

Control Number: 43105



Item Number: 32

Addendum StartPage: 0

DOCKET NO. 43105

§

§

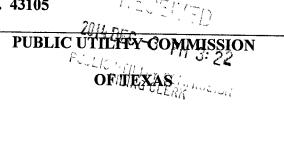
§

§

§

§ 8

APPLICATION OF THE CITY OF PFLUGERVILLE TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 20678, IN TRAVIS AND WILLIAMSON COUNTIES



COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION

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

I. BACKGROUND

On January 27, 2014, the City of Pflugerville (Applicant) filed an application with the Texas Commission on Environmental Quality (TCEQ) to amend its certificate of convenience and necessity (CCN) No. 20678 in Travis and Williamson Counties. The City of Pflugerville subsequently amended its application, and on May 5, 2014, the Texas Commission on Environmental Quality (TCEQ) accepted the City's application for filing.

II. RECOMMENDATION ON FINAL DISPOSITION

As set forth in the attached memorandum of Debbie Reyes Tamayo, Staff Program Specialist, Water Utilities Division, Staff recommends approval of the application. Additionally, the City of Pflugerville has consented to Staff's rendering of the City's new CCN service area, as demonstrated by the attached consent form and map.

III.CONCLUSION

Staff recommends that the application be approved. Staff intends to work with the City of Pflugerville to file joint proposed findings of fact, conclusions of law, and ordering paragraphs by December 17, 2014.

Respectfully Submitted,

Margaret Uhlig Pemberton Division Director Legal Division

Shelah J. Cisneros Managing Attorney Legal Division

Katherine Lengieza Gross Attorney-Legal Division State Bar No. 24065610 (512) 936-7277 (512) 936-7268 (facsimile) 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 3, 2014 in accordance with P.U.C. Procedural Rule 22.74.

X.S. S_

Katherine Lengieza Gross

Public Utility Commission of Texas

Memorandum

TO:	Katherine Lengieza Gross Legal Division
THRU:	Tammy Benter, Director Water Utility Division
FROM:	Debbie Reyes Tamayo Water Utility Division
SUBJECT:	Staff Recommendation for Commission Approval of Docket No. 43105

DATE: November 25, 2014

On January 27, 2014, the City of Pflugerville (Applicant) filed an application with the Texas Commission on Environmental Quality (TCEQ) to amend its CCN No. 20678 in Travis and Williamson Counties pursuant to the criteria in the Texas Water Code, Chapter 13, and the TCEQ's rules outlined in Title 30, Texas Administrative Code (TAC), Sections 291.102 - 291.107. 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, §§24.102 - 24.107. The Commission has jurisdiction and authority over this docket pursuant to the Texas Water Code §§ 13.041, 13.241, 13.244, 13.246 and P.U.C. SUBST. R. 24.101 and 24.102.

The TCEQ accepted the City's application for filing and requested that revised public noticed be provided without delay on May 5, 2014.

TCEQ also requested on May 5, 2014, that by June 5, 2014, the City of Pflugerville provide written documentation from the following service providers agreeing to the area of overlap or that the City submit revised maps and change the requested CCN area so as to not include these entities in the area of overlap: Cottonwood Creek Water Control and Improvement District (WCID) 3; Kelly Lane WCID 1 of Travis County; Kelly Lane WCID 2 of Travis County; Lakeside Municipal Utility District (MUD) 3; Lakeside MUD 5; Lakeside MUD 6; Lakeside WCID 1; Lakeside WCID 2-A; Lakeside WCID 2-B; Lakeside WCID 2-C; Lakeside WCID 2-D; New Sweden MUD 1; New Sweden MUD 2; New Sweden MUD 3; Northeast Growth Corridor WCID District 1 (Northeast Growth Corridor Water, Sewer, Irrigation and Drainage District No. 1); Northeast WCID District 2 (Northeast Growth Corridor Water, Sewer, Irrigation and Drainage District No. 2); Northeast Travis County Utility District; Travis County MUD 15; and Travis County MUD 17.

On May 19, 2014, staff of the TCEQ determined that the City Pflugerville had demonstrated adequate financial and managerial capability to provide service to the area subject to the City's application, pursuant to P.U.C. SUBST. R. 24.102 (d)(6).

Notice was provided by publication in the Pflugerville Pflag on May 21, 2014 and May 28, 2014. Notice was also provided to the Round Rock Leader on May 22, 2014 and May 29, 2014. A publisher's affidavit dated May 29, 2014 and signed by Carolyn Kline, a paid

notices representative of the Pflugerville Pflag and the Round Rock Leader, attests to this notice.

The City of Pflugerville provided notice of the application to landowners on June 3, 2014. Notice was also provided by mail to the City of Hutto, the City of Manor, the City of Round Rock, Windermere Utility Co., the City of Austin, Kelly Lane WCID 1, Kelly Lane WCID 2, Kelly Lane Utility Company, Cottonwood Creek WCID 3, Lakeside MUD 3, Lakeside MUD 6, Lakeside WCID 1, Lakeside WCID 2-A, Lakeside WCID 2-B, Lakeside WCID 2-C, Lakeside WCID 2-D, New Sweden MUD 1, New Sweden MUD 2, New Sweden MUD 3, Northeast Growth Corridor WCID District 1 (Northeast Growth Corridor Water, Sewer, Irrigation and Drainage District No. 1), Northeast Growth Corridor WCID District 2 (Northeast Growth Corridor Water, Sewer, Irrigation and Drainage District, Travis County MUD 15, and Travis County MUD 17. An affidavit that these landowners and entities received notice was filed on November 5, 2014.

On June 18, 2014, the TCEQ sent a notice of deficiency to the City of Pflugerville, alerting the City that the notices sent out by the City were incomplete by requesting the City to cure by July 18, 2014. Specifically, TCEQ stated that the application was missing documentation from the following service providers agreeing to the area of overlaps: Cottonwood Creek WCID 3; Kelly Lane WCID 1 of Travis County; Kelly Lane WCID 2 of Travis County; Lakeside MUD 3; Lakeside MUD 5; Lakeside MUD 6; Lakeside WCID 1; Lakeside WCID 2-A; Lakeside WCID 2-B; Lakeside WCID 2-C; Lakeside WCID 2-D; New Sweden MUD 1; New Sweden MUD 2; New Sweden MUD 3; Northeast Growth Corridor WCID District 1 (Northeast Growth Corridor Water, Sewer, Irrigation and Drainage District No. 1); Northeast WCID District 2 (Northeast Growth Corridor Water, Sewer, Irrigation and Drainage District No. 2); Northeast Travis County Utility District; Travis County MUD 15; and Travis County MUD 17. The TCEQ also stated that the following utilities were not included in response to have received a copy of the public notice: City of Elgin CCN 20120; Round Rock Ranch PUD CCN 20805; Manor Village WWTP CCN 20873; Cottonwood Creek MUD 1; New Sweden MUD 3; Northtown MUD; Travis County MUD 2; Wells Branch MUD; Wilbarger Creek MUD 1; Willbarger Creek MUD 2; Travis County; and Williamson County. The City of Pflugerville was given until July 18, 2014 to provide the requested items.

The following districts concurred with the overlap of the City's proposed wastewater CCN area with the boundaries of each respective district from June 11, 2014, to July 3, 2014,: Northeast Travis County Utility District; New Sweden MUD No 1; New Sweden MUD No. 2; New Sweden MUD No 3; Travis County MUD No. 15; Travis County MUD No. 17; Northeast Growth Corridor Water, Sewer, Irrigation and Drainage District No. 1; Northeast Growth Corridor Water, Sewer, Irrigation and Drainage District No. 2; Kelly Lane WCID No. 1; Kelly Lane WCID No. 2; and Lakeside MUD No. 3.

Notice was also provided to New Sweden MUD 3, the City of Elgin CCN 20120, Round Rock Ranch PUD, Manor Village WWTP, Cottonwood Creek MUD 1, Northtown MUD, Travis County MUD 2, Wells Branch MUD, Wilbarger Creek MUD 1, Wilbarger Creek MUD 2, Travis County, and Williamson County on June 23, 2014. An affidavit that these entities received notice was filed on November 6, 2014.

The City of Pflugerville has provided notice in compliance with P.U.C. SUBST. R. 24.106 and Texas Water Code § 13.246.

The Sparks James Life Estate notified the TCEQ on June 19, 2014 that they were electing to exclude their land from the proposed service area requested in the City of Pflugerville's application.

Deborah and Frank Holmes notified the TCEQ on June 24, 2014 that they were electing to exclude their land from the proposed service area requested in the City of Pflugerville's application.

June Miles notified the TCEQ on June 24, 2014 that she was electing to exclude her land from the proposed service area requested in the City of Pflugerville's application.

Lakeside WCID 1, Lakeside WCID 2-A, Lakeside WCID 2-B, Lakeside WCID 2-C, and Lakeside WCID 2-D Districts requested to not be included in the sewer service area requested in this application on June 24, 2014.

The City of Pflugerville informed Deborah and Frank Holmes, June Miles, and the Sparks James Life Estate on June 26, 2014 that City staff had reviewed their opt-out request and determined that each of their respective properties were not within the City's requested CCN boundary.

TCEQ Staff determined on June 30, 2014 that Cottonwood Creek WCID 3 was not an overlapping service provider.

The Irving Milford Olson Life Trust requested to opt-out of the proposed service area requested in the City of Pflugerville's application on July 1, 2014.

Robert M. Tiemann notified the TCEQ on July 2, 2014 and July 3, 2014 that he was electing, pursuant to Section 13.246(h) of the Texas Water Code, to exclude various tracts of his land from the proposed service area.

Lakeside WCID 1, Lakeside WCID 2-A, Lakeside WCID 2-B, Lakeside WCID 2-C, and Lakeside WCID 2-D Districts requested a hearing on the City's application on July 2, 2014.

Lakeside Municipal Utility District Nos. 5 and 6 requested to not be included in the amended boundary and requested a hearing on the City's application on July 3, 2014.

The City of Pflugerville informed the TCEQ on July 9, 2014 that the Robert Tiemann and the Irving Milford Olson Life Trust properties had been removed from the proposed area. The City of Pflugerville further informed the TCEQ that other property owners had requested to opt-out but they were outside of a two-mile radius of the area. Those property owners were notified via USPS mail that their properties were not in the proposed area.

The City of Pflugerville confirmed that Lakeside MUD 5 and Lakeside MUD 6 were removed from the updated map on July 9, 2014.

TCEQ staff determined on July 22, 2014, that Lakeside WCID 1, Lakeside WCID 2-A, Lakeside WCID 2-B, Lakeside WCID 2-C, and Lakeside WCID 2-D Districts were removed from the updated map.

The City of Elgin requested a public hearing on July 16, 2014, and later withdrew its request for a hearing on July 28, 2014.

Lakeside WCID 1, Lakeside WCID 2-A, Lakeside WCID 2-B, Lakeside WCID 2-C, and Lakeside WCID 2-D Districts withdrew their request for a hearing on August 5, 2014.

Lakeside Municipal Utility District Nos. 5 and 6 withdrew their request for a hearing on November 4, 2014.

All requests for hearing that were filed in this docket have been withdrawn. No issues of fact or law are disputed by any party; therefore no hearing is necessary. The criteria for informal disposition pursuant to P.U.C. PROC. R. 22.35 have been satisfied in this proceeding.

The City of Pflugerville has demonstrated that the application meets the requirements set forth in the Texas Water Code §§ 13.241, 13.244, and 13.246 and P.U.C. SUBST. R. 24.101 and 24.102 to be granted an amendment to its CCN.

The applicant is capable of providing continuous and adequate service to remaining areas of their CCN. Staff recommends approval of the application. A map and signed consent form are attached to this recommendation.

TB/DRT

CONSENT FORM

Applicant's Name: **City of Pflugerville** Docket No.: **43139** 43)の5 の^い

I concur with the proposed map transmitted by e-mail dated October 20, 2014

I do not concur with map contained transmitted by e-mail dated October 20, 2014. I understand that I have 14 days from the date of this letter to provide my response.

I am authorized by **City of Pflugerville** to sign this form.

Signature:	
Printed Name:Brando	n Wade
Relationship to Applicant:	City Manager
Date signed:/O - a	10-2014

Mail to: Debbie Reyes Tamayo Water Utilities Division Public Utility Commission of Texas 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

X

