



Control Number: 43253



Item Number: 14

Addendum StartPage: 0

APPLICATION OF THE CITY OF
SCHERTZ TO AMEND ITS SEWER
CERTIFICATE OF CONVENIENCE
NECESSITY IN BEXAR COUNTY
(37913-C)

§
§
§
§
§

PUBLIC UTILITY COMMISSION
OF TEXAS

2015 FEB 17
PUBLIC UTILITY COMMISSION
FILING CLERK

**CITY OF SCHERTZ'S RESPONSE TO ORDER NO. 5 AND REQUEST FOR
EXTENSION AND CLARIFICATION OF APPLICATION DEFICIENCIES**

City of Schertz, Texas (the "City") files this Response to Order No. 5. In support of its Response, the City states the following:

I. BACKGROUND

On May 9, 2014, the City filed an application to amend its sewer certificate of convenience and necessity ("CCN") No. 20271 in Bexar County, Texas with the Texas Commission on Environmental Quality ("TCEQ"). The City requests to amend its CCN by obtaining the Retail or Collection portion of the sewer CCN that is currently held by the San Antonio River Authority ("SARA"). SARA, which has the sole CCN for this area, only requires the Wholesale or Treatment CCN and has agreed to allow the City to request the Retail or Collection CCN for this area within the City's corporate limits. The area is currently being served with septic systems.

The economic regulation of water and wastewater utilities was transferred from TCEQ to the Public Utility Commission (the "Commission") effective September 1, 2014. On September 24, 2014, the Commission issued Order No. 2, requiring the Commission Staff to file comments on the administrative completeness of the City's application. On October 8, 2014, the Commission Staff filed its response with the Commission, noting certain deficiencies in the City's application (the "Original Staff Response"). On October 9, 2014, the Commission issued Order No. 3 Finding Application Deficient, Establishing Deadlines and Opportunity to Cure ("Order No. 3"). On November 25, 2014, the City filed a Response to Order No. 3, requesting an extension to cure certain deficiencies delineated in the Original Staff Response. On December 9, 2014, the Commission issued Order No. 4, extending the City's deadline to cure

deficiencies noted in Order No. 3 to January 31, 2015 ("Order No. 4"). On January 29, 2015, the City filed a Response to Order No. 4, submitting drafts of items 1 and 2 of the Original Staff Response and requesting an extension for items 3 and 4 of the Original Staff Response. On January 30, 2015, the Commission issued Order No. 5, permitting the City (i) to submit a final, approved copy of the Interlocal Agreement relating to items 1 and 2 of the Original Staff Response to the Commission by February 27, 2015, and (ii) to provide a status update in connection with items 3 and 4 of the Original Staff Response to the Commission by March 3, 2015 ("Order No. 5"). On February 10, 2015, the Commission Staff filed a Response to Order No. 5, requesting the Commission to grant the extension the City requested and outlining the remaining deficiencies in the City's application (the "Amended Staff Response"). The City files this Response to Order No. 5, requesting (i) an extension for items 1 and 2 of the Original Staff Response and (2) clarification of the deficient items the City must submit to the Commission Staff to complete the City's application.

II. RESPONSE

The Original Staff Response requests the City to provide the following items before its application can be deemed complete in accordance with P.U.C. SUBST. R. 24.105:

1. Pursuant to P.U.C. SUBST. R. 24.105(13), a copy of the agreement between the City and SARA for dual certification.
2. A copy of the contract between the City and SARA for SARA to continue to provide the treatment portion of the wastewater, pursuant to P.U.C. SUBST. R. 24.105(15). This rule requires a sewer CCN to provide information that the City is in compliance with P.U.C. SUBST. R. 24.94 relating to the adequacy of sewer service.
3. Pursuant to P.U.C. SUBST. R. 24.105(14)(A), a copy of the approval letter for the plans approved by the TCEQ and specifications for the system or proof that the City has submitted either a preliminary engineering report or plans and specifications for the first phase of the system.
4. Pursuant to P.U.C. SUBST. R. 24.105(15), a copy of SARA's most recent sewer inspection report, and pursuant to P.U.C. SUBST. R. 24.105(14), the City's most recent water inspection report. For each system deficiency listed, if any, attached should be a brief explanation listing the actions taken or being taken to correct the listed deficiencies, including the proposed completion dates. This information would

ensure that the City is in compliance with P.U.C. SUBST. R. 24.94, relating to the adequacy of sewer service, and P.U.C. SUBST. R. 24.93, relating to the adequacy of water utility service.

5. The general location map and detailed hard copy map provided by the City do not appear to delineate the same proposed sewer CCN service area with CCN No. 20271. Therefore, the City should resubmit both hard copy maps showing the same proposed sewer service area, or retract the "Overall Location Map." Additionally, the City must submit digital data delineating the same proposed sewer CCN service area displayed on the remaining hard copy map titled, "Amended Sewer CCN 20271 Addition City of Schertz."

In the Amended Staff Response, the Commission Staff requests the City to provide the following items to complete its application to the Commission and the Commission Staff:

1. A copy of the signed agreement with the San Antonio River Authority (SARA) for dual certification.
2. A copy of the signed contract with SARA for continuation of treatment for a portion of the wastewater.
3. A copy of the TCEQ approval letter for the plans and specifications of the wastewater system, or proof that the City has submitted either a preliminary engineering report, or proof of plans and specifications submitted to TCEQ for the first phase of the proposed system.
4. The applicant has not met mapping requirements due to incomplete or inadequate mapping information. Additional mapping documentation is required for the following:
 - (a) General location map and detailed hard copy map do not appear to delineate the same proposed sewer CCN service area with CCN No. 20271.
 - (b) Provide a list of neighboring entities to notice. It is the responsibility of the applicant to submit notice within 2-miles of the proposed sewer service areas including utilities (CCNs), districts, counties, groundwater conservation districts, cities and their ETJs and any other entities required to receive notice.

In the Amended Staff Response, the Commission Staff requires the City to provide the same information under item 1, item 2, and item 3 as the Original Staff Response. However, in the Amended Staff Response, the Commission Staff modifies two of the items needed to

complete the City's application. First, the Commission Staff no longer lists as a deficiency item 4 of the Original Staff Response. Second, the Commission Staff requests mapping documentation in item 4 of the Amended Staff Response that the City believes it has already provided to the Commission and the Commission Staff in connection with item 5 of the Original Staff Response. The City seeks an extension and clarification as described below in this Response.

The City requests an extension to file item 1 and item 2 of the Original Staff Response and the Amended Staff Response. The City previously submitted a draft of an Interlocal Agreement between the City and SARA (the "Interlocal Agreement") to address item 1 and item 2 of the Original Staff Response. SARA and the City were initially scheduled to approve the Interlocal Agreement on February 18, 2015, and on February 24, 2015, respectively. SARA informed the City on February 18, 2015, that the board of directors of SARA will not consider the Interlocal Agreement until the City approves the Interlocal Agreement. Due to this change, the City and SARA rescheduled consideration of the Interlocal Agreement to March 10, 2015, and March 18, 2015, respectively. Once SARA approves the Interlocal Agreement at its meeting on March 18, 2015, the City will be in a position to submit the approved and executed copy to the Commission and the Commission Staff. The City believes that it will be able to provide the final, approved documents to the Commission and the Commission Staff no later than March 31, 2015.

With regard to item 3 of the Original Staff Response and the Amended Staff Response, the City will provide the information requested by March 3, 2015, to the Commission and the Commission Staff in accordance with the Order No. 5.

With regard to item 4 of the Original Staff Response, the City seeks clarification regarding whether the Commission Staff deems this item a deficiency for purposes of the City's application. The City recognizes that the Commission and Commission Staff may not be able to provide clarification regarding this matter prior to March 3, 2015. As such, the City will provide a status update regarding the City's progress in providing this information to the Commission and the Commission Staff no later than March 3, 2015, in accordance with Order No. 5.

Finally, the City seeks clarification from the Commission Staff with regard to item 5 of the Original Staff Response and item 4 of the Amended Staff Response. The City submitted the maps requested in item 5 of the Original Staff Response in both hard copy and electronic format to the Commission and the Commission Staff in the City's Response to Order No. 3. The City believes the maps meet the requirements of both item 5 of the Original Staff Response and item 4 of the Amended Staff Response. The City requests that the Commission Staff clarify whether the maps the City submitted to the Commission and the Commission Staff meet the deficiencies outlined in item 5 of the Original Staff Response and item 4 of the Amended Staff Response.

III. CONCLUSION

The City respectfully requests (1) the Commission to issue an order allowing the City to provide a final, approved copy of the Interlocal Agreement to the Commission and the Commission Staff no later than March 31, 2015; and (2) the Commission to issue an order requesting the Commission Staff to clarify the City's application deficiencies, including (a) whether item 4 of the Original Staff Response continues to be a deficiency and (b) whether the maps the City submitted under item 5 of the Original Staff Response meet the deficiency delineated in item 4 of the Amended Staff Response.

Respectfully submitted,

By: 

Connie C. Lock

State Bar No. 24007191

Denton Navarro Rocha Bernal Hyde & Zech, P.C.

2517 N. Main Avenue

San Antonio, Texas 78212-4685

(210) 227-3243, Fax (210) 225-4481

connie.lock@rampage-sa.com

ATTORNEY FOR CITY OF SCHERTZ, TEXAS

Dated: February 25, 2015

CERTIFICATE OF SERVICE

I, Connie C. Lock, Attorney for the City, certify that a copy of this document was served on all parties of record in this proceeding on February 25, 2015, in accordance with P.U.C. Procedural Rule 22.74 in the following manner: electronic facsimile transmission.



Connie C. Lock