



## **Filing Receipt**

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**Item Number - 3**

**DOCKET NO. 54920**

<b>APPLICATION OF THE CITY OF KYLE</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>AND TEXAS WATER UTILITIES, LP</b>	<b>§</b>	
<b>FOR APPROVAL OF A SERVICE AREA</b>	<b>§</b>	
<b>CONTRACT UNDER TEXAS WATER</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CODE § 13.248 AND TO AMEND</b>	<b>§</b>	
<b>CERTIFICATES OF CONVENIENCE</b>	<b>§</b>	
<b>AND NECESSITY IN HAYS COUNTY</b>	<b>§</b>	

**COMMISSION STAFF'S RECOMMENDATION ON ADMINISTRATIVE  
COMPLETENESS AND NOTICE AND PROPOSED PROCEDURAL SCHEDULE**

On April 21, 2023, the City of Kyle (Kyle) and Texas Water Utilities, LP (TWU) (collectively, Petitioners) filed a petition for approval of a service-area contract under Texas Water Code § 13.248 and to amend certificate of convenience and necessity (CCN) numbers 11024 and 12983 in Hays County.

On April 24, 2022, the administrative law judge (ALJ) filed Order No. 1, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file comments on the administrative completeness of the petition, comments on notice and propose a procedural schedule by May 24, 2022. Therefore, this pleading is timely filed.

**I. ADMINISTRATIVE COMPLETENESS**

Staff has reviewed the Petitioners' petition and as detailed in the attached memorandum of James Harville, Infrastructure Division, recommends that the petition be deemed administratively incomplete. Staff further recommends that the Petitioners be ordered to cure the deficiencies identified in Mr. Harville's memorandum by June 23, 2023, and that Staff be given a deadline of July 24, 2023, to file a supplemental recommendation on the administrative completeness of the petition. Staff respectfully requests adoption of these proposed deadlines as the noted deficiencies are related to mapping information and Staff's mapping experts may be required to assist the Petitioners regarding the supplemental mapping information needed to cure the mapping deficiencies and will require at least thirty days to review.

## **II. PROPOSED PROCEDURAL SCHEDULE**

In accordance with Staff's deficiency recommendation, Staff does not propose a procedural schedule for further processing of the docket at this time. Staff intends to propose a procedural schedule alongside a subsequent recommendation that the petition be found administratively complete.

## **III. CONCLUSION**

For the reasons detailed above, Staff recommends that the petition be found administratively incomplete, that the Petitioners be ordered to file supplemental information to cure the deficiencies in the petition by June 23, 2023, and that Staff be given a deadline of July 24, 2023, to file a supplemental recommendation on the administrative completeness of the petition. Staff respectfully requests the entry of an order consistent with these recommendations.

Dated: May 24, 2023

Respectfully submitted,

### **PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION**

Marisa Lopez Wagley  
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/s/ Markel Perkins  
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**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 May 24, 2023 in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ Markel Perkins

Markel Perkins

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Markel Perkins, Attorney  
Legal Division

**FROM:** James Harville, Infrastructure Analyst  
Infrastructure Division

**DATE:** May 24, 2023

**RE:** Docket No. 54920 – *Application of the City of Kyle and Texas Water Utilities, LP for Approval of a Service Area Contract Under Texas Water Code § 13.248 and to Amend Certificates of Convenience and Necessity in Hays County*

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On April 21, 2023, on behalf of Crosswinds Municipal Utility District (Crosswinds), Texas Water Utilities, LP (Texas Water Utilities) and City of Kyle (Kyle) (collectively, Applicants) filed an application for approval of a service area contract under Texas Water Code (TWC) § 13.248 and to amend Texas Water Utilities' water Certificate of Convenience and Necessity (CCN) No. 12983 and Kyle's water CCN No. 11024 in Hays County, Texas. The Applicants' TWC § 13.248 service area contract is being reviewed in accordance with 16 Texas Administrative Code (TAC) § 24.253.

The Applicants filed an agreement citing a petition submitted to the Texas Commission on Environmental Quality (TCEQ) under TWC § 13.254(a)(5) dated January 8, 2013, wherein 445.11 acres was decertified under Texas Water Utilities CCN No. 12983. As a result of a specified technical error, 20.901 acres of the approximately 445.11 acre tract remains in the Texas Water Utilities service area.

Specifically, Texas Water Utilities, Kyle, and Crosswinds entered into a contractual agreement which permits Kyle to provide water services within the agreed upon water certificated service area. The Applicants will not transfer assets or facilities under the terms of the agreement.

Based on the mapping review and my technical review of the information filed by the Applicants, I recommend that the application be deemed administratively incomplete and not accepted for filing due to the deficiency detailed below:

### **Application Content:**

- Referencing the 20.901 acres to be transferred from Texas Water Utilities to Kyle, please specify the number of customer connections in the requested area which will be transferring and whether they are already being provided water utility service by Kyle.

- Please specify if the decision to enter this agreement was discussed at the meeting of a city council or district board and provide any applicable meeting minutes or agendas in which the agreement was discussed.
- Clarify whether Crosswinds has an associated PWS ID number with the Texas Commission on Environmental Quality (TCEQ), and whether a purchase water contract can be provided from City of Kyle.

### **Mapping Content:**

Based on the mapping review by Dave Babicki, Infrastructure Division, the maps and digital mapping data submitted with Item 1 on April 21, 2023 are deficient.

Applicants must submit the following items to resolve the mapping deficiencies:

- A general location map identifying only the requested area, in reference to the nearest county boundary, city, or town.
- A detailed map identifying only the requested area, in reference to verifiable man-made and natural landmarks, such as roads, rivers, and railroads.
- Digital mapping data for the requested area, as a single polygon record, in a shapefile (SHP) format, georeferenced in either NAD83 Texas Statewide Mapping System (Meters) or NAD83 Texas State Plane Coordinate System (US Feet).

Staff recommends the Applicants obtain additional mapping guidance from the PUC's mapping staff, Dave Babicki by email at [dave.babicki@puc.texas.gov](mailto:dave.babicki@puc.texas.gov) to resolve the mapping deficiencies.

Staff will need at least 30 days to review the documentation, maps, and digital data provided by the Applicants and draft a recommendation.