



Control Number: 43105



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**DOCKET NO. 43105**

**APPLICATION OF THE CITY OF PFLUGERVILLE TO AMEND A CERTIFICATE OF CONVENIENCE AND NECESSITY IN TRAVIS AND WILLIAMSON COUNTIES (37835-C)**      §  
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**PUBLIC UTILITY COMMISSION OF TEXAS**

**NOTICE OF APPROVAL**

This Notice addresses the application of the City of Pflugerville for approval of an amendment to its certificate of convenience and necessity (CCN) No. 20678 in Travis and Williamson Counties. Public Utility Commission of Texas (Commission) Staff recommended approval of the application. Consistent with Commission Staff's recommendation, the application is approved.

The Commission adopts the following findings of fact and conclusions of law:

**I. Findings of Fact**

**Procedural History and Background**

1. On January 27, 2014, the City of Pflugerville filed an application with the Texas Commission on Environmental Quality (TCEQ) to amend CCN No. 20678 in Travis and Williamson Counties.
2. The City of Pflugerville subsequently amended the application on May 5, 2014.
3. On May 5, 2014, the TCEQ accepted the City of Pflugerville's application for filing and requested that revised public noticed be provided without delay.
4. 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 the area of overlap: Cottonwood Creek Water Control and Improvement District (WCID) 3; Kelly Lane WCID I 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;

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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.

5. On May 19, 2014, the TCEQ Utilities Financial Review Division determined that the City Pflugerville had demonstrated adequate financial and managerial capability to provide service to the area subject to the City of Pflugerville's application.
6. Notice was also provided by publication in the Pflugerville Pflag on May 21, 2014 and May 28, 2014 and in 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.
7. The City of Pflugerville provided notice of the application to landowners on June 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 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 (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 No. 2), Northeast Travis County Utility 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.
8. 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 and 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 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; Wilbarger Creek MUD 2; Travis County; and Williamson County. The City of Pflugerville was given until July 18, 2014 to provide the requested items.

9. From June 11, 2014 to July 3, 2014, the following districts concurred with the overlap of the City of Pflugerville's proposed wastewater CCN area with the boundaries of each respective district: 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.
10. On June 19, 2014, the Sparks James Life Estate notified the TCEQ that they were electing to exclude their land from the proposed service area requested in the City of Pflugerville's application.
11. On June 23, 2014, notice was provided to New Sweden MUD 3, the City of Elgin CCN 20120, Round Rock Ranch PUD, Manor Village WWTP, Cottonwood Creek MUD Northtown MUD, Travis County MUD 2, Wells Branch MUD, Wilbarger Creek MUD 1, Wilbarger Creek MUD 2, Travis County, and Williamson County. An affidavit that these entities received notice was filed on November 6, 2014.
12. On June 24, 2014, Deborah and Frank Holmes notified the TCEQ that they were electing to exclude their land from the proposed service area requested in the City of Pflugerville's application.

13. On June 24, 2014, June Miles notified the TCEQ that she was electing to exclude her land from the proposed service area requested in the City of Pflugerville's application.
14. On June 24, 2014, Lakeside WCID 1, Lakeside WCID 2-A, Lakeside WCID 2-B, Lakeside WCID 2-C, and Lakeside WCID 2-D requested to not be included in the sewer service area requested in this application.
15. On June 26, 2014, the City of Pflugerville informed Deborah and Frank Holmes, June Miles, and the Sparks James Life Estate that City staff had reviewed their opt-out request and determined that each of their respective properties were not within the City of Pflugerville's requested CCN boundary.
16. On June 30, 2014, it was determined by TCEQ Staff that Cottonwood Creek WCID 3 was not an overlapping service provider.
17. On July 1, 2014, the Irving Milford Olson Life Trust requested to opt-out of the proposed service area requested in the City of Pflugerville's application.
18. On July 2, 2014 and July 3, 2014, Robert M. Tiemann notified the TCEQ that he was electing, pursuant to Texas Water Code § 13.246(h), to exclude various tracts of his land from the proposed service area requested in the City of Pflugerville's application.
19. On July 2, 2014, Lakeside WCID 1, Lakeside WCID 2-A, Lakeside WCID 2-B, Lakeside WCID 2-C, and Lakeside WCID 2-D requested a hearing on the City of Pflugerville's application.
20. On July 3, 2014, Lakeside MUD Nos. 5 and 6 requested to not be included in the amended boundary and requested a hearing on the City of Pflugerville's application.
21. On July 9, 2014, the City of Pflugerville informed the TCEQ that Robert Tiemann and the Irving Milford Olson Life Trust had requested to opt-out of the amended area and that these properties had been removed from the revised map. 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 amended area, so they were notified via USPS mail that their properties were not in the request for the amended CCN.
22. On July 9, 2014, the City of Pflugerville represented that Lakeside MUD 5 and Lakeside MUD 6 should be removed from the updated map.

23. On July 16, 2014, the City of Elgin requested a public hearing on the City of Pflugerville's CCN.
24. On July 22, 2014, TCEQ Staff determined that Lakeside WCID 1, Lakeside WCID 2-A, Lakeside WCID 2-B, Lakeside WCID 2-C, and Lakeside WCID 2-D Districts should be removed from the updated map.
25. On July 28, 2014, the City of Elgin withdrew its request for a public hearing.
26. On August 5, 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.
27. On November 4, 2014, Lakeside MUD Nos. 5 and 6 withdrew their request for a public hearing on the City of Pflugerville's application.
28. On December 3, 2014, Commission Staff filed a recommendation on final disposition recommending that the application be approved.

#### **Evidence**

29. The following evidence was admitted into the record of this proceeding: (a) the City of Pflugerville's January 27, 2014 application; (b) the City of Pflugerville amendment to its application, filed on May 5, 2014; (c) a publisher's affidavit dated May 29, 2014 and signed by Carolyn Kline; (d) affidavits dated June 4, 2014 and November 6, 2014, attesting to notice mailed on June 3, 2014 and June 23, 2014; and (e) Commission Staff's recommendation regarding final disposition filed on December 3, 2014.

#### **Description of the Application**

30. This application arises out of two transactions. In the first transaction, it was agreed between Sorento Holdings 2012 LLC (Sorento), a Texas limited liability company, and Manville Water Supply Corporation, LLC (Manville), that real property within the service area of Manville, CCN No. 11144, would be decertified. In the second transaction, it was agreed between Sorento and the City of Pflugerville that upon decertification from Manville's certificated water service territory, the City of Pflugerville would provide retail water and wastewater services to that same real property.

31. Sorento is the owner of, or otherwise intends to acquire, certain real property located in Travis County that it desires to develop for residential and commercial purposes.
32. A portion of the real property proposed to be developed by Sorento is located within the certificated service territory of Manville, and the remaining portion of the real property to be developed by Sorento is located within the certificated water territory of the City of Pflugerville.
33. Under the agreement, Sorento desires that the City of Pflugerville provide retail water and wastewater service to the entirety of the development that is located within Manville's certificated water service territory. Sorento entered into an agreement with Manville in which Manville decertified the portions of property at issue so that the City of Pflugerville will be the sole provider of retail water and wastewater services to the entirety of the Sorento development.
34. No change in the certificated name for CCN No. 20678 is requested as part of this transaction.
35. The City of Pflugerville's request for an amendment to CCN No. 20678 is reasonable, consistent with the public interest, and should be approved.

### **Informal Disposition**

36. More than 15 days have passed since completion of the notice provided in this docket.
37. No protests have been filed. 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.

### **II. Conclusions of Law**

1. The City of Pflugerville operates a municipally owned utility as defined in Texas Water Code (Vernon 2007 & Supp. 2014) § 13.001.
2. 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.
3. The City of Pflugerville has provided notice in compliance with P.U.C. SUBST. R. 24.106 and Texas Water Code § 13.246.

4. 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.
5. Property of Robert Tiemann and the Irving Milford Olson Life Trust was removed from the City of Pflugerville's application and revised map pursuant to Texas Water Code § 13.246(h).
6. The requirements for informal disposition pursuant to P.U.C. PROC. R. 22.35(b)(1) have been met in this proceeding.

### III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following Order:

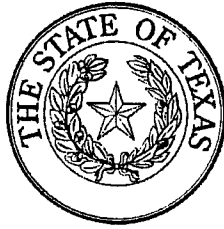
1. Consistent with Commission Staff's recommendation and this Notice, the City of Pflugerville's application, as amended by its revised map that removed property of Robert Tiemann and the Irving Milford Olson Life Trust, is approved.
2. City of Pflugerville CCN No. 20678 is amended to reflect that the City of Pflugerville will provide retail water and wastewater services to the real property previously certificated to Manville.
3. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

SIGNED AT AUSTIN, TEXAS the 17<sup>th</sup> day of December 2014.

PUBLIC UTILITY COMMISSION OF TEXAS

  
IRENE MONTELONGO  
DIRECTOR, DOCKET MANAGEMENT





# Public Utility Commission Of Texas

**By These Presents Be It Known To All That**

**City of Pflugerville**

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. 20678**

to provide continuous and adequate sewer utility service to that service area or those service areas in Travis and Williamson Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 43105 are on file at the Commission offices in Austin, Texas; and are a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty City of Pflugerville, 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, the 17th day of December 2014.

