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DOCKET NO. 43253

APPLICATION OF THE CITY OF SCHERTZ TO AMEND ITS SEWER CERTIFICATE OF CONVENIENCE NECESSITY IN BEXAR COUNTY (37913-C)	§ § § § § §	2015 MAY -1 AM 9:59 PUBLIC UTILITY COMMISSION FILING CLERK OF TEXAS
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**COMMISSION STAFF'S RESPONSE TO ORDER NO. 9 – SUPPLEMENTAL
RECOMMENDATION ON THE SUFFICIENCY OF THE AMENDED APPLICATION**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Response to Order No. 9 – Supplemental Recommendation on the Sufficiency of the Amended Application, and would show the following:

I. BACKGROUND

On May 9, 2014, the City of Schertz, Texas (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 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 the area within the City's corporate limits.

On September 1, 2014 the economic regulation of water and wastewater utilities was transferred from the TCEQ to the Public Utility Commission of Texas (PUC or Commission). On September 24, 2014, the Commission issued Order No. 2 requiring Commission Staff to file comments on the administrative completeness of the City's application. On October 8, 2014, Commission Staff filed its response identifying certain deficiencies with the City's application. On October 9, 2014, the Commission issued Order No. 3 which found the application deficient and ordered the applicant to cure the noted deficiencies. Subsequently, on November 25, 2014, the City requested an extension to allow it greater time to cure the noted deficiencies. Order No. 4 granted this extension. On January 30, 2015, the City filed its Response to Order No. 4 and Request for Extension for Application Deficiencies where the City noted that though it has submitted information it believes cures two of the stated deficiencies, the City would like additional time to cure the remaining deficiencies noted in Staff's October 8, 2014 response. On

January 30, 2015, Order No. 5 was issued directing Staff to respond to the City's requested extension by February 10, 2015. On February 25, 2015, the City filed a response to Order 5 and sought an extension of its deadline to provide a final, approved copy of the Interlocal Agreement to the Commission and asked for clarification of the deficiencies in the application. On February 27, 2015 the Administrative Law Judge (ALJ) issued Order No. 7 directing Staff to file a response to the City's request for clarification by March 6, 2015. On March 6, 2015 Staff requested this deadline be extended to March 13, 2015. In Order No. 8, the ALJ granted this extension, setting Staff's deadline for March 13, 2015. On March 13, 2015, Commission Staff recommended the approval of the City's request to extend the deadline to March 31, 2015 to provide a final, approved copy of the Interlocal Agreement to the Commission and outlined and attempted to clarify the remaining deficiencies found in the application. On March 18, 2015, Order No. 9 was issued, directing Staff to file a supplemental recommendation on the sufficiency of the amended application and notice on or before May 1, 2015. Therefore, this pleading is timely filed.

II. STAFF'S RECOMMENDATION ON THE APPLICATION AND NOTICE

As detailed in the attached memorandum of Mary Lupo of the Commission's Water Utilities Division, Staff has reviewed the application and recommends that it be deemed sufficient and should be accepted for filing. Staff has attached the notice that the Applicant must provide in accordance with Title 16, TEX. ADMIN. CODE (16 TAC) § 24.106. Staff further requests that the notice be attached to the ALJ's order and recommends that the Applicant be directed to provide the approved notice to any districts, groundwater conservation districts, counties, utilities, cities, cities with an extraterritorial jurisdiction within two (2) miles of the proposed service area, any city with an extraterritorial jurisdiction which overlaps the proposed service area, landowners with more than 25 acres, and any affected parties in the proposed CCN area, pursuant to 16 TAC § 24.106(b). The Applicant should include a copy of a map showing the proposed service area with the individual notices to neighboring utilities, other affected parties, and each landowner, pursuant to 16 TAC § 24.106(a)(2). Additionally, Staff recommends that the Applicant publish the approved notice once each week for two consecutive weeks in a newspaper of general circulation in Bexar County pursuant to 16 TAC § 24.106(c).

Staff further recommends that the Applicant file a copy of the actual notice sent with attached signed affidavits supporting the notice by June 9, 2015.

III. PROPOSED PROCEDURAL SCHEDULE

In support of the recommendation stated above, Staff proposes the following procedural schedule:

<u>Event</u>	<u>Date</u>
Deadline for Applicant to file affidavits of proof of notice.	June 9, 2015
Deadline for intervention; deadline for intervenors to request a hearing on the merits.	Within 30 days of mailing or publication of notice, whichever occurs later.
Deadline for Staff to request a hearing or to file a recommendation on final disposition or recommend an additional procedural schedule	August 11, 2015
Deadline for Applicant to request a hearing or respond to Staff's recommendation on final disposition; or if no disputed issues exist, deadline for parties to file proposed findings of fact, conclusions of law, and ordering paragraphs.	August 20, 2015

Staff notes that customers have the ability to opt out of a CCN request. In the event customers wish to opt out of the CCN, additional procedures may be needed before Staff may make a recommendation. Therefore, Staff's proposed procedural schedule allows Staff the opportunity to either file a recommendation after the customer comment period or recommend an additional procedural schedule.

IV. CONCLUSION

Staff respectfully requests that the ALJ issue an order consistent with Staff's recommendations in this response.

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director-Legal Division

Shelah J. Cisneros
Managing Attorney-Legal Division

Maria Faconti
Maria Faconti
Attorney-Legal Division
State Bar No. 24078487
(512) 936-7235
(512) 936-7268 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

DATED: May 1, 2015

DOCKET NO. 43253
CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this the 1st of May, 2015, in accordance with P.U.C. Procedural Rule 22.74.

Maria Faconti
Maria Faconti

PUC Interoffice Memorandum

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To: Maria Faconti
Legal Division

Through: Tammy Benter, Director
Water Utilities Division

From: Mary Lupo, Utility Rates Analyst/Auditor
Water Utilities Division

Date: April 30, 2015

Subject: Docket No. 43253, Application of the City of Schertz to Amend its Sewer Certificate of Convenience and Necessity in Bexar County (37913-C)

The City of Schertz (City) filed an application to amend Certificate of Convenience and Necessity (CCN) No. 20271 in Bexar County, pursuant to the criteria in Chapter 13 of the Texas Water Code and Chapter 24 of Commission rules. If approved, the application will result in the decertification of a portion of the City of Schertz' CCN and dual certification with a portion of San Antonio River Authority's CCN No. 20852.

Based on my review of the information in the application, I recommend that the application be deemed sufficient for filing. I further recommend the following:

1. In addition to those entities listed in the application listed in their filing on March 31, 2015, the Applicant must also notice the following entities located within a 2-mile buffer of the proposed sewer service areas:

City of Converse (CCN No. 20286)
Canyon Regional Water Authority (District No. 2253700)
Cibolo Creek Municipal Authority (District No. 2286000)
East Central SUD (2799300)
Edwards Aquifer Authority (District No. 2816600)
Green Valley SUD (3419500) (CCN No. 20973)
Guadalupe-Blanco River Authority (District No. 3422000)
San Antonio River Authority (District No. 7410000) (CCN No. 20852)
San Antonio Water System (CCN No. 20285)
City of Cibolo
City of Garden Ridge
Town of Saint Hedwig
City of San Antonio
City of Santa Clara
City of Universal

2. Provide the correct notice of the application to the following:
 - a. any districts, groundwater conservation districts, counties, utilities, cities, cities with an extraterritorial jurisdiction within two (2) miles of the proposed service areas;
 - b. any city with an extraterritorial jurisdiction which overlaps the proposed service areas;
 - c. any customers transferred, or other affected parties in the requested area; and
3. The Applicant include copy of a map showing the proposed service area with the individual notices to neighboring utilities, other affected parties and each landowner. It is the Applicant's burden to provide an accurate map delineating the proposed area with each individual notice. The map should be clearly reflect that the proposed area that will be dually certificated with San Antonio River Authority's CCN No. 20852 and the area that will be decertified from the City of Shertz' CCN No. 20271. Information related to districts including addresses can be obtained by the Applicant from the TCEQ web site located at <http://www14.tceq.texas.gov/iwud/>.

The Applicant be ordered to return within 30 days of the Commission order, a copy of the actual notices issued, the map issued with the individual mailed notice, and attached signed affidavits that the notice was given.

Notice for Publication

NOTICE OF APPLICATION TO AMEND SEWER CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) TO PROVIDE SEWER UTILITY SERVICE IN BEXAR AND GUADALUPE COUNTIES, TEXAS

The City of Schertz filed an application with the Public Utility Commission of Texas to amend/decertify a portion of its sewer Certificate of Convenience and Necessity No. 20271 and to obtain dual certification with a portion of San Antonio River Authority CCN No. 20852 in Bexar and Guadalupe Counties.

The area of dual certification with San Antonio River Authority is approximately 3192 acres in Bexar County and is bounded on the north by Lower Seguin Rd.; on the east by FM 1518; on the south by IH-10 East; and on the west by TX-1604 Loop.

The area to be decertified by the City of Schertz is approximately 312 acres in Guadalupe County and is bounded on the north by IH-35; on the east by Nor-Tex Dr.; on the south by CR 380; and on the west by CR 377.

The proposed amendment includes the following zip code: 78154.

A copy of the proposed service area map is available at:
City of Schertz Public Works, 10 Commercial Place, Bldg. 2, Schertz, TX. 78154; Hours 8am – 5pm Monday – Friday; Phone: (210) 619-1800

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should write the:

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

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the Commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the Commission will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If you are a landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the proposed area, you may request to be excluded from the proposed area (or "opt out") by providing written notice to the Commission within (30) days from the date that notice was provided by the applicant. All request to opt out of the requested service area must include a scaled, general location map and a metes and bounds description of the tract of land.

Persons who meet the requirements to opt out, and wish to request this option should file the required documents with the:

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

A copy of the request to opt out of the proposed area must also be sent to the applicant. Staff may request additional information regarding your request.

Si desea informacion en Espanol, puede llamar al 1-512-936-7221

Notice to Neighboring Systems, Landowners and Cities

NOTICE OF APPLICATION TO AMEND SEWER CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) TO PROVIDE SEWER UTILITY SERVICE IN BEXAR AND GUADALUPE COUNTIES, TEXAS

To: _____
(Neighboring System, Landowner or City)

(Address)

(City State Zip)

Date Notice Mailed: _____, 2015

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The area to be decertified by the City of Schertz is approximately 312 acres in Guadalupe County and is bounded on the north by IH-35; on the east by Nor-Tex Dr.; on the south by CR 380; and on the west by CR 377.

See enclosed map of proposed area.

The proposed amendment includes the following zip code: 78154.

A copy of the proposed service area map is available at:
City of Schertz Public Works, 10 Commercial Place, Bldg. 2, Schertz, TX. 78154; Hours 8am – 5pm Monday – Friday ; Phone: (210) 619-1800

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If you are a landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the proposed area, you may request to exclude the tract from the proposed area (or "opt out") by providing written notice to the Commission within (30) days from the date that notice was provided by the applicant. All request to opt out of the requested service area must include a scaled, general location map and a metes and bounds description of the tract of land.

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Austin, TX 78711-3326**

A copy of the request to opt out of the proposed area must also be sent to the applicant. Staff may request additional information regarding your request.

Si desea informacion en Espanol, puede llamar al 1-512-936-7221.

PUBLIC UTILITY COMMISSION



PUBLISHER'S AFFIDAVIT DOCKET NO. _____

STATE OF TEXAS
COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared

who being by me duly sworn, deposes and that (s)he is the

_____ of the _____
(TITLE) (NAME OF NEWSPAPER)

that said newspaper is regularly published in _____
(COUNTY/COUNTIES)

and generally circulated in _____, Texas;
(COUNTY/COUNTIES)

and that the attached notice was published in said newspaper on the following dates, to wit:

(DATES)

(SIGNATURE OF NEWSPAPER REPRESENTATIVE)

Subscribed and sworn to before me this _____ day of _____, 20____
to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____

PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE TO NEIGHBORING UTILITIES, LANDOWNERS AND AFFECTED PARTIES
DOCKET NO. _____

STATE OF TEXAS
COUNTY OF _____

_____ has provided
individual notice to the following entities and landowners:

DATE

OATH

I, _____, being duly sworn, file this form as
_____ (indicate relationship to applicant, that is,
owner, member of partnership, title of officer of corporation, or other authorized representative
of applicant); that in such capacity, I am qualified and authorized to file and verify such form,
am personally familiar with the notices given with this application, and have complied with all
notice requirements in the application and application acceptance letter; and that all such
statements made and matters set for therein are true and correct.

Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the
applicant, or its' attorney, a properly verified Power of Attorney must be enclosed.

Subscribed and sworn to before me this _____ day of _____, 20____, to
certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____