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DOCKET NO. 52551

PETITION OF BLACKLAND WATER	§	PUBLIC UTILITY COMMISSION
SUPPLY CORPORATION AND THE	§	
CITY OF ROCKWALL TO	§	OF TEXAS
DECERTIFICATE PORTIONS OF A	§	
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY UNDER TEXAS	§	
WATER CODE § 13.254(a) IN	§	
ROCKWALL COUNTY	§	

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

On September 10, 2021, Blackland Water Supply Corporation (Blackland WSC) and the City of Rockwall (Rockwall) (collectively, Petitioners) filed a petition requesting approval of a service area agreement entered into between Blackland WSC and Rockwall under Texas Water Code (TWC) § 13.248; for amendment of Blackland WSC’s water Certificate of Convenience and Necessity (CCN) No. 11305 under TWC § 13.255(a); and for decertification of a portion of Blackland WSC’s certificated service area under TWC § 13.254(a) based on agreements between Blackland WSC and developers. On February 25, 2022, the administrative law judge (ALJ) filed Order No. 4, which severed the proceeding into two separate dockets. On March 25, 2022, the Petitioners filed an amended petition in the instant docket, only addressing the issues from the original petition relevant to TWC § 13.254(a) and only including the agreements and maps to be reviewed under TWC § 13.254(a).

Order No. 4, filed on February 25, 2022, also established a deadline of April 15, 2022¹ for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file supplemental comments on the administrative completeness of the amended petition, the sufficiency of notice, and to propose a procedural schedule, if appropriate. Therefore, this pleading is timely filed.

¹ Under 16 Texas Administrative Code § 22.4(a), if the Commission is closed for business on a given day, the designated period runs until the end of the next day on which the Commission is open for business. The Commission is closed on Friday, April 15, 2022. Therefore, the deadline falls on the next day the Commission is open for business, Monday, April 18, 2022.

I. ADMINISTRATIVE COMPLETENESS

In the amended petition, filed on March 25, 2022, the Petitioners are seeking decertification of a portion of Blackland's water CCN No. 11305 under TWC § 13.254(a) based on a mediated settlement agreement between Petitioners and an agreement between Blackland WSC and a developer, included with the amended petition as Exhibits C and D respectively. Staff has reviewed the amended petition, and, as detailed below and in the attached memorandum from Patricia Garcia of the Commission's Infrastructure Division, recommends that the amended petition is administratively complete.

TWC § 13.254(a) states that "(t)he utility commission at any time after notice and hearing may revoke or amend any certificate of public convenience and necessity with the written consent of the certificate holder". Under the corresponding Commission rule, 16 TAC § 24.245, it is made clear that any such revocation or amendment of a CCN made by the Commission cannot transfer any property, and that notice to current customers and landowners within the requested area is required.² As expressed in the amended petition and in the Exhibit C and D agreements, Blackland WSC has provided written consent for the decertification of the area covered in the agreements and for the respective amendments to Blackland WSC's CCN No. 11305.³ Further, Petitioners allege that no customers, facilities, or property were transferred pursuant to the agreements in Exhibit C or Exhibit D.⁴ Therefore, Staff recommends that the petition is administratively complete. Staff's recommendation on administrative completeness is not a comment on the merits of the application.

II. NOTICE

Staff recommends that the notice requirements under TWC §§ 13.254(a) be waived. Petitioners have requested that the agreements from Exhibits C and D of the amended petition be processed under TWC § 13.254(a), which states that, "[t]he utility commission at any time after notice and hearing may revoke or amend any certificate of public convenience and necessity with

² 16 TAC §§ 24.245(c)(1) and (d)(2).

³ Petition of Blackland Water Supply Corporation and the City of Rockwall to Decertify Portions of a Certificate of Convenience and Necessity Under Texas Water Code § 13.254(a) in Rockwall County at 4. (Mar. 25, 2022) (Amended Petition).

⁴ *Id.*

the written consent of the certificate holder.” Under the corresponding Commission rule, 16 TAC § 24.245, it is made clear that any such revocation or amendment of a CCN made by the Commission cannot transfer any property, and that notice to current customers and landowners within the requested area is required.⁵ As stated previously, Petitioners allege that no customers, facilities, or property were transferred pursuant to the agreement in Exhibit D or the Exhibit C settlement agreement.⁶ Further, Petitioners state that Rockwall has already been providing continuous and adequate retail water service to the areas subject to the agreements in Exhibits C and D, and therefore, no customers or landowners would be affected by the formalization of such agreements.⁷ Staff agrees with Petitioners, and respectfully recommends that even though “notice and hearing” are a prerequisite to decertification under TWC § 13.254(a), such prerequisites should not be required here.

III. PROPOSED PROCEDURAL SCHEDULE

Staff recommends that the petition be found administratively complete. Staff, therefore, proposes the following procedural schedule:

Event	Date
Deadline for Staff to provide final maps, certificates, and tariffs (if applicable), to Blackland WSC and Rockwall for review and consent	May 19, 2022
Deadline for Blackland WSC and Rockwall to file signed consent forms with the Commission	June 3, 2022
If not hearing is requested, deadline for Staff to file a final recommendation on the application	June 10, 2022
If no hearing is requested, deadline for parties to file joint proposed findings of fact and conclusions of law	June 24, 2022

IV. CONCLUSION

For the reasons detailed above, Staff recommends that the amended petition be found administratively complete, that the notice requirements under TWC § 13.254 be waived, and that

⁵ 16 TAC § 24.245(c)(1) and (d)(2).

⁶ Amended Petition at 3-4.

⁷ *Id.* at 5.

the proposed procedural schedule be adopted. 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/ Jenna Keller
Jenna Keller

Public Utility Commission of Texas

Memorandum

TO: Jenna Keller, Attorney
Legal Division

FROM: Patricia Garcia, Senior Engineering Specialist
Infrastructure Division

DATE: April 14, 2022

RE: Docket No. 52551 –*Petition of Blackland Water Supply Corporation and the City of Rockwall to Decertificate Portions of a Certificate of Convenience and Necessity Under Texas Water Code § 13.254(a) in Rockwall County*

On September 10, 2021, Blackland Water Supply Corporation (Blackland WSC) and the City of Rockwall (Rockwall) (collectively, Petitioners) filed a petition for approval of a service area contract under Texas Water Code (TWC) § 13.248 and to amend Blackland WSC’s water certificate of convenience and necessity (CCN) No. 11305 under TWC § 13.254(a) in Rockwall County, Texas.

On October 11, 2021, the Staff (Staff) of the Public Utility Commission of Texas (Commission) recommended the agreements filed by the Petitioners be processed under TWC §§ 13.254(a) and 13.255. On January 21, 2022, the Petitioners filed a joint petition requesting decertification of two separate portions of Blackland WSC’s CCN area and approval of contracts under TWC §§ 13.254(a) and 13.255 to complete the decertification of each area. On February 25, 2022, the administrative law judge (ALJ) severed the docket into two separate dockets. In this docket, the agreements will be reviewed under TWC § 13.254(a).

Blackland WSC and Rockwall entered into contractual agreements, which permit Rockwall to provide water services within the agreed upon water certificated service areas. The petition was submitted in order to remove the requested areas from Blackland WSC’s CCN area. Based on the mapping review by Gary Horton of the Commission’s Infrastructure Division, the requested area includes approximately 649 acres and 3 miles of Facilities +200’ to be decertified from Blackland WSC’s water CCN No. 11305 under 13.254(a). Rockwall currently provides retail water utility service to customer connections that are located within the requested area, which is also within Rockwall’s city limits. Rockwall does not have a CCN number, is not required to have one, and does not want a CCN number assigned to it. The proposed request will result in the area becoming uncertificated area that is inside the city limits of Rockwall.

The Petitioners have requested that notice be waived as Rockwall is the provider of service in the area to be decertified.

Based on the mapping review by Gary Horton, Infrastructure Division, maps submitted with Item 18 on March 25, 2022, are sufficient. Based on my technical review of the information filed by the Petitioners on March 25, 2022, I recommend that notice be waived and that the petition be deemed sufficient for filing and found administratively complete.