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Received - 2022-07-20 12:50:28 PM
Control Number - 53000
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PUC DOCKET NO. 53000

APPLICATION OF CAMELOT WATER	§	BEFORE THE
SUPPLY CORPORATION AND TRAVIS	§	
COUNTY WATER CONTROL AND	§	
IMPROVEMENT DISTRICT NO. 10.	§	PUBLIC UTILITY COMMISSION
FOR SALE, TRANSFER, OR MERGER	§	
OF CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY IN TRAVIS COUNTY	§	OF TEXAS

APPLICANT’S RESPONSE TO ORDER NO. 7 REQUESTING CLARIFICATION

TO: THE HONORABLE JEFFREY J. HUH:

COMES NOW, Travis County Water Control & Improvement District No. 10 (the “District”) and files this Response to Order No. 7 Requesting Clarification and, in support thereof, would show the Honorable Administrative Law Judge (“ALJ”) the following:

I. INTRODUCTION AND BACKGROUND

On December 20, 2021, the District and Camelot Water Supply Corporation (the “WSC”) filed an application to transfer the Certificate of Convenience and Necessity of the WSC to the District. The area in question to be transferred lies completely within the existing corporate boundaries of the District.

On May 25, 2022, the Commission Staff filed a Supplemental Recommendation on Administrative Completeness and Notice and Proposed Procedural Schedule.¹ This recommendation asked the ALJ to direct the Applicants to provide notice as prescribed in a memo from Jolie Mathis.² Ms. Mathis’ memo recommended that the Applicants be ordered to provide notice by first-class mail to (1) cities, districts, and neighboring retail public utilities providing the same utility service within two miles of the requested area; (2) the Travis County Judge; (3) each owner of a tract of land that is at least 25 acres located wholly or partially within the requested

¹ Commission Staff’s Supplemental Recommendation on Administrative Completeness and Notice and Proposed Procedural Schedule at 1 (May 25, 2022).

² *Id.* at 2.

area; and (4) any affected customers and other parties in the requested area.³ Ms. Mathis' memo did not require any publication of notice in a newspaper of general circulation in Travis County.⁴

On May 26, 2022, Administrative Law Judge Jeffrey J. Huhn issued Order No. 6 finding the application administratively complete, requiring notice, and establishing a procedural schedule.⁵ In that Order, Judge Huhn directed the applicants to provide notice of the application and proof of notice in the manner described in Ms. Mathis' memorandum dated May 25, 2022.⁶

On June 27, 2022, Applicants submitted documents in response to Order No. 6 showing notice was provided consistent with Ms. Mathis' memo.⁷ On July 8, 2022, Commission Staff filed a recommendation on sufficiency of notice in which staff recommended that the notice provide was sufficient and complete on June 15, 2022.⁸

On July 11, 2022, Judge Huhn issued Order No. 7 asking the parties to submit a response to clarify if the notice complied with the requirements of 16 TAC § 24.239 by July 20, 2022. Therefore, this filing is timely.

II. LEGAL AUTHORITY

1. Section 24.239(c) of the Commission's rules require notice be given to affected customers.⁹ The transferee must mail the notice to cities and neighboring retail public utilities providing the same utility service whose boundaries are located within two miles of the requested area.¹⁰ The Commission rules state that the Commission *may* require the transferee to publish notice once each week for two consecutive weeks in a newspaper of general circulation in each county in which the retail public utility is located; however, this provision is permissive and not a requirement like mailing notice to customers or other retail public utilities.¹¹ The use of the word

³ *Id.* at 4.

⁴ *Id.*

⁵ Order No. 6 Finding Application Administratively Compete, Requiring Notice, and Establishing Procedural Schedule at 1 (May 26, 2022).

⁶ *Id.*

⁷ Applicants' Documentation Submitted in Response to Order No. 6 (June 27, 2022).

⁸ Commission Staff's Recommendation on Sufficiency of Notice at 1 (July 8, 2022).

⁹ 16 Tex. Admin. Code ("TAC") §24.239(c)(1).

¹⁰ 16 TAC §24.239(c)(2).

¹¹ 16 TAC §24.239(c)(3).

“may” in this provision indicates that the Commission does not require publication in a newspaper unless the Commission specifically orders the transferee to publish such notice. Finally, the Commission may waive published notice if the requested area does not include unserved area or for good cause shown.¹²

2. A retail public utility may not provide retail water or sewer utility service within the boundaries of a district that provides the same type of retail water or sewer utility service without the district’s consent, unless the retail public utility has a CCN to provide retail water or sewer utility service to that area.¹³

3. A district is not required to have a certificate of convenience and necessity in order to provide service within its corporate boundaries; rather, only a utility or a water supply or sewer service corporation must first obtain a certificate of convenience and necessity to provide water or sewer utility service.¹⁴

III. ARGUMENT

The District provided notice to every entity identified in Jolie Mathis’ memo of May 25, 2022... to cities, districts, and neighboring retail public utilities, to the Travis County Judge, to each landowner of 25 acres or more, and to all affected customers and parties.¹⁵ The District complied with Order No. 6’s provision of providing notice “in the manner described in and attached to Jolie Mathis’s memo dated May 25, 2022.”¹⁶ Attached to Ms. Mathis’ memo was a Notice for Publication and a Publisher’s Affidavit; however, there were no Commission Order directing the District to publish notice nor were there any instructions on when or how many times to publish such a notice. Despite this lack of Commission direction and out of an abundance of caution, the District did publish the notice one time¹⁷ even though not required by Commission rule or the Water Code. The District complied with all notice requirements of 16 TAC §24.239(c).

¹² 16 TAC §24.239(c)(4).

¹³ 16 TAC §24.225(c).

¹⁴ 16 TAC §24.225(a).

¹⁵ Applicants’ Documentation Submitted in Response to Order No. 6 (June 27, 2022).

¹⁶ Order No. 6 Finding Application Administratively Compete, Requiring Notice, and Establishing Procedural Schedule at 1 (May 26, 2022).

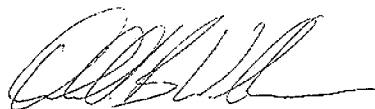
¹⁷ Applicants’ Documentation Submitted in Response to Order No. 6 (June 27, 2022).

Assuming, arguendo, that the District should have published twice without Commission direction or an order, there is not any entity with any justiciable interest that has not already been provided notice through first-class mail. The provisions of 16 TAC §24.225(c) prohibit any other retail public utility from providing service within the District's corporate boundaries. None. As the District has already provided mailed notice to all possible parties, the District would respectfully request that the ALJ waive published notice, as the requested area does not include any unserved area and no other retail public utility may provide service. In the alternative, the District respectfully requests that the ALJ waive published notice for good cause shown.

V. PRAYER

WHEREFORE, PREMISES CONSIDERED, the Applicants, Travis County Water Control & Improvement District No. 10 and Camelot Water Supply Corporation, pray that the Administrative Law Judge proceed with the procedural schedule as outlined by Commission Staff in its Recommendation on Sufficiency of Notice and grant Applicants other such relief to which they may be entitled.

Respectfully submitted,



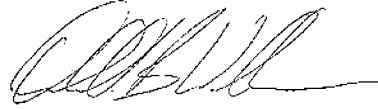
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ATTORNEYS FOR PETITIONERS

CERTIFICATE OF SERVICE

I hereby certify that I have served or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or Certified Mail Return Receipt Requested to all parties on this the 20th day of July 2022.



Randall B. Wilburn