

Control Number: 42944



Item Number: 35

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83<sup>rd</sup>  
Legislature, Regular Session, transferred the functions  
relating to the economic regulation of water and sewer  
utilities from the TCEQ to the PUC effective  
September 1, 2014

42944

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SOAH DOCKET NO. 582-11-1316  
TCEQ DOCKET NO. 2010-1674-UCR

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PUBLIC UTILITY COMMISSION  
FILING CLERK

APPLICATION OF CITY OF	§	BEFORE THE STATE OFFICE
THRALL	§	
TO AMEND ITS CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY	§	OF
NO.13063, IN WILLIAMSON	§	
COUNTY;	§	
APPLICATION NO. 36627-C;	§	ADMINISTRATIVE HEARINGS

**THE EXECUTIVE DIRECTOR'S FIRST REQUESTS FOR DISCLOSURE,  
INTERROGATORIES, REQUESTS FOR PRODUCTION, AND  
REQUESTS FOR ADMISSIONS TO THE CITY OF THRALL**

TO: The City of Thrall through its representative of record, Mark J. Schroeder,  
P.O. Box 192, Taylor, TX 76574

Pursuant to § 2001 *et seq.* of the Administrative Procedure Act ("APA"), GOVERNMENT CODE (Vernon), Rules 190-197 of the Texas Rules of Civil Procedure and 30 Texas Administrative Code ("TAC") § 80.151, and TAC Title 1, Part VII, Section 155.23, you are required to answer in complete detail and in writing each of the following requests for disclosure and interrogatories and to produce documents, as the case may be, responsive to the requests. You are required to sign your answers to the questions or requests, to swear to the truth of your responses before a Notary Public or other judicial officer, and to deliver a complete, signed, and notarized copy of your answers to Douglas Brown, Staff Attorney, Environmental Law Division, MC 173, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, by 30 days after service of this request.

**I. DEFINITIONS**

As used herein, the terms "you," "your," "yourself," or "Applicant" refer to the City of Thrall ("Thrall"), the party to whom these requests are addressed, as well as to each of its present and former officers, employees, agents, representatives and attorneys, and each person acting or purporting to act on its behalf.

"Noack" refers to Noack Water Supply Corp.

The term "application" refers to the CCN Amendment Application 36627-C and attachments filed by Thrall and received by the TCEQ on January 28, 2010, which represents the proposed amendment to Thrall's CCN No. 13063, which is the subject of these proceedings.

The terms "TCEQ" and "commission" refer to the Texas Commission on

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Environmental Quality or its successor or predecessor agencies that regulate CCNs in the State of Texas.

The term "proposed areas" refers to the areas applied for in Application No. 36627-C.

As used herein, the term "representative" means any and all agents, employees, servants, officers, directors, attorneys, or other persons acting or purporting to act on your behalf.

As used herein, the term "person" means any natural individual in any capacity whatsoever or any entity or organization, including divisions, departments, and other units therein, and shall include, but not be limited to, a public or private corporation, partnership, joint venture, voluntary or unincorporated association, organization, proprietorship, trust, estate, governmental agency, commission, bureau, municipality or department.

As used herein, the term "document" means any medium upon which information can be recorded or retrieved, and includes, without limitation, the original and each copy, regardless of origin and location, of any book, pamphlet, periodical, letter, memorandum (including any memorandum or report of a meeting or conversation), invoice, bill, order form, receipt, financial statement, accounting entry, diary, calendar, telex, telegram, cable, facsimile transmission, report, record, contract, agreement, study, handwritten note, draft, working paper, chart, paper, print, laboratory record, drawing, sketch, graph, index, list, tape, photograph, microfilm, data sheet or data processing card, computer tape or disk, or any other written, recorded, transcribed, punched, taped, filmed or graphic matter, however produced or reproduced, which is in your possession, custody or control, or which has been, but is no longer, in your possession, custody, or control. The term "document" further means a copy of any document, as referred to above, if such copy contains notes, writings or is in any way different from or an alteration of the original document.

As used herein, the term "communication" means any oral or written utterance, notation or statement of any nature whatsoever, by and to whomsoever made, including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements and other understandings between or among two or more persons.

As used herein, the terms "identification," "identify," or "identity," when used in reference to: (a) a natural individual - require you to state his or her full name and business address; (b) a corporation - require you to state its full corporate name and any names under which it does business, its state of incorporation, the address of its principal place of business, and the addresses of all of its offices; (c) a business - require you to state the full name or style under which the business is conducted, its business address or addresses, the types of businesses in which it is engaged, the geographic areas in which it conducts those business, and the identity of the person or persons who own, operate, and control the business; (d)

a document - require you to state the number of pages and the nature of the document (e.g., letter or memorandum), its title, its date, the name or names of its authors and recipients, and its present location and custodian; (e) a communication - require you, if any part of the communication was written, to identify the document or documents which refer to or evidence the communication, and, to the extent that the communication was non-written, to identify the persons participating in the communication and to state the date, manner, place and substance of the communication.

## **II. INSTRUCTIONS**

### **IDENTIFICATION OF DOCUMENTS**

With respect to each request, in addition to supplying the information requested, you are to identify all documents that support, refer to or evidence the subject matter of each request and your answer thereto.

If any or all documents identified herein are no longer in your possession, custody or control because of destruction, loss or any other reason, then do the following with respect to each and every such document: (a) describe the nature of the document (e.g., letter or memorandum); (b) state the date of the document; (c) identify the persons who sent and received the original and a copy of the document; (d) state in as much detail as possible the contents of the document; and (e) state the manner and date of disposition of the document.

If you contend that any material or information responsive to any of the interrogatories is privileged, state in response that: (a) the information or material responsive to the interrogatories has been withheld; (b) the interrogatory to which the information or material relates; and (c) the privilege or privileges asserted.

### **CONTENTION REQUESTS**

When a request requires you to "state the basis of" a particular claim, contention, or allegation, state in your answer the identity of each and every communication and each and every legal theory that you think supports, refers to, or evidences such claim, contention, or allegation.

### **CONTINUING REQUESTS**

These requests are to be considered continuing in nature and you are under a duty to timely supplement any response given to such request(s) as required by the Texas Rules of Civil Procedure.

### **III. REQUESTS FOR DISCLOSURE**

Pursuant to Texas Rule of Civil Procedure 194, you are requested to disclose the information or material described in Rule 194.2(c),(e),(f),(h) and (i) within thirty (30) days of the date of service of this request, as follows:

- (c) the legal theories and, in general, the factual bases of the responding party's claims or defenses;
- (e) the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;
- (f) for any testifying expert:
  - (1) the expert's name, address, and telephone number;
  - (2) the subject matter on which the expert will testify;
  - (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
  - (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
    - (A) all documents, tangible things, reports, models or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
    - (B) the expert's current resume and bibliography;
- (h) any discoverable settlement agreements; and
- (i) any discoverable witness statements.

### **IV. REQUEST FOR INTERROGATORIES**

**Interrogatory No. 1:** Please identify if there are any other entities providing water service in the proposed areas.

**Interrogatory No. 2:** Please describe in detail the need for service in all of the proposed areas.

**Interrogatory No. 3:** Please describe how the need for service will be satisfied by Thrall.

**Interrogatory No. 4:** Please describe in detail the effect of granting a Certificate of Convenience and Necessity to Thrall and on any retail public utility of the same kind already serving the proximate area.

**Interrogatory No. 5:** Please describe your ability to provide continuous and adequate water service in the proposed area.

**Interrogatory No. 6:** Please describe the feasibility of obtaining service from an adjacent retail public utility.

**Interrogatory No. 7:** Please describe your financial, managerial and technical capabilities to provide continuous and adequate water service in the proposed area.

**Interrogatory No. 8:** Please describe in detail the effects on environmental integrity if your application is granted.

**Interrogatory No. 9:** Please describe in detail the effects on land to be included in the certificated area.

**Interrogatory No. 10:** Please describe in detail how water service will be provided in the proposed area.

**Interrogatory No. 11:** Please describe in detail whether you plan to use your existing water systems to serve the new proposed area.

**Interrogatory No. 12:** Please identify the current water rates for your current customers.

**Interrogatory No. 13:** Please indicate whether you have received any written request for service in the proposed area together with the dates for each request.

**Interrogatory No. 14:** Please describe in detail the timeline when Thrall can provide service to the farthest point within the proposed area and distance.

**Interrogatory No. 15:** Please describe in detail how Thrall will be able to provide faster and more inexpensive service for the proposed area as compared to other adjacent retail public utilities.

## **V. REQUESTS FOR PRODUCTION**

**Request for Production No. 1:** Please provide an engineering report describing in detail the existing capacity and all components of Thrall's water system (number of wells, tanks, lines, pumps along with size and capacity), and the number of connections currently served, the total potential customers in the proposed area, the available capacity of Thrall's existing water system in use and in reserve, and the total capacity needed to serve the proposed area as a whole.

**Request for Production No. 2:** Please provide a comprehensive capital improvements plan addressing all utility service expectations, including those projected for the entire area requested in the application. Please include a budget

and estimated time line for construction of all facilities necessary to provide full service to the entire proposed service area, keyed to maps showing where such facilities will be located to provide service.

**Request for Production No. 3:** Please provide evidence of financial ability to pay for the facilities necessary to provide continuous and adequate service for the proposed area, such as a firm commitment letter of approval and/or conditions from a governmental entity or franchised lender. This evidence would also be a demonstration of the financial stability of the applicant, including the adequacy of the applicant's debt-equity ratio.

**Request for Production No. 4:** Please provide copies of written requests for service.

**Request for Production No. 5:** Please provide the map showing the existing water facilities with respect to the proposed area.

**Request for Production No. 6:** Please provide copies of the purchase water contracts for purchased water from the City of Taylor and Noack.

**Request for Production No. 7:** Please provide all the documents responsive to interrogatories 1 thru 15.

## **VI. REQUEST FOR ADMISSIONS**

**1.** Admit that Thrall's water production capacity is below the state required minimum:

Admit: \_\_\_\_\_

Deny: \_\_\_\_\_

Reason why cannot admit or deny:

**2.** Admit that a request for service was received for only a portion of the proposed area.

Admit: \_\_\_\_\_

Deny: \_\_\_\_\_

Reason why cannot admit or deny:

**3.** Admit that you have not yet constructed any new water facilities with the intension to serve this new proposed area as of this date.

Admit: \_\_\_\_\_

Deny: \_\_\_\_\_

Reason why cannot admit or deny:

**4.** Admit that you have not submitted any engineering plans and technical specifications to the TCEQ for review and approval for any new system Thrall intends to use for the proposed area.

Admit: \_\_\_\_\_

Deny: \_\_\_\_\_

Reason why cannot admit or deny:

**5.** Admit that you do not have any enforcement actions pending with the TCEQ as of this date.

Admit: \_\_\_\_\_

Deny: \_\_\_\_\_

Reason why cannot admit or deny:

**6.** Admit that another retail public utility may be able to provide service to the proposed area.

Admit: \_\_\_\_\_

Deny: \_\_\_\_\_

Reason why cannot admit or deny:



Respectfully submitted,

Texas Commission on Environmental  
Quality

Zak Covar,  
Executive Director

Caroline Sweeney, Deputy Director  
Office of Legal Services

Robert Martinez, Division Director  
Environmental Law Division



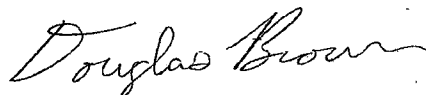
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Representing the Executive  
Director of the Texas Commission  
on Environmental Quality

### **CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing proposed procedural schedule has been filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk and provided to the persons listed on the attached Mailing List via facsimile transmission, first class mail, interoffice mail, hand delivery, and or electronic submission on September 14, 2012.



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Douglas M. Brown, Staff Attorney  
Environmental Law Division  
State Bar No. 24048366

**CITY OF THRALL**  
**SOAH DOCKET NUMBER 582-11-1316**  
**TCEQ DOCKET NUMBER 2010-1674-UCR**

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