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APPLICATION OF BRAZOS RIVER §
 AUTHORITY, LOWER COLORADO §
 RIVER AUTHORITY AND CITY OF §
 LIBERTY HILL FOR APPROVAL OF §
 A SERVICE AGREEMENT AND §
 TRANSFER OF A CERTIFICATE OF §
 CONVENIENCE AND NECESSITY IN §
 WILLIAMSON COUNTY (37350-C) §

PUBLIC UTILITY COMMISSION

2015 NOV 2 PM 1:25
 PUBLIC UTILITY COMMISSION
 OF TEXAS
 READING CLERK

COMMISSION STAFF'S FINAL RECOMMENDATION

Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) files its Final Recommendation. In support of its Final Recommendation, Staff states the following:

I. Background

On May 23, 2012, the Brazos River Authority, the Lower Colorado River Authority, and the City of Liberty Hill filed an application with the Texas Commission on Environmental Quality (TCEQ). The applicants requested approval of a contract that transferred a certificated area in Williamson County, Texas to the City of Liberty Hill. Under the contract, the City of Liberty Hill would be the only retail provider in the area certificated under Certificate of Convenience and Necessity No. 20969.

Effective September 1, 2014, the Commission began the economic regulation of water and sewer utilities. This proceeding was transferred to the Commission for processing.

On September 24, 2015, Staff filed its Status Update regarding this proceeding. Based on Staff's review of the documents filed at the TCEQ, including a bill of sale between the Lower Colorado River Authority and the City of Liberty Hill, Staff stated that the applicant executed the necessary documents to transfer the service areas in Williamson County.

On October 20, 2015, the Administrative Law Judge entered Order No. 6, which established November 2, 2015 as the deadline for Staff to file its final recommendation on the application. Staff's Final Recommendation is timely filed.

II. Applicable Legal Standards

The Texas Water Code states: "Contracts between retail public utilities designating areas

to be served and customers to be served by those retail public utilities, when approved by the utility commission after public notice and hearing, are valid and enforceable and are incorporated into the appropriate areas of public convenience and necessity.”¹ A retail public utility is defined as “any person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation.”² The Commission’s substantive rules also state that contracts between retail public utilities designating areas to be served and customers to be served are valid and enforceable.³ In order to receive approval of a contract, the Commission’s substantive rules require retail public utilities to provide: (1) maps of the area to be transferred; (2) the executed contract; (3) an affidavit regarding notice, if applicable; and (3) other information requested by the Commission.⁴

The Commission’s substantive rules do not negate the requirements in Section 13.301 of the Texas Water Code, which relate to sale transfer applications.⁵ Under Section 13.301 of the Texas Water Code, a person “acquiring the water or sewer system demonstrate adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and any areas currently certificated to the person.”⁶

III. Staff’s Recommendation

Staff recommends that the application be approved and the contract between the Lower Colorado River Authority and the City of Liberty Hill be approved. The City of Liberty Hill has adequate financial, managerial, and technical capability to provide adequate service. With regard to financial capability, Staff reviewed the City of Liberty Hill’s financial report for its fiscal year that ended on September 30, 2014. The City of Liberty Hill had a debt to equity ratio of 0.49:1.

¹ Tex. Water Code § 13.248.

² Tex. Water Code § 13.002(19).

³ See 16 Tex. Admin. Code § 24.117(a).

⁴ 16 Tex. Admin. Code § 24.117(b).

⁵ *Id.*

⁶ Tex. Water Code § 13301(b).

A debt to equity ratio of less than 1:1 is preferred. Additionally, the City of Liberty Hill had operating income of approximately \$1.3 million and debt service of approximately \$489,632, with a debt service coverage ratio of 2.66:1. A debt service coverage ratio of at least 1.25:1 is preferred. With regard to managerial and technical capability, the City of Liberty Hill currently operates a TCEQ-approved public water system (PWS No. 2460013). Staff's review of TCEQ records indicates that this public water system has no unresolved violation.

Staff's recommendation is based on the attached memoranda from Lisa Fuentes and Debi Loockerman from the Water Utilities Division. Attached to Ms. Fuentes memorandum are Staff's proposed amended Certificate of Convenience and Necessity No. 20969 and Staff's proposed map for the area certificated under Certificate of Convenience and Necessity No. 20969.

IV. Conclusion

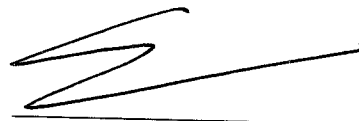
Staff recommends that the Commission approve the application and the sale and transfer of the area certificated under Certificate of Convenience and Necessity No. 20969. The City of Liberty Hill has demonstrated adequate financial, managerial, and technical capability.

Date: November 2, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

Stephen Mack
Managing Attorney
Legal Division



Sam Chang
State Bar No. 24078333
Attorney, Legal Division

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DOCKET NO. 42929

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record on November 2, 2015, in accordance with 16 TAC § 22.74.



Sam Chang

DOCKET NO. 42929

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CONVENIENCE AND NECESSITY IN	§	
WILLIAMSON COUNTY (37350-C)	§	

MEMORANDA OF LISA FUENTES AND DEBI LOOCKERMAN

Public Utility Commission of Texas

Memorandum

TO: Sam Chang, Attorney
Legal Division

THRU: Tammy Benter, Director
Water Utilities Division

FROM: Lisa Fuentes, Work Leader
Water Utilities Division

DATE: October 27, 2015

SUBJECT: *Docket No. 42929: Application of Brazos River Authority, Lower Colorado River Authority and City of Liberty Hill for Approval of a Service Agreement and Transfer of a Certificate of Convenience and Necessity in Williamson County (37350-C)*

On May 29, 2012, the Brazos River Authority, Lower Colorado River Authority and City of Liberty Hill (Applicants), Certificate of Convenience and Necessity (CCN) No. 20969, filed an application with the Texas Commission on Environmental Quality (TCEQ) to designate the City of Liberty Hill as the only retail provider of CCN No. 20969, in Williamson County, pursuant to Texas Water Code (TWC), Chapter 13, and the TCEQ's rules outlined in Title 30, Texas Administrative Code (TAC), Chapter 291 §§ 24.117. On September 1, 2014, the Rates and CCN programs were transferred from the TCEQ to the Public Utility Commission (PUC). This application was part of the transfer and is now under the PUC's purview. The application is now being reviewed under the PUC's Substantive Rules in Chapter 24, specifically § 24.117.

Texas Water Code (TWC) § 13.248 states that contracts between retail public utilities designating areas to be served and customers to be served by those retail public utilities, when approved by the utility commission after public notice and hearing, are valid and enforceable and are incorporated into the appropriate areas of public convenience and necessity.

On January 31, 2013, TCEQ staff found that the City of Liberty Hill demonstrated adequate financial and managerial capability to provide service to the area subject to the agreement. A copy of the City's annual financial report for the fiscal year ended September 30, 2014 was available on the MAC Texas website. Staff reviewed the financial statements of the proprietary funds because this fund includes the water and wastewater activities. The City's statement of net position for proprietary funds indicated a debt to net position (equity) ratio of 0.49. Note D to the financial statements reveals that the City will pay interest on proprietary funds long term debt of \$254,632 and principal of \$235,000, for a total debt service of \$489,632 in the fiscal year 2015. The statement of revenues, expenses and changes in fund net position indicates that the operating income for proprietary funds is \$1,300,304. Therefore, the debt service coverage ratio for proprietary funds is 2.66. There is no need for additional funds for improvements at this time. The City meets the typical minimum test percentages that Staff normally uses for determination of financial and managerial capabilities. A debt to equity ratio of less than 1:1 and a debt service coverage ratio of 1.25 are the standards used by Staff for determining financial/managerial capability. The City currently maintains water and wastewater operations. The City also has the technical capability to provide continuous and adequate service to the proposed transfer area. The City has a TCEQ approved public water system, (PWS) No. 2460013. A review of TCEQ's Central Registry database indicates that the PWS has no unresolved violations.

PUC's Subst. R. § 24.109 allows public notice to be waived by the Commission for good cause shown. Due to the age of this application and the completion of processing at TCEQ before the program transferred, Staff requests that public notice be waived for this application.

The applicant meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations. Approving this application to amend CCN No. 20969 to reflect that the City of Liberty Hill is now the sole CCN holder, is necessary for the service, accommodation, convenience and safety of the public. Staff recommends approval of the transfers.

On October 30, 2015, the City of Liberty Hill consented to the attached map and CCN certificate.

Based on the above information, Staff recommends the Commission do the following:

- 1) Issue an order and the certificate to the City of Liberty Hill; and
- 2) Provide the attached map to the City of Liberty Hill.

13.248 Contract Service Agreement from Brazos River Authority-Lower Colorado River Authority-City of Liberty Hill to Transfer CCN No. 20969 to the City of Liberty Hill Williamson County



Map by: Suzanne Jaster
Date Created: April 19, 2013
Updated Map by: Komal Patel on October 26, 2015
Project Path: \\finalmapping\142929CityofLiberty-Hill.mxd



Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Liberty Hill

having duly applied for certification to provide sewer 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. 20969

to provide continuous and adequate sewer utility service to that service area or those service areas in Williamson County as by final Order or Orders duly entered by this Commission, which Order resulting from Docket No. 42929 is on file at the Commission offices in Austin, Texas; and is 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 Liberty Hill 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.

Public Utility Commission of Texas
Memorandum

To: Lisa Fuentes, Team Lead
Water Utility Regulation
Sam Chang
Legal Division

Thru: Tammy Benter, Director
Water Utilities Division

From: Debi Loockerman, Regulatory Auditor
Water Utilities Division

Date: 10/28/2015

Subject: **Docket No. 42929**, *Application of the Brazos River Authority, Lower Colorado River Authority and City of Liberty Hill for Approval of a Service Agreement and Transfer of a Certificate of Convenience and Necessity in Williamson County (37350-C)*

Financial and Managerial Capability

In my opinion, the City of Liberty Hill (City), Certificate of Convenience and Necessity No. 20992 (CCN) has demonstrated adequate financial and managerial capability to provide service to the areas contracted for release and transfer. Lower Colorado River Authority (LCRA) and Brazos River Authority (BRA) will continue to have adequate financial and managerial capability to serve after the transfer. These conclusions are based on information provided by the applicants prior to this date and may not reflect any changes in the applicants' status subsequent to this date.

Staff Review

A copy of the City's annual financial report for the fiscal year ended September 30, 2014 was available on the MACTexas website. I reviewed the financial statements of the proprietary funds because this fund includes the water and wastewater activities. The City's statement of net position for proprietary funds indicated a debt to net position (equity) ratio of 0.49. Note D to the financial statements reveals that the City will pay interest on proprietary funds long term debt of \$254,632 and principal of \$235,000, for a total debt service of \$489,632 in the fiscal year 2015. The statement of revenues, expenses and changes in fund net position indicates that the operating income for proprietary funds is \$1,300,304. Therefore, the debt service coverage ratio for proprietary funds is 2.66. There is no need for additional funds for improvements at this time. The City meets the typical minimum test percentages that Staff normally uses for determination of financial and managerial capabilities. A debt to equity ratio of less than 1:1 and a debt service coverage ratio of 1.25 are the standards used by Staff for determining financial/managerial capability. The City currently maintains water and wastewater operations

LCRA and Brazos River Authority will have no further duty to provide service to the subject area, and the contract is not material relative to either Authority's total operations. Therefore, no material negative affect will ensue on the ability of LCRA or BRA's financial and managerial capabilities. The contract transfers the whole area included in CCN No. 20969 to the City of Liberty Hill and removes LCRA and BRA from the jointly held CCN.