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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 SUFFICIENCY
OF NOTICE AND PROPOSED PROCEDURAL SCHEDULE**

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).

On September 7, 2022, the ALJ filed Order No. 8 requiring additional clarification from the petitioners specifically addressing the ALJ's inquiries in Order No. 7¹ and establishing a deadline of September 27, 2022 for the Staff of the Public Utility Commission of Texas (Commission) to make a supplemental recommendation on the sufficiency of notice and to propose a procedural schedule for further processing of this docket. Therefore, this pleading is timely filed.

I. SUFFICIENCY OF NOTICE

Staff has reviewed the proof of notice submitted by the petitioners and recommends that it be found sufficient. Under 16 TAC § 24.245(d)(2)(A), a retail public utility that files a written

¹ See Order No. 7 (Aug. 1, 2022).

request with the Commission to amend its CCN by decertifying a portion of the service area must provide notice of its request to each customer and landowner within the affected service area of the utility. On June 14, 2022, the petitioners filed the affidavits of Mary Smith, City Manager for Rockwall, and Scott Muckensturm, General Manager of Blackland WSC, attesting, respectively, that notice of the decertification was provided to each of Rockwall's customers in the requested area² and to Blackland WSC's single customer in the requested area. Further, a list of each customer and landowner in the area to be decertified was included with the petitioners' June 14, 2022 filing, and notice was provided using a form developed by the petitioners in consultation with Commission Staff.³ The petitioners also filed supplemental documents on July 27 and August 22, 2022 confirming and clarifying that notice was provided to both customers *and landowners* within the requested area.⁴

Additionally, on September 12, 2022, the petitioners filed a letter with a supplemental affidavit of notice from Blackland WSC's General Manager, providing the clarification required by Order Nos. 7 and 8 concerning the provision of notice to Big Tex Trailer World Inc. (Big Tex), a customer of Blackland WSC. The supplemental affidavit indicated that notice was sent to Jowers (the landowner associated with Big Tex) and to Big Tex due to the explicit carve out for Big Tex that was included as a part of the mediated settlement agreement (TCEQ agreement) between Blackland WSC and Rockwall, entered into on May 24, 2005, in Docket No. 2004-1736-UCR before the Texas Commission on Environmental Quality (TCEQ).⁵ The supplemental affidavit

² The City of Rockwall will continue to provide retail water service to its existing customers after the decertification is completed.

³ Letter to Judge Burkhalter with Supplementation to the Proof of Notice (Jul. 14, 2022).

⁴ See Letter to ALJ Regarding Proof of Notice to Customers and Landowners (Jul. 27, 2022); Letter to Chief ALJ Burkhalter regarding Petitioners' Proof of Notice in Response to Order No. 7 (Aug. 22, 2022). The petitioners' August 22, 2022 filing also showed that notice was provided to Jowers, Inc. (Jowers) on August 15, 2022, as the landowner had been inadvertently omitted from the first round of notice.

⁵ See Petition of Blackland Water Supply Corporation and City of Rockwall to Decertify a Portion of Blackland WSC's Service Area Under Texas Water Code § 13.254(a) Pursuant to Order No. 4, Exhibit C (Mar. 25, 2022).

went on to detail that the property occupied by Big Tex was split between the instant docket and Docket No. 53262⁶ when the ALJ ordered severance in this proceeding.⁷

The consuming portion of the property is included in the instant docket and corresponds with the TCEQ agreement; the remaining portion of the property corresponds with a 1989 water service agreement, has no associated retail water customers, and is to be decertified in Docket No. 53262.⁸ It appears that the petitioners were simply trying to comply with Order Nos. 5 and 6 by mailing notice to Jowers and Big Tex, as a portion of the Big Tex property is to be decertified, albeit in a separate docket. Given the interconnected nature of the present docket and Docket No. 53262, Staff does not believe that the additional unnecessary notice to Jowers and Big Tex in the present docket causes any harm. The purpose of notice is to make the recipient aware of a proceeding. Here, Jowers and Big Tex were previously part of this docket before Order No. 4 severed the proceeding. Staff construes the notice to have been sent out of an abundance of caution and as a result of the interconnection between the present docket and Docket No. 53262. Therefore, Staff recommends that the petitioners' notice be found sufficient.

II. PROPOSED PROCEDURAL SCHEDULE

Staff proposes the following procedural schedule for the continued processing of this petition:

Event	Date
Notice Completed	August 15, 2022
Deadline to intervene	September 14, 2022
Deadline for Staff to provide final maps, certificates, and tariffs (if applicable) to the petitioners for review and consent	October 31, 2022
Deadline for the petitioners to file signed consent forms with the Commission	November 14, 2022

⁶ *Petition of Blackland Water Supply Corporation and the City of Rockwall for Approval to Amend Certificate of Convenience and Necessity Under Texas Water code § 13.255(a) in Rockwall County, Docket No. 53262.*

⁷ Order No. 4 (Feb. 25, 2022).

⁸ *See generally* Docket No. 53262.

If no hearing is requested, deadline for Staff to file a final recommendation on the petition	November 30, 2022
If no hearing is requested, deadline for parties to file joint proposed findings of fact and conclusions of law	December 15, 2022

III. CONCLUSION

For the reasons detailed above, Staff recommends that the petitioners' notice be found sufficient and that the proposed procedural schedule be adopted. Staff respectfully requests the entry of an order consistent with the foregoing recommendations.

Dated: September 27, 2022

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Keith Rogas
Division Director

John Harrison
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

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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 September 27, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Jenna Keller
Jenna Keller