



Control Number: 42994



Item Number: 30

Addendum StartPage: 0

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APPLICATION OF D&K §
DEVELOPMENT CORPORATION §
AND EMCAD WATER AND §
WASTEWATER, LLC FOR SALE, §
TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN TARRANT COUNTY §
(37727-S) §

PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

COMMISSION STAFF'S FINAL RECOMMENDATION

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

I. BACKGROUND

On September 13, 2013, D&K Development Corporation (D&K) and EMCAD Water and Wastewater, LLC (EMCAD) filed an application for the sale, transfer, or merger of facilities and certificate rights in Tarrant County from D&K to EMCAD. On April 29, 2015, the Applicants filed closing documents indicating that the transaction was completed. On July 22, 2015, Order No. 4 was issued which required Staff, not later than August 3, 2015, to file a recommendation regarding the sufficiency of the closing documentation and whether all of the required criteria has been met for final approval of this application. Order No. 4 also required that, if no disputed issues exist, the parties to file, not later than August 14, 2015, a joint proposed notice of approval with findings of fact, conclusions of law, and ordering paragraphs.

II. FINAL RECOMMENDATION

Although not required by the procedural schedule, Staff is filing its final recommendation on the application, which includes its evaluation of the application under the applicable statutory and regulatory requirements. As supported by the attached memorandum from Debbie Reyes Tamayo, Program Specialist of the Water Utilities Division, Staff recommends that the Applicants meet all the applicable requirements. Specifically, Staff evaluated the criteria set out in Tex. Water Code Ann. § 13.246(c) (TWC) when considering granting or amending a CCN, and the requirement for a sale, transfer, or merger under 16 Tex. Admin. Code § 24.109 (TAC). Staff recommends that criteria from TWC § 13.246(c) and 16 TAC 24.109(g) were met. Accordingly, Staff recommends that the application be approved.

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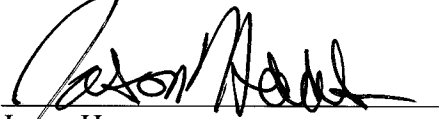
Attached to this pleading are the proposed map, tariff, and certificate, and signed consent forms from D&K and EMCAD.

Dated: August 14, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director – Legal Division

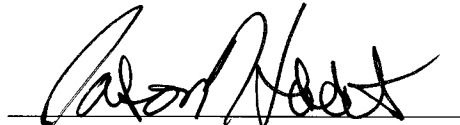
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Managing Attorney – Legal Division



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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 August 14, 2015, in accordance with 16 TAC § 22.74.


Jason Haas

Public Utility Commission of Texas

Memorandum

TO: Jason Haas, Attorney
Legal Division

THRU: Tammy Benter, Director
Lisa Fuentes, Work Leader
Water Utilities Division

FROM: Debbie Reyes Tamayo, Program Specialist
Water Utilities Division

DATE: July 27, 2015

SUBJECT: Docket No. 42994, *Application of the D & K Development Corporation (D & K) and EMCAD Water and Wastewater, LLC (EMCAD) for Sale, Transfer and Merger of a Certificate (37727-S)*

On September 13, 2013, D & K and EMCAD (collectively called "Applicants") applied to purchase facilities and transfer all of the service area from sewer CCN No. 20816 held by D & K in Tarrant County, Texas. As a result of the proposed transaction, EMCAD will acquire CCN No. 20816 from D & K. This application was filed pursuant to the criteria in the Texas Water Code (TWC) §§13.241, 13.246 and 13.301, and the Texas Commission on Environmental Quality (TCEQ)'s rules 30 Tex. Admin. Code (TAC), Sections §§291.102, 291.109 and 291.112 (TAC). 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 16 TAC §§24.102, 24.109 and 24.112 and TWC §§13.241, 13.246 and 13.301.

The application was received by the TCEQ on September 13, 2013, and was deemed administratively complete at TCEQ on December 4, 2013. The effective date of the sale was on April 22, 2015. The Applicants were ordered to provide proper public notice to all current customers, neighboring systems, landowners and cities. Notice to current customers was provided by a list to existing customers on December 23, 2013, by first class mail. Affidavits of notice were received at TCEQ on January 03, 2014. The comment period for protests ended on January 23, 2014. The Applicants did not receive any protests or requests for hearing regarding the transaction. Notice for the application was proper.

Pursuant to TWC §13.301 (e), before the expiration of the 120-day notification period, the Commission is required to notify all known parties to the transaction whether the Commission will hold a hearing to determine if transaction will serve the public interest. On May 1, 2014, the TCEQ Commission issued its authorization for the parties to complete the Bill of Sale transaction reflecting the closing and transfer of utility assets to EMCAD. Based on a review of the information in the application, I believe EMCAD demonstrates adequate financial, managerial and technical capability to provide continuous and adequate service to the area subject to this application.

EMCAD is a new entity and is in good standing with the Office of the Secretary of State. EMCAD demonstrates adequate financial and managerial capability to provide service to the area subject to this application. EMCAD's key management staff are Mr. Donald Clayton, in charge of finance and administration, and Mr. John Ebert, in charge of operations. Mr. Clayton has served the utility industry in executive and

consulting capacities for more than 35 years. He is currently the principal at Tangible LLC, who provides compliance support for water and wastewater authorities. Mr. Ebert has worked in the utility and regulated industries for more than 30 years. Since January of 2006, he has been the CEO and principal shareholder of ANGD LLC which is a holding company for 2 small gas utilities, one which additionally focuses on renewable energy from landfills. EMCAD has licensed wastewater operators on staff to maintain and operate the system being acquired. In addition, Mr. Clayton is a registered Professional Engineer in the Commonwealth of Pennsylvania and a Chartered Financial Analyst. The application includes prepared personal financial statements to indicate Mr. Clayton's net worth is \$2,120,000 as of January 23, 2014, and Mr. Ebert's net worth is \$9,607,000 as of January 14, 2014. Documentation was provided from UBS Financial Services that Mr. Ebert has one or more accounts in excess value of \$1.2 million. Hefren-Tillotson, Inc. also provided documentation that Mr. and Mrs. Donald Clayton have assets on deposits for the total amount of \$176,160.92.

This application proposes to transfer 50 acres and approximately 159 customers from D & K, sewer CCN No. 20816, to EMCAD. EMCAD has no intentions of affecting the customers' rates and services. The current service level will be maintained and improved.

TWC §13.246(c) requires the Commission to consider nine criteria when granting or amending a CCN. As a result of this transaction, EMCAD will obtain a CCN No.20816 from D & K. Therefore, the following criteria were considered:

- TWC §13.246(c)(1) requires the Commission to consider the adequacy of service currently provided to the requested area. Because the area is in an existing sewer CCN, includes 159 customers, and the customers are currently receiving service from an approved sewer facility that meets TCEQ's minimum standards, the service is adequate in the area.
- TWC §13.246(c)(2) requires the Commission to consider the need for service in the requested area. The fact that there are existing customers in the requested area demonstrates the need for service.
- TWC §13.246(c)(3) requires the Commission to consider the effect of granting an amendment on the recipient and on any other retail water utility servicing the proximate area. Only the Applicants and the current customers will be affected by this transaction. As a result of the transaction, EMCAD will obtain the facilities, customers and service area of CCN No. 20816 from D & K. In turn, D & K will no longer be in the utility business.
- TWC §13.246(c)(4) requires the Commission to consider the ability of the applicant to provide adequate service, including meeting the standards of the TCEQ. EMCAD will provide retail public sewer service using the existing system approved under TCEQ Discharge Permit No. WQ 13518-001, after the transaction is approved.
- TWC §13.246(c)(5) requires the Commission to consider the feasibility of obtaining service from an adjacent retail public utility. In this case, the area is already receiving service and no additional service is needed. Therefore, it is not necessary to consider the feasibility of obtaining service from another entity since the area is already being served.
- TWC §13.246(c)(6) requires the Commission to consider the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service. The existing system does not have any outstanding violations and does not require major capital improvements or repairs.
- TWC §§13.246(7) and (9) require the Commission to consider the environmental integrity and the effect on the land to be included in the certificate. In this situation, there will no impact on the environment and the land as the system is already in place and does not need any repairs or improvements at this time.

- TWC § 13.246(8) required the commission to consider the probable improvement in service or lowering of cost to consumers. The customers' rates will not be affected by this transaction as they will remain the same. EMCAD intends to acquire three separate utilities and to consolidate them under a single professional management team in the future to have better access to capital and potentially provide service at a lower cost due to economies of scale.

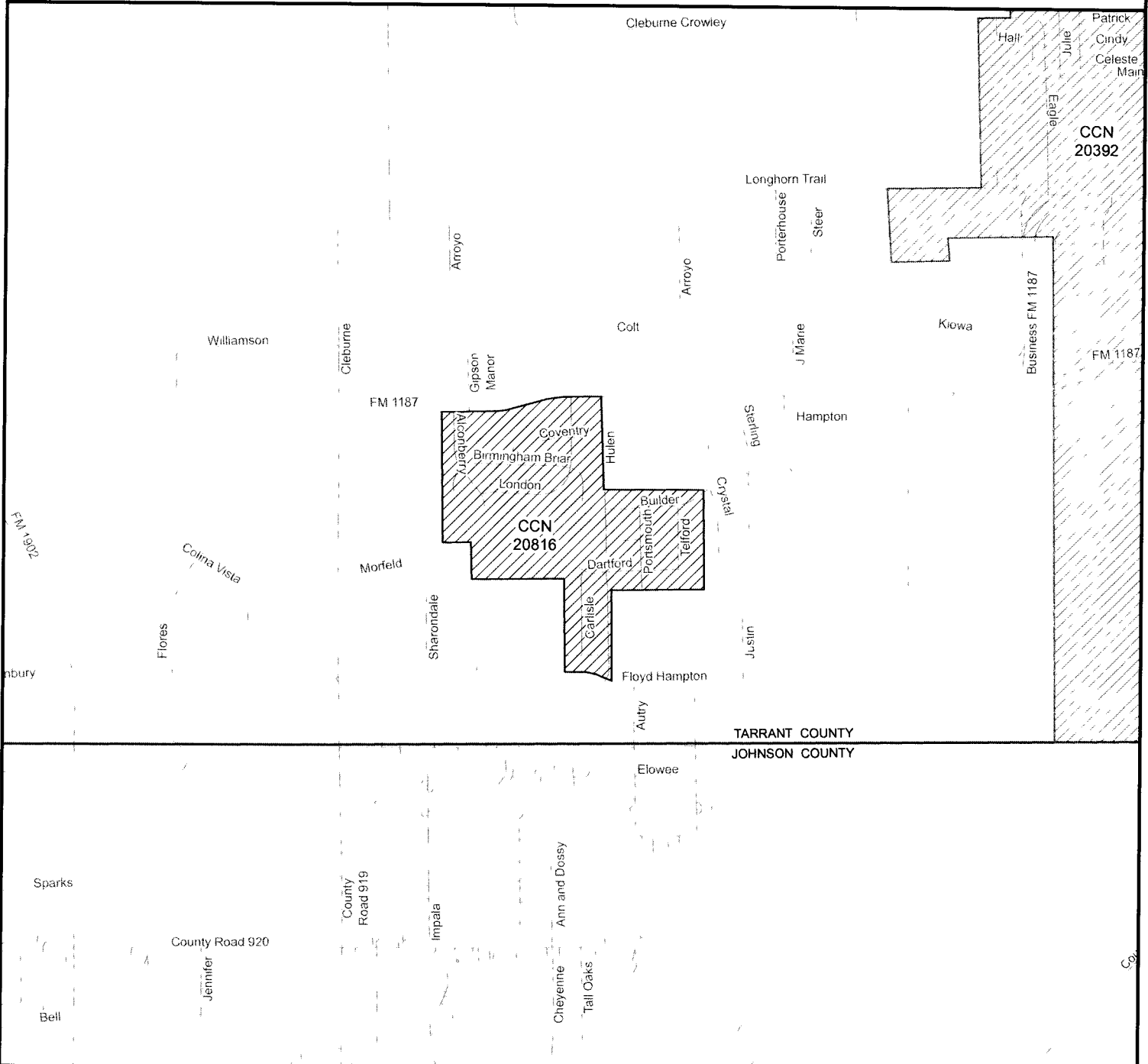
EMCAD completed the sale transaction on April 22, 2015, and filed closing documents with the PUC on April 29, 2015, as proof that the sale was consummated. EMCAD's closing documents state that D & K did not require customer deposits; therefore, no deposits needed to be transferred or refunded.

The Applicants meet all of the statutory requirements of Texas Water Code Chapter 13 and the 16 TAC, Chapter 24 rules and regulations. Approving this application to have EMCAD purchase facilities and transfer all of the facilities, customers and service area from sewer CCN No. 20816 held by D & K is necessary for the service, accommodation, convenience and safety of the public. Once EMCAD acquires the area, EMCAD intends to begin providing retail sewer service in the area.

The Applicant is capable of providing continuous and adequate service. Staff recommends approval of the order. Staff also recommends that EMCAD be ordered to file a copy of the CCN map along with a written description of the CCN service areas with the county clerk's office pursuant to TWC §§13.257(r) and (s). Attached are a map, certificates, tariff, and signed consent form that if adopted, would effectuate the requested transaction.



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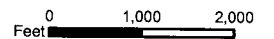
EMCAD Water & Wastewater LLC
Sewer Service Area
CCN No. 20816
PUC Docket No. 42994
Transferred CCN 20816 from Dusty Drury dba D & K Development Corporation
in Tarrant County



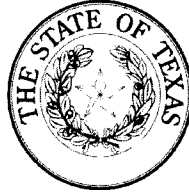
Public Utility Commission of Texas
 1701 N Congress Ave
 Austin, TX 78701

Sewer CCN Service Areas

-  20816 - EMCAD Water & Wastewater LLC
-  20392 - City of Crowley



Map by: Suzanne Burt
 Date created: May 20, 2015
 Project path: n:/gis/projects/applications/42994.mxd



Public Utility Commission Of Texas

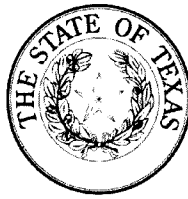
By These Presents Be It Known To All That EMCAD Water and Wastewater, LLC

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. 20816

to provide continuous and adequate sewer utility service to that service area or those service areas in Tarrant County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 42994 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the EMCAD Water and Wastewater, LLC, 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, this _____ day of _____ 2015



TRANSFER OF CERTIFICATE OF CONVENIENCE AND NECESSITY

To Provide Sewer Service Under V.T.C.A., Sewer Code
and Public Utility Commission of Texas Substantive Rules

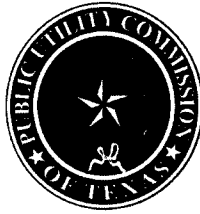
Certificate No. 20816

Certificate of Convenience and Necessity No. 20816 was transferred by Order of the Commission in Docket No. 42994. D & K Development Corporation's facilities and lines were transferred to EMCAD Water and Wastewater, LLC, in Tarrant County, Texas.

Please reference Docket No. 42994 for the location of maps and other information related to the service area transferred.

Certificate of Convenience and Necessity No. 20816 is hereby transferred by Order of the Public Utility Commission of Texas.

Issued at Austin, Texas, this _____ day of _____ 2015



**SEWER UTILITY TARIFF
Docket Number: 42994**

EMCAD Water and Wastewater, LLC
(Utility Name)

801 S FILES ST
(Business Address)

ITASCA, TX 76055-3100
(City, State, Zip Code)

254)-687-2642
(Area Code/Telephone)

This tariff is effective for utility operations under the following Certificate of Convenience and Necessity:

20816

This tariff is effective in the following counties:

Tarrant

This tariff is effective in the following cities or unincorporated towns (if any):

None

This tariff is effective in the following subdivisions and public sewer systems:

Mayfair, Mayfair South & Mayfair West : WQ 01013518-001

TABLE OF CONTENTS

The above utility lists the following sections of its tariff (if additional pages are needed for a section, all pages should be numbered consecutively):

SECTION 1.0 -- RATE SCHEDULE	2
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SECTION A -- SAMPLE SERVICE AGREEMENT	16

SECTION 1.0 - RATE SCHEDULE

Section 1.01--Rates

<u>Meter Size:</u>	<u>Monthly Minimum Charge</u>	<u>Gallonage Charge</u>
5/8" or 3/4"	\$85.00 (Includes 0 gallons)	\$ N.A. per 1,000 gallons, 1 st _____ gallons
1 "	\$ _____	
2"	\$ _____	
3"	\$ _____	
4"	\$ _____	

Volume charges are determined based on average consumption for winter period which includes the following months: N.A.

FORM OF PAYMENT: The utility will accept the following forms of payment:

Cash , Check X, Money Order X, Credit Card , Other (specify)
THE UTILITY MAY REQUIRE EXACT CHANGE FOR PAYMENTS AND MAY REFUSE TO ACCEPT PAYMENTS MADE USING MORE THAN \$1.00 IN SMALL COINS. A WRITTEN RECEIPT WILL BE GIVEN FOR CASH PAYMENTS.

REGULATORY ASSESSMENT 1.0%
PUBLIC UTILITY COMMISSION (COMMISSION) RULES REQUIRE THE UTILITY TO COLLECT AND REMIT TO THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY A FEE OF ONE PERCENT OF THE RETAIL MONTHLY BILL.

Section 1.02 - Miscellaneous Fees

TAP FEE \$600.00
TAP FEE COVERS THE UTILITY'S COSTS FOR MATERIALS AND LABOR TO INSTALL A STANDARD RESIDENTIAL CONNECTION. AN ADDITIONAL FEE TO COVER UNIQUE COSTS IS PERMITTED IF LISTED ON THIS TARIFF.

TAP FEE (Large Connection Tap) Actual Cost
TAP FEE IS THE UTILITY'S ACTUAL COST FOR MATERIALS AND LABOR FOR METER SIZE INSTALLED.

SECTION 1.0 - RATE SCHEDULE (CONT.)

RECONNECTION FEE

THE RECONNECT FEE MUST BE PAID BEFORE SERVICE CAN BE RESTORED TO A CUSTOMER WHO HAS BEEN DISCONNECTED FOR THE FOLLOWING REASONS (OR OTHER REASONS LISTED UNDER SECTION 2.0 OF THIS TARIFF):

- a) Non payment of bill (Maximum \$25.00) \$25.00
- b) Customer's request that service be disconnected \$40.00
- c) _____ \$ _____

TRANSFER FEE \$25.00

THE TRANSFER FEE WILL BE CHARGED FOR CHANGING AN ACCOUNT NAME AT THE SAME SERVICE LOCATION WHEN THE SERVICE IS NOT DISCONNECTED.

LATE CHARGE (EITHER \$5.00 OR 10% OF THE BILL)..... \$5.00

COMMISSION RULES ALLOW A ONE-TIME PENALTY TO BE CHARGED ON DELINQUENT BILLS. A LATE CHARGE MAY NOT BE APPLIED TO ANY BALANCE TO WHICH THE PENALTY WAS APPLIED IN A PREVIOUS BILLING.

RETURNED CHECK CHARGE..... \$25.00

RETURNED CHECK CHARGES MUST BE BASED ON THE UTILITY'S DOCUMENTABLE COST.

CUSTOMER DEPOSIT RESIDENTIAL (Maximum \$50)..... \$50.00

COMMERCIAL & NON-RESIDENTIAL DEPOSIT 1/6TH OF ESTIMATED ANNUAL BILL

GOVERNMENTAL TESTING, INSPECTION AND COSTS SURCHARGE: NA.

WHEN AUTHORIZED IN WRITING BY THE COMMISSION AND AFTER NOTICE TO CUSTOMERS, THE UTILITY MAY INCREASE RATES TO RECOVER INCREASED COSTS FOR INSPECTION FEES AND WATER TESTING. [16 TAC 24.21(k)(2)]

LINE EXTENSION AND CONSTRUCTION CHARGES:

REFER TO SECTION 3.0--EXTENSION POLICY FOR TERMS, CONDITIONS, AND CHARGES WHEN NEW CONSTRUCTION IS NECESSARY TO PROVIDE SERVICE.

SECTION 2.0 -- SERVICE RULES AND POLICIES

The utility will have the most current Public Utility Commission of Texas Rules relating to sewer utilities available at its office for reference purposes. The Rules and this tariff shall be available for public inspection and reproduction at a reasonable cost. The latest Rules or Commission approved changes to the Rules supersede any rules or requirements in this tariff.

Section 2.01 - Application for Sewer Service

All applications for service will be made on the utility's standard application or contract form (attached in the Appendix to this tariff), will be signed by the applicant, any required fees (deposits, reconnect, tap, extension fees, etc. as applicable) will be paid and easements, if required, will be granted before service is provided by the utility. A separate application or contract will be made for each service location.

Section 2.02 - Refusal of Service

The utility may decline to serve an applicant until the applicant has complied with the regulations of the regulatory agencies (state and municipal regulations) and for the reasons outlined in the commission rules. In the event that the utility refuses to serve an applicant, the utility will inform the applicant in writing of the basis of its refusal. The utility is also required to inform the applicant that a complaint may be filed with the Commission.

Section 2.03 - Fees and Charges & Easements Required Before Service Can Be Connected

(A) Customer Deposits

If a residential applicant cannot establish credit to the satisfaction of the utility, the applicant may be required to pay a deposit as provided for in Section 1.02 - Miscellaneous Fees of this tariff. The utility will keep records of the deposit and credit interest in accordance with the commission rules.

Residential applicants 65 years of age or older may not be required to pay deposits unless the applicant has an outstanding account balance with the utility or another water or sewer utility which accrued within the last two years.

Nonresidential applicants who cannot establish credit to the satisfaction of the utility may be required to make a deposit that does not exceed an amount equivalent to one-sixth of the estimated annual billings.

SECTION 2.0 -- SERVICE RULES AND POLICIES (Continued)

Refund of deposit - If service is not connected, or after disconnection of service, the utility will promptly refund the customer's deposit plus accrued interest or the balance, if any, in excess of the unpaid bills for service furnished. The utility may refund the residential customer's deposit at any time prior to termination of utility service but must refund the deposit plus interest for any residential customer who has paid 18 consecutive billings without being delinquent.

(B) Tap or Reconnect Fees

A new customer requesting service at a location where service has not previously been provided must pay a tap fee as provided in Section 1. A customer requesting service where service has previously been provided must pay a reconnect fee as provided in Section 1. Any applicant or existing customer required to pay for any costs not specifically set forth in the rate schedule pages of this tariff shall be given a written explanation of such costs prior to request for payment and/or commencement of construction. If the applicant or existing customer does not believe that these costs are reasonable or necessary, the applicant or existing customer shall be informed of their right to appeal such costs to the commission or such other regulatory authority having jurisdiction over the utility's rates in that portion of the utility's service area in which the applicant's or existing customer's property (ies) is located.

Fees in addition to the regular tap fee may be charged to cover unique costs not normally incurred as permitted by P.U.C. SUBST. R. 24.86(a)(1)(C) if they are listed on this approved tariff. For example, a road bore for customers outside a subdivision or residential area could be considered a unique cost.

(C) Easement Requirement

Where recorded public utility easements on the service applicant's property do not exist or public road right-of-way easements are not available to access the applicant's property, the utility may require the applicant to provide it with a permanent recorded public utility easement on and across the applicant's real property sufficient to provide service to that applicant. Such easement(s) shall not be used for the construction of production, storage, transmission or pressure facilities unless they are needed for adequate service to that applicant.

SECTION 2.0 -- SERVICE RULES AND POLICIES (Continued)

Section 2.04 - Utility Response to Applications for Service

After the applicant has met all the requirements, conditions and regulations for service, the utility will install tap and utility cut-off and/or take all necessary actions to initiate service. The utility will serve each qualified applicant for service within 5 working days unless line extensions or new facilities are required. If construction is required to fill the order and if it cannot be completed within 30 days, the utility will provide the applicant with a written explanation of the construction required and an expected date of service.

Except for good cause where service has previously been provided, service will be reconnected within one working day after the applicant has met the requirements for reconnection.

Section 2.05 - Customer Responsibility

The customer will be responsible for furnishing and laying the necessary customer service pipe from the tap location to the place of consumption. Customers will not be allowed to use the utility's cutoff.

Section 2.06 Access to Customer's Premises

All customers or service applicants shall provide access to utility cutoffs at all times reasonably necessary to conduct ordinary utility business and after normal business hours as needed to protect and preserve the integrity of the public drinking water supply.

Section 2.07 - Back Flow Prevention Devices

No water connection shall be made to any establishment where an actual or potential contamination or system hazard exists without an approved air gap or mechanical backflow prevention assembly. The air gap or backflow prevention assembly shall be installed in accordance with the American Water Works Association (AWWA) standards C510, C511 and AWWA Manual M14 or the University Of Southern California Manual Of Cross-Connection Control, current edition. The backflow assembly installation by a licensed plumber shall occur at the customer's expense.

SECTION 2.0 -- SERVICE RULES AND POLICIES (Continued)

The back flow assembly shall be tested upon installation by a recognized prevention assembly tester and certified to be operating within specifications. Back flow prevention assemblies which are installed to provide protection against high health hazards must be tested and certified to be operating within specifications at least annually by a recognized back flow prevention device tester. The maintenance and testing of the back flow assembly shall occur at the customer's expense.

Section 2.10 - Billing

(A) Regular Billing

Bills from the utility will be mailed monthly unless otherwise authorized by the Commission. The due date of bills for utility service will be at least sixteen (16) days from the date of issuance. The postmark on the bill or, if there is no postmark on the bill, the recorded date of mailing by the utility will constitute proof of the date of issuance. Payment for utility service is delinquent if full payment, including late fees and the regulatory assessment, is not received at the utility or the utility's authorized payment agency by 5:00 p.m. on the due date. If the due date falls on a holiday or weekend, the due date for payment purposes will be the next workday after the due date.

(B) Late Fees

A late penalty of either \$5.00 or 10.0% will be charged on bills received after the due date. The penalty on delinquent bills will not be applied to any balance to which the penalty was applied in a previous billing. The utility must maintain a record of the date of mailing to charge the late penalty.

(C) Information on Bill

Each bill will provide all information required by the commission rules. For each of the systems it operates, the utility will maintain and note on the monthly bill a local or toll-free telephone number (or numbers) to which customers can direct questions about their utility service.

(D) Prorated Bills

If service is interrupted or seriously impaired for 24 consecutive hours or more, the utility will prorate the monthly base bill in proportion to the time service was not available to reflect this loss of service.

SECTION 2.0 -- SERVICE RULES AND POLICIES (Continued)

Section 2.11- Payments

All payments for utility service shall be delivered or mailed to the utility's business office. If the business office fails to receive payment prior to the time of noticed disconnection for non-payment of a delinquent account, service will be terminated as scheduled. Utility service crews shall not be allowed to collect payments on customer accounts in the field.

Payment of an account by any means that has been dishonored and returned by the payor or payee's bank shall be deemed to be delinquent. All returned payments must be redeemed with cash or valid money order. If a customer has two returned payments within a twelve month period, the customer shall be required to pay a deposit if one has not already been paid.

Section 2.12 - Service Disconnection

(A) With Notice

Utility service may be disconnected if the bill has not been paid in full by the date listed on the termination notice. The termination date must be at least 10 days after the notice is mailed or hand delivered.

The utility is encouraged to offer a deferred payment plan to a customer who cannot pay an outstanding bill in full and is willing to pay the balance in reasonable installments. However, a customer's utility service may be disconnected if a bill has not been paid or a deferred payment agreement entered into within 26 days from the date of issuance of a bill and if proper notice of termination has been given.

Notice of termination must be a separate mailing or hand delivery in accordance with the commission rules.

(B) Without Notice

Utility service may also be disconnected without notice for reasons as described in the commission rules.

SECTION 2.0 -- SERVICE RULES AND POLICIES (Continued)

Section 2.13 - Reconnection of Service

Utility personnel must be available during normal business hours to accept payments on the day service is disconnected and the following day unless service was disconnected at the customer's request or due to a hazardous condition.

Service will be reconnected within 24 hours after the past due bill, reconnect fees and any other outstanding charges are paid or the conditions which caused service to be disconnected are corrected.

Section 2.14 - Service Interruptions

The utility will make all reasonable efforts to prevent interruptions of service. If interruptions occur, the utility will re-establish service within the shortest possible time. Except for momentary interruptions due to automatic equipment operations, the utility will keep a complete record of all interruptions, both emergency and scheduled and will notify the Commission in writing of any service interruptions affecting the entire system or any major division of the system lasting more than four hours. The notice will explain the cause of the interruptions.

Section 2.15 - Quality of Service

The utility will plan, furnish, and maintain and operate production, treatment, storage, transmission, and collection facilities of sufficient size and capacity to provide continuous and adequate service for all reasonable consumer uses and to treat sewage and discharge effluent of the quality required by its discharge permit issued by the TCEQ. Unless otherwise authorized by the TCEQ, the utility will maintain facilities as described in the TCEQ's rules.

Section 2.16 - Customer Complaints and Disputes

If a customer or applicant for service lodges a complaint, the utility will promptly make a suitable investigation and advise the complainant of the results. Service will not be disconnected pending completion of the investigation. If the complainant is dissatisfied with the utility's response, the utility must advise the complainant that he has recourse through the commission's complaint process. Pending resolution of a complaint, the commission may require continuation or restoration of service.

SECTION 2.0 -- SERVICE RULES AND POLICIES (Continued)

The utility will maintain a record of all complaints which shows the name and address of the complainant, the date and nature of the complaint and the adjustment or disposition thereof, for a period of two years after the final settlement of the complaint.

In the event of a dispute between a customer and a utility regarding any bill for utility service, the utility will conduct an investigation and report the results to the customer. If the dispute is not resolved, the utility will inform the customer that a complaint may be filed with the Commission.

Section 2.17 - Customer Liability

Customer shall be liable for any damage or injury to utility-owned property shown to be caused by the customer.

SECTION 3.0 -- EXTENSION POLICY

Section 3.01 - Standard Extension Requirements

LINE EXTENSION AND CONSTRUCTION CHARGES: NO CONTRIBUTION IN AID OF CONSTRUCTION MAY BE REQUIRED OF ANY CUSTOMER EXCEPT AS PROVIDED FOR IN THIS APPROVED EXTENSION POLICY.

The utility is not required to extend service to any applicant outside of its certified service area and will only do so under terms and conditions mutually agreeable to the utility and the applicant, in compliance with commission rules and policies, and upon extension of the utility's certified service area boundaries by the commission.

The applicant for service will be given an itemized statement of the costs, options such as rebates to the customer, sharing of construction costs between the utility and the customer, or sharing of costs between the customer and other applicants prior to beginning construction.

The utility is not required to extend service to any applicant outside of its certificated service area and will only do so under terms and conditions mutually agreeable to the utility and the applicant, in compliance with commission rules and policies, and upon extension of the utility's certificated service area boundaries by the commission.

SECTION 3.0 -- EXTENSION POLICY(Continued)

Section 3.02 - Costs Utilities and Service Applicants Shall Bear

Within its certified area, the utility will pay the cost of the first 200 feet of any water main or distribution line necessary to extend service to an individual residential customer within a platted subdivision.

However, if the residential customer requesting service purchased the property after the developer was notified in writing of the need to provide facilities to the utility, the utility may charge for the first 200 feet. The utility must also be able to document that the developer of the subdivision refused to provide facilities compatible with the utility's facilities in accordance with the utility's approved extension policy after receiving a written request from the utility.

Residential customers will be charged the equivalent of the costs of extending service to their property from the nearest collection line even if that line does not have adequate capacity to serve the customer. However, if the customer places unique, non-standard service demands upon the system, the customer may be charged the additional cost of extending service to and throughout their property, including the cost of all necessary transmission and storage facilities necessary to meet the service demands anticipated to be created by that property.

Unless an exception is granted by the TCEQ, the residential service applicant shall not be required to pay for costs of main extensions greater than 6" in diameter for gravity wastewater lines.

Exceptions may be granted by the TCEQ if

- adequate service cannot be provided to the applicant using the maximum line sizes listed due to distance or elevation, in which case, it shall be the utility's burden to justify that a larger diameter pipe is required for adequate service;
- or larger minimum line sizes are required under subdivision platting requirements or building codes of municipalities within whose corporate limits or extraterritorial jurisdiction the point of use is located; or the residential service applicant is located outside the CCN service area.

If an exception is granted, the utility shall establish a proportional cost plan for the specific extension or a rebate plan which may be limited to seven years to return the portion of the applicant's costs for oversizing as new customers are added to ensure that future applicants for service on the line pay at least as much as the initial service applicant.

SECTION 3.0 -- EXTENSION POLICY (Continued)

For purposes of determining the costs that service applicants shall pay, commercial customers with service demands greater than residential customer demands in the certified area, industrial, and wholesale customers shall be treated as developers.

If an applicant requires service other than the standard service provided by the utility, such applicant will be required to pay all expenses incurred by the utility in excess of the expenses that would be incurred in providing the standard service and connection beyond 200 feet and throughout his property including the cost of all necessary transmission facilities.

The utility will bear the full cost of any over-sizing of sewer mains necessary to serve other customers in the immediate area. The individual residential customer shall not be charged for any additional treatment facilities. Contributions in aid of construction of individual residential customers for production, storage, treatment or transmission facilities unless otherwise approved by the Commission under this specific extension policy.

Section 3.03 - Contributions in Aid of Construction

Developers may be required to provide contributions in aid of construction in amounts sufficient to furnish the development with all facilities necessary to provide for reasonable local demand requirements and to comply with Texas Commission on Environmental Quality minimum design criteria for facilities used in the production, collection, transmission, pumping, or treatment of sewage or Texas Commission on Environmental Quality minimum requirements. For purposes of this subsection, a developer is one who subdivides or requests more than two meters on a piece of property. Commercial, industrial, and wholesale customers will be treated as developers.

Any applicant who places unique or non-standard service demands on the system may be required to provide contributions in aid of construction for the actual costs of any additional facilities required to maintain compliance with the Texas Commission on Environmental Quality minimum design criteria for water production, treatment, pumping, storage and transmission.

Any service extension to a subdivision (recorded or unrecorded) may be subject to the provisions and restrictions of 16TAC 2486(d). When a developer wishes to extend the system to prepare to service multiple new connections, the charge shall be the cost of such extension, plus a pro-rata charge for facilities which must be committed to such extension compliant with the Texas Commission on Environmental Quality minimum design criteria. As provided by 16 TAC 24.85(e)(3), for purposes of this section, commercial, industrial, and wholesale customers shall be treated as developers.

SECTION 3.0 -- EXTENSION POLICY (Continued)

A utility may only charge a developer standby fees for unrecovered costs of facilities committed to a developer's property under the following circumstances:

- Under a contract and only in accordance with the terms of the contract; or
- if service is not being provided to a lot or lots within two years after installation of facilities necessary to provide service to the lots has been completed and if the standby fees are included on the utilities approved tariff after a rate change application has been filed. The fees cannot be billed to the developer or collected until the standby fees have been approved by the commission or executive director.
- for purposes of this section, a manufactured housing rental community can only be charged standby fees under a contract or if the utility installs the facilities necessary to provide individually metered service to each of the rental lots or spaces in the community.

Section 3.04 - Appealing Connection Costs

The imposition of additional extension costs or charges as provided by Sections 3.0 - Extension Policy of this tariff shall be subject to appeal as provided in this tariff, commission rules, or the rules of such other regulatory authority as may have jurisdiction over the utility's rates and services. Any applicant required to pay for any costs not specifically set forth in the rate schedule pages of this tariff shall be given a written explanation of such costs prior to payment and/or commencement of construction. If the applicant does not believe that these costs are reasonable or necessary, the applicant shall be informed of the right to appeal such costs to the commission or such other regulatory authority having jurisdiction over the utility's rates in that portion of the utility's service area in which the applicant's property(ies) is located.

Section 3.05 - Applying for Service

The utility will provide a written service application form to the applicant for each request for service received by the utility's business offices. A separate application shall be required for each potential service location if more than one service connection is desired by any individual applicant. Service application forms will be available at the utility's business office during normal weekday business hours. Service applications will be sent by prepaid first class United States mail to the address provided by the applicant upon request. Completed applications should be returned by hand delivery in case there are questions which might delay fulfilling the service request. Completed service applications may be submitted by mail if hand delivery is not possible.

SECTION 3.0 -- EXTENSION POLICY (Continued)

Where a new tap or service connection is required, the service applicant shall be required to submit a written service application and request that a tap be made. A diagram, map, plat, or written metes and bounds description of precisely where the applicant desires each tap or service connection is to be made and, if necessary, where the meter is to be installed, along the applicant's property line may also be required with the tap request. The actual point of connection and meter installation must be readily accessible to utility personnel for inspection, servicing, and meter reading while being reasonably secure from damage by vehicles and mowers. If the utility has more than one main adjacent to the service applicant's property, the tap or service connection will be made to the utility's nearest service main with adequate capacity to service the applicant's full potential service demand. Beyond the initial 200 feet, the customer shall bear only the equivalent cost of extending from the nearest main. If the tap or service connection cannot be made at the applicant's desired location, it will be made at another location mutually acceptable to the applicant and the utility. If no agreement on location can be made, the applicant may refer the matter to the commission for resolution.

Section 3.06 - Qualified Service Applicant

A "qualified service applicant" is an applicant who has: (1) met all of the utility's requirements for service contained in this tariff, commission rules and/or order, (2) has made payment or made arrangement for payment of tap fees, (3) has provided all easements and rights-of-way required to provide service to the requested location, (4) delivered an executed customer service inspection certificate to the Utility, if applicable, and (5) has executed a customer service application for each location to which service is being requested.

The utility shall serve each qualified service applicant within its certified service area as soon as practical after receiving a completed service application. All service requests will be fulfilled within the time limits prescribed by commission rules once the applicant has met all conditions precedent to achieving "qualified service applicant" status. If a service request cannot be fulfilled within the required period, the applicant shall be notified in writing of the delay, its cause and the anticipated date that service will be available. The commission service dates shall not become applicable until the service applicant has met all conditions precedent to becoming a qualified service applicant as defined by commission rules.

Section 3.07 - Developer Requirements

As a condition of service to a new subdivision, the utility shall require a developer (as defined by PUC rule) to provide permanent recorded public utility easements as a condition of service to any location within the developer's property.

APPENDIX A -- SAMPLE SERVICE AGREEMENT

From TCEQ Rules, 30 TAC Chapter 290.47(b), Appendix B

SERVICE AGREEMENT

- I. **PURPOSE.** The NAME OF SEWER SYSTEM is responsible for protecting the drinking water supply from contamination or pollution which could result from improper private water distribution system construction or configuration. The purpose of this service agreement is to notify each customer of the restrictions which are in place to provide this protection. The utility enforces these restrictions to ensure the public health and welfare. Each customer must sign this agreement before the NAME OF SEWER SYSTEM will begin service. In addition, when service to an existing connection has been suspended or terminated, the sewer system will not re-establish service unless it has a signed copy of this agreement.

- II. **RESTRICTIONS.** The following unacceptable practices are prohibited by State regulations.
 - A. No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by an air-gap or an appropriate backflow prevention device.
 - B. No cross-connection between the public drinking water supply and a private water system is permitted. These potential threats to the public drinking water supply shall be eliminated at the service connection by the installation of an air-gap or a reduced pressure-zone backflow prevention device.
 - C. No connection which allows water to be returned to the public drinking water supply is permitted.
 - D. No pipe or pipe fitting which contains more than 8.0% lead may be used for the installation or repair of plumbing at any connection which provides water for human use.
 - E. No solder or flux which contains more than 0.2% lead can be used for the installation or repair of plumbing at any connection which provides water for human use.

- III. SERVICE AGREEMENT. The following are the terms of the service agreement between the NAME OF SEWER SYSTEM (the Sewer System) and NAME OF CUSTOMER (the Customer).
- A. The Sewer System will maintain a copy of this agreement as long as the Customer and/or the premises are connected to the Sewer System.
 - B. The Customer shall allow his property to be inspected for possible cross-connections and other potential contamination hazards. These inspections shall be conducted by the Sewer System or its designated agent prior to initiating new water service; when there is reason to believe that cross-connections or other potential contamination hazards exist; or after any major changes to the private water distribution facilities. The inspections shall be conducted during the Sewer System's normal business hours.
 - C. The Sewer System shall notify the Customer in writing of any cross-connection or other potential contamination hazard which has been identified during the initial inspection or the periodic reinspection.
 - D. The Customer shall immediately remove or adequately isolate any potential cross-connections or other potential contamination hazards on his premises.
 - E. The Customer shall, at his expense, properly install, test, and maintain any backflow prevention device required by the Sewer System. Copies of all testing and maintenance records shall be provided to the Sewer System.
- IV. ENFORCEMENT. If the Customer fails to comply with the terms of the Service Agreement, the Sewer System shall, at its option, either terminate service or properly install, test, and maintain an appropriate backflow prevention device at the service connection. Any expenses associated with the enforcement of this agreement shall be billed to the Customer.

CUSTOMER'S SIGNATURE

DATE

CONSENT FORM

Applicant's Name: EMCAD Water and Wastewater, LLC (purchaser)
D & K Development Corporation (seller)
Docket No.: 42994

- I concur with the map, tariff and certificates transmitted by e-mail on **June 1, 2015.**
- I do not concur with the map, tariff and certificates transmitted by e-mail on **June 1, 2015.** I understand that I have 14 days from the date of this email to provide my response.

I am authorized by D & K Development Corporation, to sign this form.

Signature: Dewey D. Drury

Printed Name: Dewey D. Drury

Relationship to Applicant: PRESIDENT

Date signed: June 3, 2015

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Please mail the original and 7 copies to:
Public Utility Commission of Texas
Central Records
1701 N. Congress P.O. Box 13326
Austin, Texas 78711-3326


or for Shipping/Overnight Delivery:
Public Utility Commission of Texas
Central Records
1701 N. Congress, Suite 8-100
Austin, Texas 78701

CONSENT FORM

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I am authorized by EMCAD Water and Wastewater, LLC, to sign this form.

Signature: 

Printed Name: Donald J. Clayton

Relationship to Applicant: Member of LLC & Manager

Date signed: 6/15/15

Please mail the original and 7 copies to:

Public Utility Commission of Texas
Central Records
1701 N. Congress P.O. Box 13326
Austin, Texas 78711-3326

or for Shipping/Overnight Delivery:
Public Utility Commission of Texas
Central Records
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