



Control Number: 42946



Item Number: 16

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.

42946

RECEIVED

April 18, 2011

2014 OCT 16 PM 2: 23

Texas Commission on Environmental Quality  
Water Supply Division  
Utilities and Districts Section, MC-153  
P.O. Box 13087  
Austin, TX 78711-3087

PUBLIC UTILITY COMMISSIO.  
FILING CLERK

RECEIVED

APR 27 2011

TEXAS COMMISSION  
ON  
ENVIRONMENTAL QUALITY

To Whom It May Concern:

In accordance with the self-prescribed mission supporting philosophy of the Texas Commission on Environmental Quality (TCEQ) to ensure meaningful public participation in the decision-making process, AND as required according to the "Notice to Current Customers, Neighboring Systems and Cities" sent to me by Mustang Special Utility District on March 23, 2011, I respectfully request a public hearing on Application Nos. 36966-S and 36967-S to transfer Certificate of Convenience and Necessity Nos. 13020 and 20922 from Providence Village Water Control & Improvement District (PVWCID) of Denton County to Mustang Special Utility District (MSUD) of Denton County. The proposed transaction and transfer of the CCN would adversely affect the public interest as outlined below.

1. The application for the transfer was not sent to PVWCID residents
  - o Proposed Adjustment: Provide notification with the proposed application, so that residents can make an informed decision.
2. MSUD has higher water rates than PVWCID, yet MSUD receives water from the Upper Trinity Regional Water District at a lower rate than PVWCID. MSUDs application to the TCEQ suggests that MSUD will provide better rates than PVWCID. Historically this has not been the case. In fact, the only reason PVWCID has elevated rates over the past three years, is due to contractual obligation with MSUD that required PVWCID to raise rates to meet rate parity with MSUD by 2011.
  - o Proposed Adjustment: PVWCID should continue to maintain their CCNs indefinitely, as they have a greater ability to deliver high quality services at a lower rate than MSUD.
3. The infrastructure bond debt for the system has not been retired. The bond debt is to be retired via ad valorem taxes to the WCID. Meanwhile, Mustang SUD will continue to retire bond debt through their water rate. Providence Village WCID residents will be paying for two systems, once through ad valorem and once through their water rate if this proposal is approved. This is not in the public interest as it will place an undue financial burden on the residents of the impacted area only.
  - o Proposed Adjustment: PVWCID should continue to maintain their CCNs indefinitely as they are more adequately equipped to provide cost-effective service to the customers in this densely populated area than MSUD, who has a vast, largely rural system.

15

4. MSUD has not satisfactorily demonstrated that they have the leadership or financial resources to adequately manage a system of this size. Historically, they have made poor financial and operational decisions that have resulted in some of, if not THE highest water rates in Denton County and the Dallas/Fort Worth metroplex. Exposing more customers to their ineptitude would not serve the public interest.
  - o Proposed Adjustment: PVWCID should continue to maintain their CCNs indefinitely, as they have demonstrated a greater ability to effectively manage their fiscal and operational responsibilities to the residents of the impacted area.
5. The public schools and Home Owner's Association located within PVWCID, will see an increase of 33% or more in the water rate if the proposed transfer is successful. This is unacceptable and impacts all customers of PVWCID adversely, regardless of the impact on their individual bill.
  - o Proposed Adjustment: PVWCID should continue to maintain their CCNs indefinitely as it is more adequately equipped to represent the public interests of this community.
6. The notice MSUD sent to customers indicates that there is a "sale" scheduled. However, there have been no arrangements made for a sale. In fact there is no monetary exchange planned. This is misleading to the public.
  - o Proposed Adjustment: MSUD should actually purchase the system from PVWCID or PVWCID should retain their CCNs indefinitely.
7. The notice MSUD sent to customers indicates that there will be a 0% average decrease in water rates following the transfer. This is in direct conflict with the claims made in the application MSUD/PVWCID submitted to the TCEQ.
  - o Proposed Adjustment: PVWCID should continue to maintain their CCNs indefinitely as MSUD has proven unable to demonstrate that the public interest is actually served by the proposed transfer.
8. The notice MSUD sent to customers indicates that this is a notice to "Cities". No formal notice of the proposed transfer has been submitted to the Town of Providence Village. Over 97% of the PVWCID is located within the Town limits of the Town of Providence Village. The Town of Providence Village formally approved a resolution objecting to this proposed transfer during the April 11, 2011 Town Council Meeting. According to the Water Code: Sec. 13.042. JURISDICTION OF MUNICIPALITY; ORIGINAL AND APPELLATE JURISDICTION OF COMMISSION. (a) Subject to the limitations imposed in this chapter and for the purpose of regulating rates and services so that those rates may be fair, just, and reasonable and the services adequate and efficient, the governing body of each municipality has exclusive original jurisdiction over all water and sewer utility rates, operations, and services provided by a water and sewer utility within its corporate limits.
  - o Proposed Adjustment: PVWCID and MSUD should be required to negotiate with the Town of Providence Village for authorization/approval for any proposed transfers within the Town Limit and ETJ to ensure that

the citizens of the Town are adequately represented in the proposed transfer.

In conclusion, all contracts between PVWCID and MSUD have been devoid of consideration for the public interest of the residents in the impacted area, as they were all established by non-resident Developer appointees on behalf of the PVWCID, prior to any residents moving into the impacted area in some cases. As such, the final component of these contracts, the transfer, is also devoid of consideration of the residents in the impacted area. The TCEQ is obligated to remedy this omission prior to approving any transfer. Additionally, due to the generally secretive nature of WCIDs and the fact that the general populous is unfamiliar with their authority and existence in most cases, the TCEQ is obligated to hold public hearings in the impacted area so that residents of the impacted area can be educated on any proposed transfers and the negative impact that any transfer might have on the area. This is a complicated proposal that requires full disclosure by all entities involved. Please keep me informed of any activity associated with this proposed transfer.

Respectfully,

A handwritten signature in black ink, appearing to read 'B. D. Roberson', with a long horizontal flourish extending to the right.

Brian D. Roberson  
1315 Oakcrest Drive  
Providence Village, TX 76227  
214.869.4761