



## **Filing Receipt**

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<b>APPLICATION OF CITY OF</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>PFLUGERVILLE TO AMEND ITS</b>	<b>§</b>	
<b>CERTIFICATE OF CONVENIENCE</b>	<b>§</b>	<b>OF TEXAS</b>
<b>AND NECESSITY AND TO</b>	<b>§</b>	
<b>DECERTIFY KELLY LANE UTILITY’S</b>	<b>§</b>	
<b>CERTIFICATE OF CONVENIENCE</b>	<b>§</b>	
<b>AND NECESSITY IN TRAVIS AND</b>	<b>§</b>	
<b>WILLIAMSON COUNTIES</b>	<b>§</b>	

**COMMISSION STAFF’S CLARIFICATION**

On January 19, 2023, the City of Pflugerville (Pflugerville) filed an application to amend its certificate of convenience and necessity (CCN) number 20678 and to decertify Kelly Lane Utility’s (Kelly Lane) CCN number 20720 in Travis and Williamson Counties.

On December 27, 2023, the administrative law judge filed Order No. 10, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a supplemental recommendation on the decertification of Kelly Lane’s certificated service area by January 12, 2024. Order No. 10 also directed the parties to clarify the request to decertify 24 acres from Kelly Lane and the request to decertify 92 acres from Kelly Lane. Therefore, this pleading is timely filed.

**I. RECOMMENDATION ON KELLY LANE DECERTIFICATION**

Order No. 10 directed Staff to file a supplemental recommendation on the decertification of Kelly Lane’s certificated service area addressing the factors in 16 Texas Administrative Code (TAC) § 24.245(d).

Section 24.245(d)(1)(A) provides that the Commission may revoke or amend any CCN by decertifying a portion of the service area if the Commission finds that specific circumstances exist, including if the current CCN holder is no longer providing, is incapable of providing, or has failed to provide continuous and adequate service in all or part of the certificated service area. Staff recommends that Kelly Lane, the current CCN holder, is no longer providing, is incapable of providing, or has failed to provide continuous and adequate service in this area because Pflugerville currently provides sewer service to the area, Kelly Lane’s former Wastewater Treatment Plant has been decommissioned and taken offline and Kelly Lane’s former Water

Quality Permit (WQ-0013219001) has been canceled,<sup>1</sup> and because Kelly Lane no longer operates as a retail sewer service operator.<sup>2</sup> Further, as evidenced by the attached letter from the Secretary of State, Kelly Lane no longer exists as a corporation. Therefore, Staff recommends that Kelly Lane is no longer providing, is incapable of providing, or has failed to provide continuous and adequate service in all or part of its certificated service area.

Section 24.245(d)(1)(C) provides that the Commission may revoke or amend any CCN by decertifying a portion of the service area if the Commission finds that the current CCN holder has agreed in writing to allow another retail public utility to provide service within its certificated service area or a portion of its service area without amending its CCN. Pflugerville's application states that although Kelly Lane and Pflugerville submitted a Sale, Transfer, or Merger application to the Texas Commission on Environmental Quality,<sup>3</sup> the portion of Kelly Lane's certificated service area that is located in Williamson County was not transferred to Pflugerville. However, the *North Pflugerville Wastewater Project Participating Agreement* executed by Pflugerville and Kelly Lane and effective on November 12, 2002, provided that Pflugerville will "acquire the Kelly Lane Facilities from Kelly Lane and operate the Kelly Lane Facilities to serve all of the existing and future Customers that are within the area covered by the CCN, and the areas within the Kelly Lane Service Area and the City Service Area."<sup>4</sup> Therefore, Staff recommends that Kelly Lane has also agreed in writing to allow another retail public utility (Pflugerville) to provide service within its certificated service area or a portion of its service area without amending its CCN.

## II. CLARIFICATION ON ACREAGE

Order No. 10 required parties to clarify the request to decertify 24 acres from Kelly Lane and the request to decertify 92 acres from Kelly Lane, specifically, if the 24-acre tract has already been certificated to Pflugerville. Staff has conferred with Pflugerville and has been informed that the 24-acre tract is not served by or certificated to Pflugerville but is currently served by the City of Hutto.

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<sup>1</sup> Texas Commission on Environmental Quality Central Registry Query – Regulated Entity Information, [https://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=regent.showSingleRN&re\\_id=653568342001340](https://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=regent.showSingleRN&re_id=653568342001340) (last visited Jan. 12, 2024).

<sup>2</sup> *See id.*

<sup>3</sup> Application of City of Pflugerville to Amend its Certificate of Convenience and Necessity and to Decertify Kelly Lane Utility Company, Inc.'s Certificate of Convenience and Necessity in Travis and Williamson Counties at 59 (Jan. 19, 2023) (Application).

<sup>4</sup> Application at 42.

### III. CONCLUSION

Staff respectfully requests that the ALJ take the foregoing into consideration.

Dated: January 12, 2024

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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**ERROR! REFERENCE SOURCE NOT FOUND.**

### 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 January 12, 2024, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Kelsey Daugherty  
Kelsey Daugherty



**Forfeiture pursuant to Section 171.309 of the Texas Tax Code  
of  
KELLY LANE UTILITY COMPANY**

File Number : 101015600

Certificate / Charter forfeited : July 08, 2005

The Secretary of State hereby determines and finds the following:

1. The Secretary of State received certification from the Comptroller of Public Accounts under Section 171.302 of the Texas Tax Code that there are grounds for forfeiture of the charter or certificate of authority of the referenced entity.
2. That the entity has not revived its forfeited corporate privileges within 120 days after the date that the corporation privileges were forfeited.
3. The Comptroller of Public Accounts has determined that the entity does not have assets from which a judgment for any tax, penalty, or court costs imposed under Chapter 171 of the Code may be satisfied.

It is therefore ordered that charter or certificate of authority of the referenced entity be forfeited without judicial ascertainment and that the proper entry be made upon the permanent files and records of such entity to show such forfeiture as of the date hereof.



A handwritten signature in black ink that reads "Roger Williams".

Roger Williams  
Secretary of State