District information and addresses can be obtained from the Texas Commission on Environmental Quality's (TCEQ) web site located at <https://www14.tceq.texas.gov/iwud/index.cfm>.

- 2) Publish notice once each week for two consecutive weeks in a newspaper having general circulation in each county where the requested area is located. Proof in the form of a publisher's affidavit must be filed within 30 days of the publication date. The affidavit must state with specificity each county in which the newspaper is of general circulation. Within 30 days of the date the notice was mailed, Mountain Peak SUD must file an affidavit specifying every person and entity to whom notice was provided and the date the notice was mailed.
- 3) Provide notice using the attached notice forms.
- 4) Provide a copy of the map(s) deemed sufficient during administrative review delineating the requested area with each individual notice to neighboring utilities, other affected parties, landowners, and customers.

File in the docket a copy of notice and the map(s) deemed sufficient during administrative review along with the signed affidavit specifying every person and entity to whom notice was provided, the date that the notice was provided, and the publisher's affidavit and tear sheets for proof of newspaper publication.

Staff may determine that additional information is needed to make a final recommendation in this docket. If additional information is needed, Staff may send requests for information (RFI) to Mountain Peak SUD. Mountain Peak SUD will have 20 days from the receipt of the RFI to respond.

Public Utility Commission of Texas

Memorandum

TO: Jenna Keller, Attorney
Legal Division

FROM: Fred Bednarski III, Financial Analyst
Kathryn Eiland, Financial Analyst
Rate Regulation Division

DATE: November 23, 2021

RE: Docket No. 52460 - *Application of Mountain Peak Special Utility District to Amend its Certificate of Convenience and Necessity in Ellis and Johnson Counties*

On August 23, 2021, Mountain Peak Special Utility District filed an application to amend its water Certificate of Convenience and Necessity in Ellis and Johnson Counties under Subchapter G of Texas Water Code Chapter 13.

We reviewed the answers provided to questions 28, 29, 30, and 31 of the application. We did not identify any deficiencies in those answers for purposes of determining whether the application is administratively complete. Therefore, we recommend that the Commission deem the application administratively complete from a financial perspective.

Notice for Publication

NOTICE OF APPLICATION OF MOUNTAIN PEAK SPECIAL UTILITY DISTRICT TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE WATER UTILITY SERVICE IN ELLIS AND JOHNSON COUNTIES, TEXAS

Mountain Peak Special Utility District has filed an application with the Public Utility Commission of Texas to amend its Certificate of Convenience and Necessity (CCN) No. 10908 for the provision of retail water utility service in Ellis and Johnson Counties, Texas.

The requested area overlaps the district boundaries of Trinity River Authority of Texas. If this district does not request a public hearing, the Commission shall determine that the district is consenting to the Mountain Peak Special Utility District's request to provide retail water utility service in the requested area.

The requested area includes 2 customer connections, is located approximately 1.45 miles south of downtown Midlothian, Texas, and is generally bounded on the north by Mount Zion Road; on the east by Oak Tree Lane; on the south by Lake Grove Loop; and on the west by Farm to Market 663.

The requested area includes approximately 33 acres of uncertificated area. The application proposes the addition of approximately 33 acres to CCN No. 10908.

A copy of the map showing the requested area is available at: 5671 Waterworks Rd., Midlothian, Texas 76065

Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date. The letter must include the person's name, address, email address and fax number if applicable.

If a valid public hearing is requested, the Commission will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for a final decision. An evidentiary hearing is a legal proceeding similar to a civil trial in state district court.

A landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the requested area, may file a written request with the Commission to be excluded from the requested area ("opt out") within (30) days from the date that notice was provided by Mountain Peak Special Utility District. All opt out requests must include a large-scale map, a metes and bounds description of the landowner's tract of land, landowner's name, address, email address and fax number, if applicable.

Persons who wish to request this option should file the required documents with the:

Public Utility Commission of Texas
Central Records
1701 N. Congress, P. O. Box 13326
Austin, TX 78711-3326

In addition, the landowner must also send a copy of the opt out request to Mountain Peak Special Utility District. Staff may request additional information regarding your request.

Si desea información en español, puede llamar al 1-888-782-8477.

Notice to Neighboring Systems, Landowners, Customers, and Cities

NOTICE OF APPLICATION OF MOUNTAIN PEAK SPECIAL UTILITY DISTRICT TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE WATER UTILITY SERVICE IN ELLIS AND JOHNSON COUNTIES, TEXAS

To: _____ Date Notice Mailed: _____, 20____
(Neighboring System, Landowner, Customer or City)

(Address)

(City State Zip)

Mountain Peak Special Utility District has filed an application with the Public Utility Commission of Texas to amend its Certificate of Convenience and Necessity (CCN) No. 10908 for the provision of retail water utility service in Ellis and Johnson Counties, Texas.

The requested area overlaps the district boundaries of Trinity River Authority of Texas. If this district does not request a public hearing, the Commission shall determine that the district is consenting to the Mountain Peak Special Utility District’s request to provide retail water utility service in the requested area.

The requested area includes 2 customer connections, is located approximately 1.45 miles south of downtown Midlothian, Texas, and is generally bounded on the north by Mount Zion Road; on the east by Oak Tree Lane; on the south by Lake Grove Loop; and on the west by Farm to Market 663.

The requested area includes approximately 33 acres of uncertificated area. The application proposes the addition of approximately 33 acres to CCN No. 10908.

See enclosed map showing the requested area.

Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date. The letter must include the person’s name, address, email address and fax number if applicable.

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Si desea información en español, puede llamar al 1-888-782-8477.

PUBLIC UTILITY COMMISSION OF TEXAS



AFFIDAVIT OF NOTICE TO CURRENT CUSTOMERS, LANDOWNERS, NEIGHBORING UTILITIES, AND AFFECTED PARTIES

DOCKET NO. 52460

STATE OF TEXAS

COUNTY OF _____

_____ has provided individual notice to the following entities, landowners and customers:

DATE OF NOTICE

OATH

I, _____, being duly sworn, file this form as _____ (indicate relationship to applicant, that is, owner, member of partnership, title of officer of corporation, or other authorized representative of applicant); that in such capacity, I am qualified and authorized to file and verify such form, am personally familiar with the notices given with this application, and have complied with all notice requirements in the application and application acceptance letter; and that all such statements made and matters set for therein are true and correct.

Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant, or its attorney, a properly verified Power of Attorney must be enclosed.

Subscribed and sworn to before me this _____ day of _____, 20____, to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____

PUBLIC UTILITY COMMISSION OF TEXAS



PUBLISHER'S AFFIDAVIT
DOCKET NO. 52460

STATE OF TEXAS
COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____,

who being by me duly sworn, deposes and that (s)he is the

_____ of the _____
(TITLE) (NAME OF NEWSPAPER)

that said newspaper is regularly published in _____
(COUNTY/COUNTIES)

and generally circulated in _____, Texas;
(COUNTY/COUNTIES)

and that the attached notice was published in said newspaper on the following dates, to wit:

(DATES)

(SIGNATURE OF NEWSPAPER REPRESENTATIVE)

Subscribed and sworn to before me this _____ day of _____, 20 ____,
to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____