



## **Filing Receipt**

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**Item Number - 52**

**DOCKET NO. 52482**

<b>PETITION OF BRENT DAVIS TO</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>DISCONTINUE SERVICE AND</b>	<b>§</b>	
<b>CANCEL THE CERTIFICATE OF</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CONVENIENCE AND NECESSITY</b>	<b>§</b>	
<b>OF DREW T. SPENCER DBA</b>	<b>§</b>	
<b>CYPRESSWOOD ESTATES IN</b>	<b>§</b>	
<b>MONTGOMERY COUNTY</b>	<b>§</b>	

**JOINT MOTION TO ADMIT EVIDENCE AND  
PROPOSED NOTICE OF APPROVAL**

**I. INTRODUCTION**

On September 9, 2021, William Brent Davis (Mr. Davis) filed a motion to revoke the Certificate of Convenience and Necessity (CCN) of Drew T. Spencer d/b/a Cypresswood Estates (Cypresswood). Mr. Davis seeks to have the CCN No. 12498 revoked under 16 Texas Administrative Code (TAC) § 24.245(d)(2).

On September 11, 2024, the administrative law judge (ALJ) filed Order No. 20, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file joint proposed findings of fact and conclusions of law by November 22, 2024. Therefore, this pleading is timely filed.

**II. MOTION TO ADMIT EVIDENCE**

Cypresswood and Staff jointly request to admit the following evidence into the record of this proceeding:

- (a) Brent Davis's Motion to Revoke filed on August 9, 2021 (AIS Item No. 2);
- (b) William Brent Davis's Reply to Commission Staff's Response to Order No. 3 and all attachments, filed on November 30, 2021 (AIS Item No. 9);
- (c) Joint Response to Order No. 4, filed on December 20, 2021 (AIS Item No. 11);
- (d) Harrison Williams' Response to Order No. 10, filed on June 5, 2023 (AIS Item No. 21);
- (e) Commission Staff's Response to Order No. 10 and all attachments, filed on July 7, 2023 (AIS Item No. 23);

- (f) Harrison Williams' Response to Order No. 11, filed on September 5, 2023 (AIS Item No. 25);
- (g) Joint Response to Order No. 13 and all attachments, filed on March 12, 2024 (AIS Item No. 30);
- (h) Harrison Williams' Response to Order No. 15 and all attachments, filed on April 25, 2024 (AIS Item No. 34);
- (i) Commission Staff's Supplemental Recommendation on Administrative Completeness and Proposed Procedural Schedule and all attachments, filed on June 13, 2024 (AIS Item No. 37);
- (j) Harrison Williams' Proof of Notice, filed on September 4, 2024 (AIS Item No. 41);
- (k) Customer List, filed confidentially on September 4, 2024 (AIS Item No. 42);
- (l) Affidavit and Notice Correction, filed on September 7, 2024 (AIS Item No. 45);
- (m) Commission Staff's Recommendation on Sufficiency of Notice and Proposed Procedural Schedule, filed on September 9, 2024 (AIS Item No. 46);
- (n) Commission Staff's Response to Order No. 20, filed on October 2, 2024 (AIS Item No. 49); and
- (o) Commission Staff's Final Recommendation and memorandum, filed on November 15, 2024 (Interchange Item No. 51).

### **III. PROPOSED NOTICE OF APPROVAL**

Cypresswood and Staff have agreed on the attached joint proposed notice of approval to grant Cypresswood's petition to cancel its water CCN No. 12498.

### **IV. CONCLUSION**

Cypresswood and Staff respectfully request that this Motion to Admit Evidence be granted and that a Notice of Approval containing the findings of fact, conclusions of law, and ordering paragraphs attached to this pleading be approved.

Dated: November 22, 2024

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 will be provided to all parties of record via electronic mail on November 22, 2024, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Cheri Hasz  
Cheri Hasz

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<b>CYPRESSWOOD ESTATES IN</b>	<b>§</b>	
<b>MONTGOMERY COUNTY</b>	<b>§</b>	

**JOINT PROPOSED NOTICE OF APPROVAL**

This Joint Proposed Notice of Approval addresses the petition of William Brent Davis (Mr. Davis) to revoke the Certificate of Convenience and Necessity (CCN) of Drew T. Spencer d/b/a Cypresswood Estates (Cypresswood). Mr. Davis seeks to have the CCN No. 12498 revoked under 16 Texas Administrative Code (TAC) § 24.245(d)(2). The Commission approves the petition and cancels CCN No. 12498 to the extent provided in this Notice of Approval.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicant**

1. Mr. Davis is the owner of the Drew T. Spencer d/b/a Cypresswood Estates Water System, authorized to provide retail water service in Montgomery County under CCN No. 12498, and is the Petitioner.
2. Cypresswood serves the residents of Cypresswood Estates, comprised of 179 acres, and Garden West, comprised of 77 acres, subdivisions.

**Background**

3. Drew T. Spencer owned the Drew T. Spencer d/b/a Cypresswood Estates Water System as a sole proprietorship from 1991 to 2005.
4. Cypresswood operates under CCN No. 12498.
5. Cypresswood has 151 current customers in the requested area.

6. Upon Drew T. Spencer's death in 2005, the assets of Cypresswood were bequeathed to William Brent Davis.
7. Mr. Davis continues to hold CCN No. 12498.
8. Mr. Davis was replaced by Harrison Williams, as temporary manager of Cypresswood, on December 2, 2019.
9. Mr. Williams was appointed as temporary manager for Cypresswood on September 16, 2020, continuing until the Commission orders otherwise.
10. Mr. Williams is President of SP Utility Company, Inc.
11. SP Utility applied for, and was granted, dual certification of the Cypresswood service area.<sup>1</sup>
12. Due to widespread deficiencies in Cypresswood's water system, SP Utility completed the replacement of the entire water system of Cypresswood with new distribution lines, water well, and related appurtenances.
13. There is no interconnection between Cypresswood's facilities and the new SP Utility facilities.

#### **Petition**

14. On September 9, 2021, Mr. Davis filed a motion to revoke the water CCN No. 12498 in Montgomery County under 16 TAC § 24.245(d)(2).
15. SP Utility is dually certified to serve the requested area under CCN No. 12978 and now provides service to the requested area.
16. In Order No. 17 filed on June 26, 2024, the ALJ found the petition administratively complete.

#### **Notice**

17. On September 4, 2024, Mr. Williams, filed the affidavit of Mr. Williams, as President of SP Utility Company, Inc., attesting that notice was mailed to landowners and current customers, and to neighboring utilities and affected parties on July 29, 2024.

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<sup>1</sup> *Application of SP Utility Company, Inc. to Amend its Certificate of Convenience and Necessity and for Dual Certification with Drew T. Spencer dba Cypresswood Estates in Montgomery County*, Docket No. 50543, Notice of Approval (Aug. 5, 2021).

18. On September 7, 2024, SP Utility filed the corrected affidavit of Mr. Williams, President of SP Utility Company, Inc, attesting that notice was mailed to landowners and current customers on September 6, 2024.
19. In Order No. 20, filed September 11, 2024, the ALJ found notice sufficient.

**Evidentiary Record**

20. On November 22, 2024, Mr. Davis and Commission Staff filed a joint motion to admit evidence.
21. In Order No. \_\_\_\_\_ filed on \_\_\_\_\_, the ALJ admitted the following evidence into the record:
  - a. Brent Davis's Motion to Revoke filed on August 9, 2021 (AIS Item No. 2);
  - b. William Brent Davis's Reply to Commission Staff's Response to Order No. 3 and all attachments, filed on November 30, 2021 (AIS Item No. 9);
  - c. Joint Response to Order No. 4, filed on December 20, 2021 (AIS Item No. 11);
  - d. Harrison Williams' Response to Order No. 10, filed on June 5, 2023 (AIS Item No. 21);
  - e. Commission Staff's Response to Order No. 10 and all attachments, filed on July 7, 2023 (AIS Item No. 23);
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  - h. Harrison Williams' Response to Order No. 15 and all attachments, filed on April 25, 2024 (AIS Item No. 34);
  - i. Commission Staff's Supplemental Recommendation on Administrative Completeness and Proposed Procedural Schedule and all attachments, filed on June 13, 2024 (AIS Item No. 37);
  - j. Harrison Williams' Proof of Notice, filed on September 4, 2024 (AIS Item No. 41);
  - k. Customer List, filed confidentially on September 4, 2024 (AIS Item No. 42);

- l. Affidavit and Notice Correction, filed on September 7, 2024 (AIS Item No. 45);
- m. Commission Staff's Recommendation on Sufficiency of Notice and Proposed Procedural Schedule, filed on September 9, 2024 (AIS Item No. 46);
- n. Commission Staff's Response to Order No. 20, filed on October 2, 2024 (AIS Item No. 49); and
- o. Commission Staff's Final Recommendation and memorandum, filed on November 15, 2024 (Interchange Item No. 51)

**Effect on Customers, Landowners, and CCN holder in the Requested Area**

- 22. There will be no effect on customers and landowners.
- 23. The customers in the requested area receive water service from SP Utility's new facilities in the requested area.

**Costs Associated with Achieving Compliance**

- 24. SP Utility's facilities were built specifically to take over service from Cypresswood.
- 25. The customers in the requested area receive water service from SP Utility.

**Applicant's Diligence in Locating Alternative Sources of Service**

- 26. The customers in the requested area receive water service from SP Utility's new facilities in the requested area.

**Applicant's Efforts to Sell the Utility**

- 27. Mr. Davis's attempts to sell Cypresswood were unsuccessful.

**Asking Price**

- 28. Mr. Davis did not state what the asking price was for the purchase of Cypresswood.

**Relationship between Petitioner and Original Developer**

- 29. Mr. Davis is the nephew of the previous owner of the utility, Drew T. Spencer, who passed away and left the utility to Mr. Davis.

**Availability of Alternative Sources of Service**

- 30. The customers in the requested area receive water service from SP Utility's new facilities in the requested area.

**Feasibility of Obtaining Service from Alternative Sources**



31. The customers in the requested area receive water service from SP Utility's new facilities in the requested area.
32. Mr. Williams is the temporary manager of Cypresswood.
33. Mr. Williams is the owner of SP Utility.
34. Mr. Williams determined it was more appropriate to build new facilities in the requested area than to take over Cypresswood's current facilities.

### **Informal Disposition**

35. More than 15 days have passed since the completion of notice provided in this docket.
36. No person filed a protest.
37. No party filed a motion to intervene.
38. No party requested a hearing, and no hearing is needed.
39. Mr. Davis, Commission Staff, and Mr. Williams are the only parties to this proceeding.
40. Commission Staff recommended approval of the application.
41. This decision is not adverse to any party.

### **II. Conclusions of Law**

The Commission makes the following conclusions of law:

1. The Commission has authority over this application under TWC §§ 13.041, 13.250, and 13.254.
2. Cypresswood is a retail public utility as defined by TWC § 13.022(19) and 16 TAC § 24.3(31).
3. Notice of the petition was provided in compliance with TWC § 13.246 and 16 TAC § 24.245(d)(2).
4. The Commission processed this docket in accordance with the requirements of the TWC, the Administrative Procedure Act,<sup>2</sup> and Commission rules.
5. Cypresswood provided notice of the petition that complies with 16 TAC § 24.249(b) and (c).

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<sup>2</sup> Tex. Gov't. Code §§ 2001.001-.902.

6. Cypresswood met the requirements of TWC §§ 13.250(c) and 13.254(a)(3) and 16 TAC §§ 24.245 and 24.249 for revocation of its water CCN number 12498.
7. Cypresswood filed a written request with the Commission to revoke its CCN number 12498 in accordance with TWC § 13.254(a) and 16 TAC § 24.245(d)(2).
8. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

### **III. Ordering Paragraphs**

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission revokes Cypresswood's CCN No 12498, effective the date of this Order.
2. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

**Signed at Austin, Texas, the \_\_\_\_ day of \_\_\_\_\_, 2024**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**ISSAC TA  
ADMINISTRATIVE LAW JUDGE**