

Control Number: 43360



Item Number: 80

Addendum StartPage: 0

SOAH DOCKET NO. 473-16-0101.WS
PUC DOCKET NO. 43360

RECEIVED
2017 MAY -3 AM 11:16
PUBLIC UTILITY COMMISSION
CLERK

APPLICATION OF CITY OF § BEFORE THE STATE OFFICE
PLEASANTON FOR CERTIFICATES §
OF CONVENIENCE AND §
NECESSITY IN ATASCOSA COUNTY §
(37978-C & 37991) § OF
ADMINISTRATIVE HEARINGS

COMMISSION STAFF'S FINAL RECOMMENDATION

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

I. BACKGROUND

On March 14, 2017, the Administrative Law Judge (ALJ) issued SOAH Order No. 14, which set May 3, 2017 as the deadline for Staff to file its final recommendation. Accordingly, this recommendation is timely filed.

II. FINAL RECOMMENDATION

Staff recommends that the application be granted, as supported by the attached memorandum from Elisabeth English, Engineering Specialist in the Water Utilities Division. Specifically, Staff recommends that Pleasanton meets the requirements of Texas Water Code § 13.246 and 16 Tex. Admin. Code § 24.102, and has the financial, technical, and managerial capability to provide continuous and adequate service.

80

Dated: May 3, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

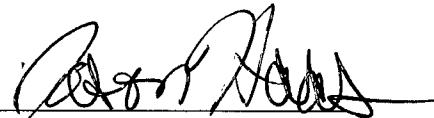
Katherine Gross
Managing Attorney



Jason Haas
State Bar No. 24032386
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7255
(512) 936-7268 (facsimile)
Jason.haas@puc.texas.gov

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on May 3, 2017
in accordance with 16 Tex. Admin. Code § 22.74:



Jason Haas

PUC Interoffice Memorandum

To: Jason Haas, Attorney
Legal Division

Thru: Tammy Benter, Director
Lisa Fuentes, Manager
Water Utilities Division

From: Elisabeth English, Engineering Specialist
Water Utilities Division

Date: May 1, 2017

Subject: **SOAH Docket No. 473-16-0101.WS, PUC Docket No. 43360:** *Application of City of Pleasanton to obtain water and sewer Certificate of Convenience and Necessity in Atascosa County*

On July 9, 2014, the City of Pleasanton, (Pleasanton or Applicant), filed an application with the Texas Commission on Environmental Quality to obtain water and sewer Certificates of Convenience and Necessity (CCN), in Atascosa County, pursuant to Texas Water Code, §§ 13.242-.250 (TWC) and 16 Texas Admin. Code §§ 24.101-.107 (TAC). The Application was referred to the State Office of Administrative Hearings (SOAH) on September 9, 2015.

Pleasanton is seeking water service area that includes approximately 17,555 acres and 4,414 current customers as well as sewer service area including approximately 24,305 acres and 3,877 current customers. Pleasanton is currently providing retail water and sewer service to the requested areas and has developed a master plan to guide the growth of Pleasanton through the year 2025.

The application was accepted for filing on April 24, 2015. Proper notice was provided on June 3, 2015, to current customers, neighboring systems, and cities in Atascosa County in accordance with 16 TAC § 24.112(c). On June 3 and 10, 2015, notice was published in the *Pleasanton Express* in accordance with 16 TAC § 24.112(c). The affidavit of notice was received by the Commission on August 21, 2015. The comment period ended July 10, 2015. A protest to the application was filed by the City of Jourdan, who has subsequently withdrawn as an intervenor to the proceeding. Multiple requests by landowners to opt-out of the proposed service area were received, and those tracts have been removed by the Applicant for final consideration.

Staff recommends that Pleasanton meets the requirements of TWC § 13.246 and 16 TAC § 24.102, has the financial, technical, and managerial capability to provide continuous and adequate service, and that Pleasanton's application be granted.

Financial Test

TWC § 13.246(c)(6) requires the PUC to consider the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service and the financial stability of the applicant. 16 TAC § 24.11 establishes criteria to demonstrate that an owner or operator of a retail public utility has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and proposed utility service area.

Pleasanton's audited financial statements for Fiscal Year (FY) 2014 were available. The statements include an unqualified auditor's opinion that the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund and the aggregate remaining fund information of Pleasanton as of September 30, 2014, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Pleasanton's total net position for FY 2014 was \$31.4 million. Pleasanton's debt to equity ratio for FY 2014 long term debt was \$19.5 million to \$31.4 million, or 0.62 to 1.00. A ratio of less than 1 to 1 is preferred for analysis of financial/managerial capabilities because it provides evidence that Pleasanton is not highly leveraged and is capable of funding required capital improvements with additional debt. I also noted that the change in net position for FY 2014 was \$6.6 million and depreciation expense was \$1.5 million. Principle and interest expense on long term debt was \$2.2 million. Therefore the debt service coverage ratio calculates to be \$8.1 million to \$2.2 million or 3.70 to 1.00. A ratio of at least 1.25:1 is preferred when reviewing financial capability to ensure that reserve funds for debt payment and repairs and maintenance are built up and maintained. Additionally, Pleasanton's general obligation debt received an A1 rating by Moodys which indicates the obligor has a strong capacity to meet its financial commitments. Therefore, Pleasanton has the financial capability to proceed with this application.

Criteria Considered

TWC § 13.246(c) requires the Commission to consider nine criteria when granting or amending a CCN. Therefore, the following criteria were considered:

TWC §13.246(c)(1) requires the commission to consider the adequacy of service currently provided to the requested area. No additional construction is necessary for the Applicant to serve the proposed area. Pleasanton currently has an approved wastewater permit (WQ100598001) and an approved public water system (PWS ID 0070003) which has received a superior water rating by TCEQ. The water and sewer systems are maintained by the Applicant's licensed water and sewer operators on staff. The Applicant does not have any unresolved major violations with the TCEQ. The existing water system, has access to an adequate supply of water and the water system facilities have excess capacity to serve the existing certificated area. Therefore, Staff believes adequate service is currently provided in the requested area.

TWC §13.246(c)(2) requires the commission to consider the need for service in the requested area. The Applicant is already providing service to the customers in the requested area.

TWC §13.246(c)(3) requires the commission to consider the effect of granting an amendment on the recipient and on any other retail public utility servicing the proximate area. The applicant is the current retail public utility provider for the requested area. The provision of service for the area will remain unchanged. The granting of the certificate will have no effect on any other retail public utility in the proximate area.

TWC §13.246(c)(4) requires the commission to consider the ability of the Applicant to provide adequate service. The Applicant currently provides adequate service to the customers in the proposed area under PWS ID No. 2500020 and WQ100598001.

TWC §13.246(c)(5) requires the commission to consider the feasibility of obtaining service from an adjacent retail public utility. The Applicant is currently providing service to the customers in the proposed area; therefore, receiving service from other providers in the area was not considered.

TWC §13.246(c)(6) requires the commission to consider the financial ability of the Applicant to pay for facilities necessary to provide continuous and adequate service. Based on the review of the application and information provided, the Applicant has demonstrated adequate financial and managerial capabilities to provide service to the area being requested.

WC §§13.246(7) and (9) require the commission to consider the environmental integrity and the effect on the land to be included in the certificate. There will be no effect on the environmental integrity of the land since the Applicant is currently providing service in the requested area.

TWC § 13.246(8) requires the commission to consider the probable improvement in service or lowering of cost to consumers. The Applicant is currently providing adequate service to the customers in the requested area. There will be no change in the cost or level of service for the consumers.

The Applicant meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and is capable of providing continuous and adequate service. Staff recommends approval of the application.