



Control Number: 42852



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DOCKET NO. 42852

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

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PUBLIC UTILITY COMMISSION

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OF TEXAS
PUBLIC UTILITY COMMISSION
FILING CLERK

JOINT PROPOSED NOTICE OF APPROVAL AND REQUEST TO ADMIT EVIDENCE

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Joint Proposed Notice of Approval and Request to Admit Evidence, 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 December 2, 2015 as the deadline for parties to submit a proposed notice of approval and request to admit evidence.

II. JOINT PROPOSAL TO ADMIT EVIDENCE

Splendora and Staff recommend that the following be admitted as evidence into the record:

1. Splendora's April 1, 2013 Application (Commission automated interchange system (AIS) Item No. 1);
2. Publisher's affidavit dated August 21, 2013 (AIS Item No. 4);
3. Affidavit dated September 24, 2013 attesting to notice mailed on September 13, 2013 (AIS Item No. 8);
4. Splendora's amendment to the Application, filed on June 5, 2015 (AIS Item No. 56); and
5. Staff's recommendation regarding final disposition, filed on November 16, 2015 (AIS Item No. 70).

III. PROPOSED NOTICE OF APPROVAL

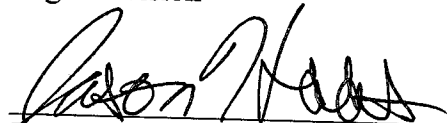
Splendora and Staff have agreed on the attached Joint Proposed Notice of Approval. Splendora and Staff request that the ALJ issue a notice of approval in the form of the attached Joint Proposed Notice of Approval.

Dated: November 18, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director


Karen Hubbard
Managing Attorney
Legal Division



Jason Haas
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Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
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 18, 2015, in accordance with 16 Tex. Admin. Code § 22.74.


Jason Haas

**PUC DOCKET NO. 42852
SOAH DOCKET NO. 473-15-0422.WS**

APPLICATION FROM THE CITY OF SPLENDORA TO AMEND CCN NO. 11727 IN MONTGOMERY AND LIBERTY COUNTIES	§ § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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JOINT PROPOSED NOTICE OF APPROVAL

This Joint Notice of Approval addresses the application (Application) of the City of Splendor (Splendor) for approval of an amendment to its water certificate of convenience and necessity (CCN) No. 11727 in Montgomery and Liberty Counties. Through its Application, the Applicant seeks to add service area and customers outside the current CCN. The total area requested includes approximately 11,289 acres and 1,000 current customers. The Public Utility Commission Staff recommended approval of this Application. The Application is approved.

The Commission adopts the following findings of fact and conclusions of law:

I. FINDINGS OF FACT

Procedural History and Background

1. On April 1, 2013, Splendor filed an Application with the Texas Commission on Environmental Quality (TCEQ) to amend its water CCN No. 11727 in Montgomery and Liberty Counties.
2. Splendor requested in this Application an increase in the service area of approximately 12,000 acres and 1,000 current customers.
3. The TCEQ accepted the Application for filing on June 28, 2013.
4. Notice was provided by publication in the *East Montgomery Observer* and the *Cleveland Advocate* on August 14, 2013 and August 21, 2013. A publisher's affidavit dated August 21, 2013 attests to this notice.
5. Splendor mailed notice of the Application to neighboring systems, landowners, and cities and to neighboring utilities and affected parties on September 13, 2013. Affidavits that these landowners and other entities received notice were dated September 24, 2013.

6. Hearing requests were received from the Mark and Stacey Martin, City of Patton Village (Patton Village) and Joe Edward Muirhead.
7. Requests to exclude land pursuant to 16 Tex. Admin. Code § 24.102(h) (TAC) were received from Benjamin Cheng, and Mark and Stacey Martin.
8. On September 1, 2014, functions relating to the economic regulation of water and sewer utilities were transferred from the TCEQ to the Commission.
9. The Application was received by the Commission on September 17, 2014.
10. On September 26, 2014, the Commission referred this proceeding to the State Office of Administrative Hearings (SOAH) to conduct a hearing and issue a proposal for decision.
11. On October 22, 2014, the Administrative Law Judge (ALJ) issued a SOAH Order No. 2, setting a prehearing conference.
12. On October 23, 2014, the Commission issued a Preliminary Order, containing the list of issues to be addressed in this proceeding.
13. On November 18, 2014, a prehearing conference was held at SOAH.
14. On November 24, 2014, the ALJ issued SOAH Order No. 3, memorializing the prehearing conference and taking jurisdiction over this matter.
15. On March 10, 2015, a second prehearing conference was held at SOAH.
16. On March 17, 2015, ALJ issued SOAH Order No. 6, memorializing the second prehearing conference and setting the procedural schedule for this proceeding.
17. On April 14, 2015, the ALJ issued SOAH Order No. 8, referring this matter to mediation on June 2, 2015.
18. On April 28, 2015, Mark and Stacey Martin withdrew their protest of the Application.
19. On May 5, 2015, the ALJ issued SOAH Order No. 9, granting Mark and Stacey Martin's motion to withdraw their protest of the Application.
20. On June 2, 2015, Splendora, Patton Village, and Staff participated in a SOAH conducted mediation, at which Splendora and Patton Village reached a resolution on Patton Village's hearing request.

21. On June 5, 2015, Splendorra filed an amendment to its application reducing the service area requested in the Application.
22. On June 15, 2015, Patton Village filed a motion to withdraw its protest of the Application.
23. On July 9, 2015, Joe Edward Muirhead filed a motion to withdraw his protest of the Application.
24. On July 17, 2015, the ALJ issued SOAH Order No. 11, which remanded the proceeding back to the Commission as all protests to the Application were withdrawn and no matters in controversy remained.
25. On November 9, 2015, Splendorra submitted a signed consent form evidencing its consent to the map and certificates.
26. On November 16, 2015, Staff recommended that the Application be approved.
27. The following evidence is admitted into the record of this proceeding: (a) Splendorra's April 1, 2013 Application (Commission automated interchange system (AIS) Item No. 1); (b) a publisher's affidavit dated August 21, 2013 (AIS Item No. 4); (c) affidavit dated September 24, 2013 attesting to notice mailed on September 13, 2013 (AIS Item No. 8); (d) Splendorra's amendment to the Application, filed on June 5, 2015 (AIS Item No. 56); and (f) Commission Staff's recommendation regarding final disposition filed on November 16, 2015 (AIS Item No. 70).

Informal Disposition

28. More than 15 days have passed since completion of the notice provided in this docket.
29. Mark and Stacey Martin, Patton Village and Joe Edward Muirhead submitted requests for hearing; however, these hearing requests were resolved. No issues of fact or law remain disputed by any party; therefore, no hearing is necessary.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction and authority over this docket pursuant to the Tex. Water Code §§ 13.041, 13.241, and 13.246 (TWC) and 16 TAC §§ 24.102 and 24.107.
2. Splendorra is a retail public utility as defined in § 13.002(19).

3. Splendora provided public notice of the Application in compliance with TWC § 13.246 and 16 TAC § 24.106.
4. After considering the factors in TWC § 13.246(c), Splendora demonstrated adequate financial, managerial, and technical capability to provide continuous and adequate service to the requested area.
5. Splendora demonstrated that the Application meets the requirements set forth in TWC §§ 13.241, 13.244, and 13.246 and 16 TAC §§ 24.101 and 24.102 to be granted an amendment to its CCN.
6. Splendora demonstrated that an amendment of its CCN No. 11727 is necessary for the service, accommodation, convenience, or safety of the public, as required under TWC § 13.246(b) and 16 TAC § 24.102(c).
7. The requirements for informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

III. ORDERING PARAGRAPHS

In accordance with these findings of fact and conclusions of law, the Commission issues the following Order:

1. Splendora's Application, as amended, is approved.
2. Splendora's water CCN No. 11727 is hereby amended to reflect that Splendora will provide retail water services to the requested service area in Montgomery and Liberty Counties.
3. Splendora shall serve every future customer and applicant for service within the area certified under CCN No. 11727, and such service shall be continuous and adequate.
4. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

SIGNED AT AUSTIN, TEXAS the _____ day of November 2015.

PUBLIC UTILITY COMMISSION OF TEXAS

IRENE MONTELONGO
DIRECTOR, DOCKET MANAGEMENT