



Control Number: 42964



Item Number: 32

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PUC DOCKET NO. 42964

**APPLICATION OF THE CITY OF §
BONHAM TO AMEND A §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY FOR DUAL §
CERTIFICATION WITH SOUTHWEST §
FANNIN COUNTY SPECIAL UTILITY §
DISTRICT AND WHITE SHED WATER §
SUPPLY CORPORATION AND TO §
DECERTIFY PORTIONS OF THE §
CERTIFICATED AREA HELD BY BOIS §
D'ARC MUNICIPAL UTILITY §
DISTRICT AND RAVENNA §
NUNNELEE WATER SUPPLY §
CORPORATION IN FANNIN COUNTY §
(35091-C) §**

PUBLIC UTILITY COMMISSION

**2015 DEC 18 PM 1:45
OF TEXAS**

**PUBLIC UTILITY COMMISSION
FILING CLERK**

COMMISSION STAFF'S FINAL RECOMMENDATION

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest and files this Final Recommendation and would show the following:

I. BACKGROUND

The City of Bonham (Bonham) filed an application to obtain dual certification with a portion of Certificate of Convenience and Necessity (CCN) Nos. 12406 and 10170, to decertify a portion of CCN No. 11753, and to amend CCN No. 11186 in Fannin County, Texas. Bonham also filed an application to amend sewer CCN No. 20460 in Fannin County, Texas, which was consolidated with this proceeding. On September 25, 2015, Order No. 3 was issued, setting December 18, 2015 as the deadline for Staff to issue its final recommendation.

II. RECOMMENDATION

Staff recommends that the application by the Bonham be approved, as supported by the attached memorandum from Elisabeth English, Engineering Specialist with the Water Utilities Division. Specifically, Staff recommends that Bonham meets all of the statutory requirements of TWC Chapter 13 and 16 TAC Chapter 24 rules and regulations, and that approving this application to amend the Applicant's water and sewer Certificates of Convenience and Necessity is necessary for the service, accommodation, convenience and safety of the public pursuant to 16 TAC § 24.102(c).

DATED: December 18, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director - Legal Division

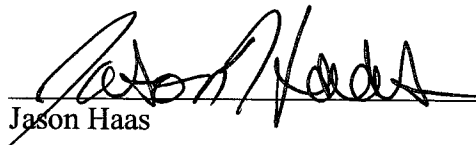
Karen S. Hubbard
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Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on December 18, 2015, in accordance with 16 Tex. Admin Code § 22.74.



Jason Haas

PUC Interoffice Memorandum

To: Jason Haas, Attorney
Legal Division

Thru: Tammy Benter, Director
Lisa Fuentes, Manager
Water Utilities Division

From: Elisabeth English, Engineering Specialist
Water Utilities Division

Date: December 18, 2015

Subject: Docket No. 42964: *Application of the City of Bonham to Amend a Certificate of Convenience and Necessity for Dual Certification with Southwest Fannin County Special Utility District and White Shed Water Supply Corporation and to Decertify Portions of the certificated area held by Bois D' Arc Municipal Utility District and Ravenna-Nunnelee Water Supply Corporation in Fannin County*

The City of Bonham ("Bonham" or "Applicant") filed an application with the Texas Commission on Environmental Quality (TCEQ) to obtain dual certification with a portions of water Certificate of Convenience and Necessity (CCN) Nos. 12406 of Southwest Fannin County Special Utility District (Southwest Fannin SUD or SUD) and 10170 of White Shed Water Supply Corporation (WSC), to decertify a portion of water CCN No. 11753 of Bois D' Arc Municipal Utility District (Bois D'Arc), and to amend Bonham's water CCN No. 11186 in Fannin County, Texas. Bonham also filed an application to amend sewer CCN No. 20460 in Fannin County, Texas. This application was designated as Application No. 35092-C. These applications were accepted for filing by the TCEQ on August 31, 2005. Both applications were designated as TCEQ Docket No. 2006-0144-UCR and consolidated into the Public Utility Commission of Texas (Commission) Docket No. 42964 following the transfer of the economic regulation of water and sewer utilities to the Commission, September 2014. The Application was reviewed pursuant to Texas Water Code (TWC), §§ 13.241-250 and the 16 Tex. Admin Code (TAC) §§ 24.101-.107.

The Applicant, which is a municipality, is seeking to amend both their water and sewer CCN. Neighboring utilities, landowners and current customers were noticed of the proposed amendment on October 31, 2005. The Application received 69 protests and was referred to the State Office of Administrative Hearings (SOAH).

On June 13, 2006, Suzanne Formby Marshall, an administrative law judge (ALJ) with SOAH, held a preliminary hearing, assumed jurisdiction, and designated the following parties: Bonham; Bois D'Arc; Southwest Fannin SUD; the Executive Director (ED) of the TCEQ. Ravenna-Nunnelee Water Supply Corporation (Ravenna-Nunnelee WSC) appeared and requested party status, which was later granted.

At the preliminary hearing, the case was abated several times. During this time, the Applicant amended its application so as to exclude any area overlapping with Bois D'Arc to which they subsequently withdrew as a party. The Applicant similarly reached a settlement agreement with Ravenna-Nunnelee WSC to exclude some overlapping area and to be dually certified in a portion of Ravenna-Nunnelee WSC's service area, and Ravenna-Nunnelee WSC subsequently withdrew.

With only the Applicant, the ED and the SUD remaining as parties, the case was referred to formal mediation, where a preliminary settlement agreement was reached between the Applicant and the SUD, subject to final approval by their respective governing bodies. A final agreement was reached and the SUD withdrew as a party. With the Applicant and the ED as the only remaining parties and unable to resolve their differences, a procedural schedule was set and discovery began. During this time the Applicant was able to provide the ED with the necessary information for the ED to withdraw his opposition to the application. On February 3, 2012, the ALJ granted the joint motion to dismiss and remand to the ED for administrative processing. A final order was drafted for the ED's signature; however, a final order was not issued by the TCEQ.

In determining whether to grant or amend a CCN, the Commission shall ensure that the Applicant possesses the financial, managerial, and technical capability to provide continuous and adequate service pursuant to TWC § 13.241(a) and 16 TAC § 24.102(a). The Commission shall also consider the nine elements as stated in TWC § 13.246(c) and 16 TAC § 24.102(d). Staff has reviewed the above referenced application, and has found that it has met the requirements, as detailed below.

TWC § 13.241(c) and 16 TAC § 24.102(a)(2)

For sewer utility service, the Commission shall ensure that the Applicant has a TCEQ approved system that is capable of meeting the TCEQ's design criteria for sewer treatment plants, TCEQ rules and the TWC. The Applicant has a TCEQ approved permit to discharge waste, Permit No. WQ0010070001. On April 1, 2015, the TCEQ issued an Agreed Order resulting from an enforcement action taken against the sewer treatment plant. The TCEQ found that the Applicant had an unauthorized discharge of municipal waste during an investigation conducted December 16, 2013 through January 15, 2014, and ordered the Applicant to pay an administrative penalty or upgrade the facilities in order to maintain compliance. The Applicant is in compliance with this Agreed Order and has a Corrective Action Plan with the TCEQ (attachment E-1) which details the rehabilitation and improvement of the Applicant's sewer treatment plant.

For water utility service, the Commission shall ensure that the Applicant has a TCEQ approved public water system (PWS) that it is capable of providing drinking water that meets the requirements of Texas Health and Safety Code, Chapter 341 and TCEQ rules and has access to an adequate supply of water. The area subject to this application is served by Bonham's PWS (ID No. 0740001), which is a TCEQ approved PWS. The Applicant's PWS does not have any TCEQ issued violations pertaining to 30 TAC 290 Subchapter F, which governs the drinking water quality and reporting requirements for PWS's in Texas. The standards are written to comply with the Federal Safe Drinking Water Act and Primary Drinking Water Regulations. The service provided to the area currently meets the TCEQ water quality requirements and is therefore safe for household usage. The most recent comprehensive compliance inspection (CCI) was conducted on July 2, 2015, to which no violations of 30 TAC 290 Subchapter D were cited.

TWC § 13.246(c)(1) and 16 TAC § 24.102(d)(1)

In considering whether to grant or amend a certificate, the Commission shall consider the adequacy of service currently provided to the requested area. The Applicant has a TCEQ approved public water system and has an approved waste water permit, as detailed above.

TWC § 13.246(c)(2) and 16 TAC § 24.102(d)(2)

In considering whether to grant or amend a certificate, the Commission shall consider the need for additional service in the proposed area. The Applicant already has water and sewer service infrastructure in place, and is currently providing utility service to the area.

TWC § 13.246(c)(3) and 16 TAC § 24.102(d)(3)

In considering whether to grant or amend a certificate, the Commission shall consider the effect of granting a certificate on the Applicant, on the landowners in the area, and on any retail public utility of the same kind already serving the proximate area. As detailed above, the SOAH case addressed the effect of the CCN amendment on the landowners in the area, and on any retail public utility of the same kind. The Applicant and the affected parties were able to settle on agreed upon boundaries and service areas.

TWC § 13.246(c)(4) and 16 TAC § 24.102(d)(4)

In considering whether to grant or amend a certificate, the Commission shall consider the ability of the Applicant to provide adequate service, including meeting the standards of the commission, taking into consideration the current and projected density and land use of the area. The Applicant already has water and sewer service infrastructure in place, and is currently providing utility service to the area.

TWC § 13.246(c)(5) and 16 TAC § 24.102(d)(5)

In considering whether to grant or amend a certificate, the Commission shall consider the feasibility of obtaining service from an adjacent retail public utility. The Applicant already has water service infrastructure in place, and is currently servicing areas nearby. As such, the feasibility of obtaining service from another provider was not considered.

TWC § 13.246(c)(6) and 16 TAC § 24.102(d)(6)

In considering whether to grant or amend a certificate, the Commission shall consider the financial ability of the applicant to pay for the facilities necessary to provide continuous and adequate service and the financial stability of the applicant, including, if applicable, the adequacy of the applicant's debt-equity ratio. A review of the Applicant's financial and managerial information has shown that the Applicant has the appropriate financial and managerial capability to provide continuous and adequate service to its customers. Bonham's audited financial statements for Fiscal Year (FY) 2014 were available. The statements included an unqualified auditor's opinion that the financial statements present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, the discretely presented component unit, each major fund and the aggregate remaining fund information of the Applicant as of September 30, 2014, in accordance with accounting principles generally accepted in the United States of America.

The Applicants enterprise funds total net position for FY 2014 was \$7.9 million. Bonham's debt to equity ratio for FY 2014 long term debt was \$10 million to \$7.9 million, or 1.26 to 1.00. A ratio of less than 1 to 1 is preferred for analysis of financial and managerial capabilities. Although the Applicant does not meet the preferred debt to equity ratio, the enterprise funds operating income for FY 2014 was \$980,578 and depreciation expense was \$796,075. Principle and interest expense on long term debt was \$864,388. Therefore the debt service coverage ratio calculates to be \$1.78 million to \$864,388 or 2.06 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 available. Additionally the Applicants bonds received an A3 rating by Moody's, which indicates the Applicant has a strong capacity to meet its financial commitments and maintains a cash equivalent balance of \$1,994,918 for all funds.

TWC § 13.246(c)(7) and 16 TAC § 24.102(d)(7)

In considering whether to grant or amend a certificate, the Commission shall consider the environmental integrity of the proposed area resulting from the granting of the certificate or amendment. There will be no impact on the environment as the water and sewer systems are already in operation.

TWC § 13.246(c)(8) and 16 TAC § 24.102(d)(8)

In considering whether to grant or amend a certificate, the Commission shall consider the probable improvement in service or lowering of cost to consumers in that area resulting from the granting of the certificate or amendment. The utility services provided by the Applicant will be unchanged by the amendment and there has been no indication of a change in utility rates subsequent to the amendment of the CCN.

TWC § 13.246(c)(9) and 16 TAC § 24.102(d)(9)

In considering whether to grant or amend a certificate, the Commission shall consider the effect on the land to be included in the certificated area. There will be no impact on the environment as the water and sewer systems are already in operation

Based on a Staff review of the application, the Applicant meets all of the statutory requirements of TWC Chapter 13 and 16 TAC Chapter 24 rules and regulations. Approving this application to amend the Applicant's water and sewer Certificates of Convenience and Necessity is necessary for the service, accommodation, convenience and safety of the public pursuant to 16 TAC § 24.102(c). Staff recommends approval of the application.

Staff also recommends that the Applicant file copies of the CCN map along with a written description of the CCN service area in the respective county clerks' offices in Fannin County pursuant to Texas Water Code § 13.257 (r) and (s).

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Feet

Map by: Suzanne Jaster
Date created: Sept. 24, 2014
Updated by: Komal Patel, November 13, 2015
Project path: n:\finalmapping\42964CityofBonhamWater.mxd