



Control Number: 43156



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DOCKET NO. 43156

**APPLICATION OF TRI-COUNTY
SPECIAL UTILITY DISTRICT TO
AMEND A CERTIFICATE OF
CONVENIENCE AND NECESSITY IN
FALLS, LIMESTONE, MCLENNAN,
AND ROBERTSON COUNTIES (37828-C)**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

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PUBLIC UTILITY COMMISSION
FILING CLERK

COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Staff's Recommendation on Final Disposition. In support of its recommendation, Staff states the following:

I. BACKGROUND AND STATUS UPDATE

On January 7, 2014, Tri-County Special Utility District (Tri-County SUD or Applicant) filed with the Texas Commission on Environmental Quality (TCEQ) an application (Application) to amend its water certificate of convenience and necessity (CCN) No. 10054 in Falls, Limestone, McLennan, and Robertson Counties pursuant to TEX. WATER CODE ANN. §§ 13.246(c), 13.254 and 30 TEX. ADMIN. CODE § 291.113.¹ In a letter dated May 16, 2014, TCEQ accepted the Application for filing and addressed mapping and CCN overlap issues requiring more information from the utility that have yet to be resolved. On September 1, 2014, pursuant to House Bill 1600 and Senate Bill 567 of the 83rd Legislature, Regular Session, functions relating to the economic regulation of water and sewer utilities were transferred from TCEQ to the PUC.

In Order No. 3, the Administrative Law Judge (ALJ) allowed the Applicant until January 20, 2015 to cure the deficiencies or face dismissal of the Application. On January 12, 2015, the Applicant filed supplemental mapping information. However, the deficiencies in the Application

¹ Currently P.U.C. SUBST. R. 24.113.

remain uncured. Order No. 3 also directed Staff to file a recommendation or status update by February 2, 2015. Therefore, this pleading is timely filed.

II. RECOMMENDATION ON FINAL DISPOSITION

As detailed in the attached memorandum of Fred Bednarski and Tracy Harbour of the Water Utilities Division (Attachment A), the Application still has mapping deficiencies. Therefore, Staff recommends the application be dismissed without prejudice pursuant to PUC SUBST. R. 22.181(a)(1)(F), so that the Applicant may refile an application with adequate data. Attachment A also makes suggestions on how Applicant may improve its next submission if Applicant chooses to do so.

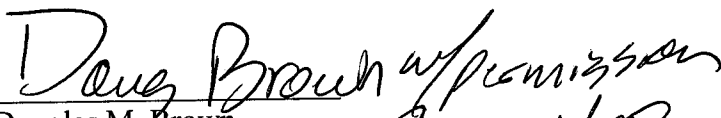
III. CONCLUSION

Staff respectfully requests that the Administrative Law Judge enter an order in accordance with this filing.

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

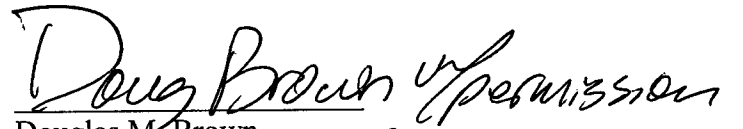

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Sept 11, 2015

DOCKET NO. 43156
CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on February 2, 2015 in accordance with P.U.C. PROC. R. 22.74.


Douglas M. Brown


PUC Interoffice Memorandum

To: Doug Brown
Legal Division

Thru: Tammy Benter, Director
Water Utilities Division

From: Fred Bednarski III, Financial & Managerial Review Specialist
Tracy Harbour, GIS Specialist
Water Utilities Division

Date: January 30, 2015

Subject: Docket No. 43156, Staff Administrative Review Recommendation for Application of Tri County Special Utilities District (SUD) to Amend Water Certificate of Convenience and Necessity (CCN) No. 10054

Tri County SUD, (Applicant) filed an application to amend their water CCN in Falls, Limestone, McLennan, and Robertson Counties and to obtain dual certification with portions of the City of Marlin (CCN 10042); City of Riesel (CCN 10029); City of Waco (CCN 10039); and Perry Water Supply Corporation (WSC) (CCN 11129), pursuant to the criteria in the Texas Water Code, Chapter 13, and the TCEQ's rules outlined in Title 30, Texas Administrative Code (TAC) §§291.101 – 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 P.U.C. SUBST. R. 24.101 – 24.107.

Based upon my review of the additional information provided, I recommend that the application be deemed insufficient and dismissed. If the Applicant would choose to refile an application we recommend the Applicant consider the following:

The Applicant has not submitted sufficient maps as listed on page 5 of the CCN Amendment Application and as required in the P.U.C. SUBST. Rule in Chapter 24. Although the Applicant submitted updated maps on January 12, 2015, they did not effectively resolve the items requested in Commission Staff's Response to Order No. 2 filed on December 16, 2014. Therefore, Staff is unable to fully evaluate whether or not the Applicant's digital data and hard copy maps represent the same proposed facility lines for this application. Also, Staff is unable to determine if the 2-mile list neighboring entities required to receive notice is complete or not.

The remaining mapping deficiencies include the following:

- (1) Applicant has not submitted an adequate detailed (large scale) map with enough detail to accurately delineate the proposed water service area (facility lines) being requested in this application.
- (2) Upon further review of the Applicant's digital data, Staff located a new overlap between Tri County SUD's proposed facility lines and the existing CCN service area of the City of Bremond (CCN No. 11302).

To resolve this overlap, the Applicant would need to either:

- a. Remove the overlap and resubmit their digital data; or
- b. Obtain an agreement for dual certification with CCN No. 11302 and revise the notice documents accordingly.

We suggest the following mapping guidance for this Applicant's proposed service area represented as facility lines, upon resubmittal:

- (1) Submit a general location (small scale) map showing only the location of the proposed facility lines within each county.
- (2) Submit a detailed (large scale) map delineating only the proposed facility lines with enough detail to accurately locate the facility lines in proximity to surrounding roads, streets and highways.
 - a. As noted in # 2 of Staff's response for Order No. 2, Staff suggested the Applicant submit a similar map as the one named "Existing Plants and Wells Location Map."
 - b. The proposed facility lines should be displayed in a color that stands out next to the surrounding roads, streets and highways.
 - c. Existing CCN service areas or facility lines should not be shown on this map.
- (3) Submit a separate map (as requested in Order No. 2) showing the area of dual certification agreed upon between Tri County SUD's proposed facility lines and the existing certificated CCN holders by either:
 - a. Submit the original copy of Exhibit A map referenced in each agreement Tri County SUD has with each CCN holder; or by
 - b. Submit similar maps as those submitted on January 12, 2015. However, do not show Tri County SUD's existing water CCN facility lines on this or any proposed map. Tri County SUD's existing CCN facility lines often cover up the proposed facility lines, and we are then unable to clearly distinguish Tri County SUD's existing facility lines from their proposed facility lines.
- (4) Considering the Staff guidance provided, please submit documentation on how the Applicant has resolved the overlap with the City of Bremond's CCN No. 11302.