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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	§	

**ORDER NO. 5
FINDING APPLICATION ADMINISTRATIVELY COMPLETE AND NOTICE
DEFICIENT**

This Order addresses the administrative completeness of the March 25, 2022 amended petition of Blackland Water Supply Corporation and the City of Rockwall for approval to decertify various portions of Blackland WSC’s certificated service area under certificate of convenience and necessity (CCN) number 11305 in Rockwall County. On April 18, 2022, Commission Staff filed its recommendation on administrative completeness and notice and proposed a procedural schedule.

The administrative law judge (ALJ) finds the application to be administratively complete.

The ALJ disagrees with the parties, however, as to notice. This is a petition in which the petitioners ask the Commission to amend, under Texas Water Code (TWC) § 13.254(a), Blackland WSC’s CCN to remove numerous portions of its service area. The petitioners stress that “no person has objected . . . to decertification,”¹ but this assurance rings hollow because no notice of the petition has been provided to anyone other than the Commission. The petitioners contend that the only notice that need be provided is the “standard notice published in the Texas Register for each of [the Commission’s] Open Meetings when this case is finally decided.”² The petitioners further contend that notice is not necessary because “continuous and adequate service has been

¹ Petition filed on March 25, 2022, at 2.

² *Id.*, at 5

provided by [Rockwall] to the areas in question and such direct notice of this case would cause unnecessary confusion.”³

Commission Staff acknowledges that, under 16 Texas Administrative Code (TAC) § 24.245(d)(2), notice of the petition must be provided to any current customers of Blackland WSC within the areas to be decertified (of which there are apparently none), and to all landowners within the areas to be decertified. Commission Staff argues, however, that these notice requirements should be waived because Rockwall is already providing continuous and adequate retail water service to the areas for which decertification is sought and, therefore, no customers or landowners will be adversely affected.

For a variety of reasons, the ALJ denies the request to waive the notice requirements in 16 TAC § 24.245(d)(2). The rule gives no indication that the notice requirements can be waived and, even if waiver is allowed, the parties have not established good cause for a waiver. Moreover, at this early stage in the proceeding, it would be inappropriate to deem as true factual assertions made by the parties, such as that Rockwall is providing continuous and adequate service, or that landowners will not be harmed, or that notice would cause unnecessary confusion. The purpose of providing notice to potentially affected persons is to give those persons an opportunity to speak up if they disagree with the factual assertions made in a petition. Finally, the Commission has required notice to landowners in similar cases, and has noted that “landowners within the certificated area have an interest in the revocation of a CCN.”⁴

Therefore, the ALJ finds notice deficient and orders the petitioners to mail notice of the petition to every customer and landowner in the areas to be decertified. The petitioners and Commission Staff are encouraged to work together in the drafting of the notice.

³ *Id.*, at 6.

⁴ *Petition of Willowbrook Water System to Discontinue Water Service and Cancel its Certificate of Convenience and Necessity*, Docket No. 51552, Order Remanding to Docket Management (Feb. 2, 2022).

The following procedural schedule applies:

Event	Date
Deadline for the petitioners to mail notice of the petition to each customer and landowner within the areas to be decertified	May 20, 2022
Deadline for the petitioners to file proof of notice	June 3, 2022
Deadline for Commission Staff to make a recommendation on the sufficiency of notice and propose a procedural schedule for further processing	June 17, 2022

Signed at Austin, Texas the 20th day of April 2022.

PUBLIC UTILITY COMMISSION OF TEXAS



HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE