

Control Number: 42852



Item Number: 70

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RECEIVED

APPLICATION FROM THE CITY OF §
SPLENDORA TO AMEND CCN §
NO. 11727 IN MONTGOMERY AND §
LIBERTY COUNTIES §

2015 NOV 16 AM 11:30
PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
OF TEXAS
FILING CLERK

**COMMISSION STAFF'S RESPONSE TO ORDER NO. 3
AND FINAL RECOMMENDATION**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), and files this Response to Order No. 3, and would show the following:

I. BACKGROUND

On April 1, 2013, the City of Splendora (Splendora) filed an application with the Texas Commission on Environmental Quality (TCEQ) to amend its certificate of convenience and necessity (CCN) in Montgomery and Liberty Counties. On October 21, 2015, Order No. 3 was issued, which set a deadline of November 16, 2015 to file its final recommendation.

II. RECOMMENDATION

As supported by the attached memorandum from Fred Bednarski and Elisabeth English of the Water Utilities Division, Staff recommends that the application be approved. Specifically, Staff recommends that Splendora meets all of the statutory requirements of TEX. WATER CODE Chapter 13 and the Commission's Chapter 24 rules and regulations, has shown financial, managerial and technical capability, and is capable of providing continuous and adequate service as detailed above. Approving this application to amend the City's CCN No. 11727 is necessary for the service, accommodation, convenience and safety of the public.

Dated: November 16, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director-Legal Division

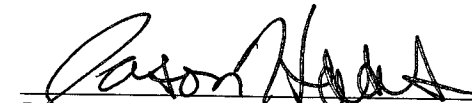
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1701 N. Congress Avenue
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Austin, Texas 78711-3326

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on November 16, 2015, in accordance with 16 Tex. Admin Code § 22.74.


Jason Haas

PUC Interoffice Memorandum

To: Jason Haas, Attorney
Legal Division

Through: Lisa Fuentes, Team Lead
Water Utilities Division

From: Fred Bednarski, Regulatory Financial and Managerial Review Specialist
Elisabeth English, Engineer
Water Utilities Division

Date: November 16, 2015

Subject: **Docket No. 42852**, *Application from the City of Splendora to amend Certificate Convenience and Necessity No. 11727 in Liberty and Montgomery Counties*

On April 01, 2013, City of Splendora (City or Applicant) filed an application with the Texas Commission on Environmental Quality (TCEQ) for the City to amend their Certificate of Convenience and Necessity (CCN) No. 11727 in Liberty and Montgomery Counties pursuant to the criteria in the TEX. WATER CODE §§ 13.241 & 13.246 (TWC). The application was accepted for filing by TCEQ on June 28, 2013. Proper public notice was provided on September 13, 2013 to neighboring systems, landowners, cities and affected parties. Notice was published in the *East Montgomery Observer and Cleveland Advocate* on August 14, 2013 and August 21, 2013, respectively. The publisher's affidavit and tearsheets were received by TCEQ on September 09, 2013 and copies of the notice to neighboring systems, landowners, cities, and effected parties and signed affidavit were received by TCEQ on September 30, 2013. The comment period ended October 13, 2013. One protest from the City of Patton Village was received on October 07, 2013, and two opt out requests were additionally received. The first opt out was a letter from Mr. Benjamin Cheng dated August 28, 2013, and the second was a letter from Mr. Joe Edward Murihead dated October 10, 2013. TCEQ referred the application to the State Office of Administrative Hearing (SOAH) on April 29, 2014.

On September 1, 2014, jurisdiction over the amendment of water CCNs was transferred from the TCEQ to the Public Utility Commission (Commission). Review of this case was then continued and processed by the Commission pursuant to TWC §§ 13.241 & 13.246 and 16 Tex. Admin Code §§ 24.105 - 24.107 (TAC). On September 26, 2014, the Commission referred this proceeding to SOAH. On October 7, 2014, Mr. Mark Martin and Mrs. Stacey Martin filed an opt-out petition. On April 29, 2015, SOAH referred the application for mediation, and the City, Patton Village, and Commission Staff participated in meditation on May 29, 2015. Settlement discussions were also entered into between the Applicant and other Intervenors which resulted in a withdrawal of the petition from Mr. and Mrs. Martin on April 29, 2015, City of Patton Village on June 15, 2015, and Mr. Joe Murihead on July 09, 2015. On June 05, 2015, July 22, 2015, and September 29, 2015, the City filed amendments to their application that resolved the concerns of Patton Village and the

other intervenors's. On July 20, 2015, SOAH issued Order No. 11 remanding the case to the Commission and dismissing it from the SOAH docket.

Staff has since continued processing the application pursuant to TWC § 13.246 and believes the City demonstrates adequate financial, managerial and technical (FMT) capability to provide service to its existing service area plus the area subject to this application. Pursuant to TWC § 13.246(c), the Commission shall consider the following nine criteria when amending a CCN:

- TWC §13.246(c)(1) requires the Commission to consider the adequacy of service currently provided to the requested area. The City is already providing quality water utility service to the requested area and no improvements are currently needed. No unresolved violations were identified additionally per TCEQ's Central Registry and Texas Drinking Water Watch databases.
- TWC §13.246(c)(2) requires the Commission to consider the need for service in the requested area. The City is already providing water service to the majority of the requested area. The City additionally provided documentation demonstrating existing and anticipated growth in the area.
- TWC §13.246(c)(3) requires the Commission to consider the effect of granting an amendment on the recipient and on any other retail utility servicing the proximate area. Approving the application will amend the City's CCN to include the proposed area which they are currently serving. No other retail utilities will be affected by the approval of this application.
- TWC §13.246(c)(4) requires the Commission to consider the ability of the applicant to provide adequate water service. The City has a TCEQ approved public water system, (PWS) No. 1700087, and employs a licensed Class B ground water operator. In addition, the system currently has no unresolved violations per TCEQ's Central Registry and Drinking Water Watch databases.
- TWC §13.246(c)(5) requires the Commission to consider the feasibility of obtaining service from an adjacent retail public utility. The City is already providing retail water service to the proposed area that meets minimum water system capacity requirements.
- TWC §13.246(c)(6) requires the Commission to consider the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service to the area and the applicant's financial stability. The City provided its recent audited financial statements and a detailed financial overview is discussed below.
- TWC §§13.246(c)(7) and (9) requires the Commission to consider the environmental integrity and the effect on the land to be included in the certificate. The City is already providing retail service to the proposed area with no adverse effects on the land.
- TWC § 13.246(c)(8) required the Commission to consider the probable improvement in service or lowering of cost to consumers. The rates will remain the same and the customer's will receive the same quality water service from the City.

With respect to the City's financial and managerial capability, the City's audited financial statements for FY 2014 were made available. The statements include an unqualified auditor's opinion stating that the financial statements present fairly in all material respects that the respective financial position of the City's governmental and business-type activities and each major fund of

the City in conformity with accounting principles generally accepted in the United States of America. The total net position (equity) of the City of Splendor was \$3.05 million for the City's enterprise fund. The City of Splendor's long term debt to net position (equity) ratio on September 30, 2014, was \$4.44 million to \$3.05 million, or 1.46 to 1.00. A ratio of less than 1 to 1 is preferred for analysis of financial/managerial capabilities. The City's total current assets are \$1.13 million and total current liabilities are \$730,000 for the City's Enterprise (Water, Sewer and Gas) fund. The City of Splendor's current ratio at September 30, 2014, was \$730,000 to \$1.13 million or 0.65 to 1.00 for the City's Water, Sewer and Gas fund. Operating income was \$263,000 and depreciation was \$293,000 for the City's Water, Sewer and Gas fund. Debt service for FY14 was \$521,000 for the City's Water, Sewer and Gas fund. Therefore, the debt service coverage ratio is \$556,000 to \$521,000 or 1.07 to 1.00. A ratio of at least 1.25:1 is preferred when reviewing financial capability to ensure that reserve funds for debt payment and repairs and maintenance are built up and maintained. Restricted cash and cash equivalents for the Water, Sewer, and Gas Fund total \$1.52 million and unrestricted cash total \$907,231.

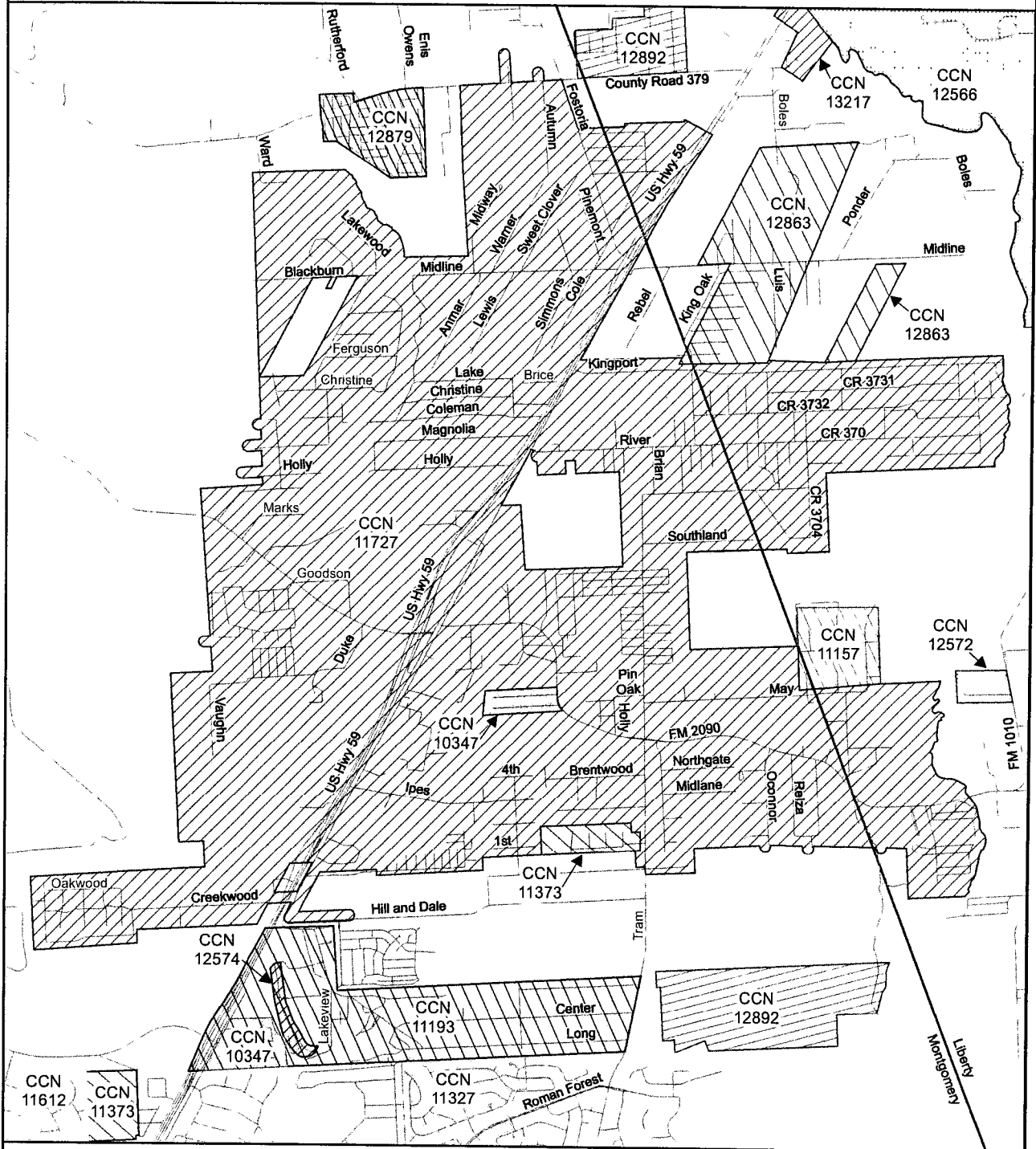
Although the City does not meet all the normal criteria for financial capability, the current ratio of 0.65 to 1.00 for the City's Water, Sewer and Gas fund indicates the City has a sufficient ability to pay its current obligations. Furthermore, the City has sufficient restricted cash for reserves/construction/grants of \$1.52 million and unrestricted cash reserves of \$907,231 to support current and long term debt. The City issues certificates of obligation (later converted to bonds) to provide funds for the construction and improvement of the City's water, sewer, and gas systems. Principal and interest payments on the City's debt are secured by ad valorem property taxes levied on all taxable property within the city limits and further secured by a subordinate lien on a pledge of net revenues from the operation of the City's water and sewer system. Currently these obligations are not rated. The City has the authority to issue additional bonds and certificates of obligation if additional infrastructure is required. Over the next 5 years the coupon rate set for these bonds is 2%. Additionally per the Operating Budget of the City's Utility Department for 2015-2016 total revenues are \$2,723,750 and expenditures are \$2,709,148 that includes the annual bond and interest payment amount of \$430,708 as well as a \$300,000 transfer out to the Construction Improvement Fund and \$36,000 to the General Fund. The City has an ordinance requiring the developer contributions to pay for infrastructure improvements for new development. The City does not have a current obligation to build additional infrastructure and maintains excess capacity for future customers. Furthermore, the City can raise funds through bond issuances and developer contributions if additional infrastructure is required. For these reasons, PUC staff believes the City has financial and managerial capability to provide service to the area requested.

The City's water system has excess capacity for growth for new customers. Water users not currently served by the City in the proposed area are served by individual private wells. The City does not anticipate any need to serve these individuals in the near future. The TCEQ's compliance databases indicate that the City's water system has no unresolved violations. The City has a current licensed ground water treatment operator.

The City meets all of the statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules and regulations, and is capable of providing continuous and adequate service as detailed above. Approving this application to amend the City's CCN No. 11727 is necessary for the service, accommodation, convenience and safety of the public.

Staff recommends approval of the application. The Applicant consented to the attached revised map and certificates on November 09, 2015. Staff also recommends that the Applicant file certified copies of the CCN map along with a written description of the CCN service area in the county clerk's office pursuant to TWC § 13.257 (r) and (s).

City of Splendor
 Water Service Area
 CCN No. 11727
 PUC Docket No. 42852
 Amended CCN No. 11727 in Liberty and Montgomery Counties

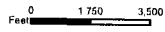


Water CCN Service Areas

- | | | | |
|--|---|--|---------------------------------------|
| | 11727 - City of Splendor | | 12892 - T & W Water Service Co |
| | 12863 - Southern Horizons | | 13217 - City of Cleveland |
| | 10347 - Consumers Water Inc | | 12566 - South Cleveland WSC |
| | 11157 - Aqua Texas Inc | | 11612 - Quadvest LP |
| | 12572 - East River Estates Water Supply | | 11193 - Patton Village Water Company |
| | 11373 - Crystal Springs Water Co Inc | | 12574 - Peach Creek Dam & Lake Club |
| | 12879 - Northwoods WSC | | 11327 - Roman Forest Consolidated MUD |



Public Utility Commission of Texas
 1701 N. Congress Ave
 Austin, TX 78701



Map by Komal Patel
 Date created: October 19, 2015
 Project Path: n:\finalmapping\42852\CityofSplendora.mxd



Public Utility Commission of Texas

**By These Presents Be It Known To All That
City of Splendora**

having duly applied for certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

Certificate of Convenience and Necessity No. 11727

to provide continuous and adequate water utility service to that service area or those service areas in Liberty and Montgomery Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 42852 are on file at the Commission offices in Austin, Texas; and are a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of City of Splendora to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, the _____ day of _____ 2015.