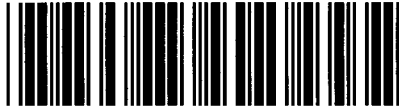


Control Number: 43551



Item Number: 38

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83rd
Legislature, Regular Session, transferred the functions
relating to the economic regulation of water and sewer
utilities from the TCEQ to the PUC effective
September 1, 2014.



City of Austin Law Department

Norwood Tower, 114 West 7th Street, P.O. Box 1546
Austin, Texas 78767-1546
(512)974-2268

RECEIVED

2014 OCT 27 AM 10:50

PUBLIC UTILITY COMMISSION
FILING CLERK

Writer's Direct Line
512-974-2568

Writer's Fax Line
512-974-2912

June 26, 2002

Mr. Mike Howell
Utility Certification & Rate Analysis Team
Utilities & Districts Section, MC-153
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, TX 78767-1308

Re: SOAH Docket No. 582-02-3056; TNRCC Docket No. 2002-0189-UCR; Application from City of Austin to Obtain a Water Certificate of Convenience and Necessity (CCN) in Travis, Hays and Williamson Counties; Application No. 33562-C

SOAH Docket No. 582-02-3056; TNRCC Docket No. 2002-0189-UCR; Application from City of Austin to Obtain a Sewer Certificate of Convenience and Necessity (CCN) in Travis, Hays and Williamson Counties; Application No. 33563-C

Dear Mike:

As you will recall, you sent the City of Austin ("City") a request for information ("RFI") dated March 6, 2002, which asked for additional information regarding the need for water and sewer utility service in the proposed areas identified in the City's certificate of convenience and necessity ("CCN") applications.

The City delivered an initial response to your request on April 8, 2002. On an ongoing supplemental basis, you should have received individual letters from various developers and governmental entities expressing their support for the City's applications and their opinion that the City's utility service is needed in these areas.

CHIEF CLERKS OFFICE

JUN 26 PM 12:00

Texas Natural
Resource
Conservation
Commission

Mike Howell
June 26, 2002
Page 2

Our understanding is that the following individuals and entities have submitted letters or resolutions to date:

1. Gregory D. Humbach, counsel for City of Manor, April 4, 2002;
2. G. Scott Winton, Mayor, City of Pflugerville, April 23, 2002;
3. A.H. Robinson, III, Landowner and Developer, April 24, 2002;
4. Daniel E. "Stump" Sowado, City Administrator, City of West Lake Hills, April 29, 2002;
5. Dick Rathgeber, Developer, May 6, 2002;
6. Samuel T. Biscoe, Travis County Judge, Travis County Commissioners Court, May 7, 2002;
7. James R. Nuse, Director of Public Works, City of Round Rock, May 17, 2002;
8. Terry Mitchell, Vice-President, Milburn Homes, June 18, 2002;

For your convenience, I am enclosing a copy of each of these letters in the order listed above. See Attachments 1-8. If you have not already done so, please include these letters in your records with our April 8, 2002 RFI response.

Additionally, as we have not received any further RFIs, we assume that you have all the information you require in order to make a determination of technical completeness. Please provide written confirmation to me regarding your determination of technical completeness at your earliest convenience since the date of the preliminary hearing is fast-approaching. The City believes that the CCN applications must be declared technically complete before the Administrative Law Judge can take jurisdiction.

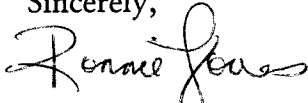
CHIEF CLERKS OFFICE
JUN 26 12:00 PM

TRK&NATURAL
RESOURCE
CONSERVATION
COMMISSION

Mike Howell
June 26, 2002
Page 3

We appreciate your assistance with this matter.

Sincerely,



Ronnie Jones
Assistant City Attorney

Enclosure

xc: Jeff Saitas, Executive Director - TNRCC
Victoria Harkins, Ph.D., P.E.
Doug Holcomb
Joe Canales, Deputy City Manager
John Stephens, Acting Assistant City Manager
Christopher Lippe, Director, Water and Wastewater Utility
Andrew P. Covar, P.E., Assistant Director, Water and Wastewater Utility
Sedora Jefferson, City Attorney
Marty Terry, Division Chief
Bart Jennings, Water and Wastewater Utility
Kenneth Ramirez, Attorney
Barry McBee, Attorney
Monica Jacobs, Attorney

**Barney Knight
& Associates
Attorneys at Law**

Tel. (512) 323-5778
FAX (512) 323-5773
BarneyKnight@aol.com

Executive Office Terrace
223 West Anderson Lane, Suite A-105
Austin, Texas 78752

Attorneys
Barney L. Knight
Shelia I. Zaleska
Gregory D. Humbach

April 4, 2002

Texas Natural Resource Conservation Commission
Attn: Mike Howell
Registration, Review & Recording Division
Permits Administrative Review Section
Water Quality Applications Team
MC-153
P.O. Box 13087
Austin, Texas 78711-3087

Re: Application to Amend Sewer CCN for the City of Austin, Texas No.33563-C

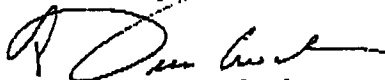
Dear Mr. Howell:

The purpose of this correspondence is to advise that the City of Manor, Texas desires to express their support of the application for a sewer CCN referenced above. This application indicates long range planning on behalf of the City of Austin that should benefit future ratepayers who will received a level of service that they might not otherwise.

The City of Manor believes that allowing cities to obtain CNN's for a large portion of their ETJ results in a reduction or retrofitting expenses to the city and its ratepayers. As you know MUDs, water and wastewater supply corporations, and similar service providers do not build their utilities to city standards, requiring a rebuild when a city annexes these areas.

The City of Manor further believes that effective long term regional planning is best accomplished when other utilities providers are not attempting to provide uncoordinated water and wastewater services within their ETJ. For the above reasons the City of Manor supports the City of Austin's application to amend its CCN referenced above.

Yours Truly,


Gregory D. Humbach

cc: Bart Jennings, City of Austin Wholesale Services
Mike Tuley, Dir. Public Works City of Manor, Texas

**RESOLUTION OF THE CITY OF PFLUGERVILLE,
TEXAS SUPPORTING THE CITY OF AUSTIN
APPLICATION FOR WATER AND WASTEWATER
CERTIFICATES OF CONVENIENCE AND NECESSITY**

WHEREAS, the City of Austin has filed an application with the Texas Natural Resource Conservation Commission for water and wastewater certificates of convenience and necessity for certain portions of the city's extraterritorial jurisdiction; and

WHEREAS, the City of Austin believes that municipalities should engage in long-term, regional planning of utility services within their extraterritorial jurisdictions to provide cost-effective utility infrastructure placement and sizing that will result in lower costs and superior service for future utility customers in the area; and

WHEREAS, the City of Austin believes that it is difficult and more costly to engage in effective long-term, regional planning of water and wastewater services while other utilities are allowed to provide uncoordinated water and wastewater services within a city's extraterritorial jurisdiction; and

WHEREAS, the City of Austin believes that allowing cities to obtain certificates of convenience and necessity for large portions of their extraterritorial jurisdiction will benefit ratepayers by resulting in a reduction of the cost of retrofitting and rehabilitating inferior utility systems when the areas are annexed into the city; and

WHEREAS, the Pflugerville City Council agrees with the above assertions, and desires to support the City of Austin in acquiring certificates of convenience and necessity; NOW THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS:

That the City of Pflugerville supports the proposed City of Austin water and wastewater certificates of convenience and necessity, and encourages the Texas Natural Resource Conservation Commission to approve the applications.

APPROVED this 23rd day of April 2001.

CITY OF PFLUGERVILLE, TEXAS


G. Scott Winton, Mayor

ATTEST

Karen Thompson, City Secretary

ROBINSON RANCH

P.O. BOX 9516
AUSTIN, TEXAS 78766
(512) 255-3646

April 24, 2002

Mr. Mike Howell
Utility Certification & Rate Analysis Team
Utilities & Districts Section, MC-153
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, TX 78767-1308

RE: The City of Austin's Water and Sewer Applications for
Certificates of Convenience and Necessity

Dear Mr. Howell,

The purpose of this letter is to express my support for the City of Austin's ("City") applications for water and sewer certificates of convenience and necessity ("CCNs"). Currently, my family owns 8000 acres of land located within the northern and eastern portions of the City's extraterritorial jurisdiction. As a landowner, I am extremely interested in the reliability and cost-effectiveness of the utility service. I agree with the City's assertion that such reliable, cost-effective service can best be achieved as a result of long-term, regional planning. My past dealings with the City and my understanding of the City's long-range plans and capabilities lead me to believe that the City is the best utility to provide regional water and wastewater service to the areas encompassed by the City's applications. In fact, if development projects reach a point where it is appropriate to plan for utility service, I will be requesting water and sewer service from the City.

Again, for the above reasons, I fully support the City's efforts to obtain water and sewer CCNs in the areas identified in its CCN applications.

Sincerely,


A. H. Robinson, III

cc: Bart Jennings, Water and Wastewater Utility

City of West Lake Hills

Dwight Thompson, MAYOR

COUNCIL MEMBERS:

Cathy McElroy, MAYOR PRO TEM

Earl Broussard, Jr.

Jane Noble

Harry Viro

Kit Webster

911 WESTLAKE DRIVE
WEST LAKE HILLS, TEXAS 78746-4599



Daniel E. "Stump" Sowada
City Administrator

City Admin.: 512/327-3628

Police Admin.: 512/327-1195

City Fax: 512/327-5232

E-mail: cityhall@westlakehills.org

April 29, 2002

Mr. Mike Howell
TNRCC Utilities & Districts Section
MC-153, P.O. Box 13087
Austin, TX 78711-3087

SUBJECT: CITY OF AUSTIN APPLICATION FOR CCNs

Dear Mr. Howell:

The City of West Lake Hills recognizes Austin's critical need to engage in long-term planning and supports the City of Austin in its application for CCNs. This extended outlook will facilitate more cost-effective utility infrastructure placement and sizing. Without such focused planning by a forward-looking and well-operated utility, service areas and levels may become discontinuous and differentiated, as utility service issues are resolved on a piecemeal, project-by-project basis by a variety of service providers. This situation inevitably leads to greater costs to future and existing ratepayers, such as West Lake Hills, in part because of the lack of economics of scale of smaller non-regional utilities. Additionally, this piecemeal approach results in customer dissatisfaction with utility services because of cost and service level differentials between various providers.

The City of West Lake Hills has long been convinced that it is almost always better to engage in effective regional planning of water and wastewater services, rather than to allow numerous utilities to provide uncoordinated water and wastewater services within a city's ETJ. Granting Austin CCNs for large portions of its ETJs should also reduce retrofitting expenses to the City and the ratepayers. In summary, the City of West Lake Hills is in favor of granting these CCNs.

Respectfully,

Daniel E. "Stump" Sowada
City Administrator
West Lake Hills, Texas

ds/ds

cc: Bart Jennings, City of Austin

May 6, 2002

Mr. Mike Howell
Utility Certification & Rate Analysis Team
Utilities & Districts Section, MC-153
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, TX 78767-1308

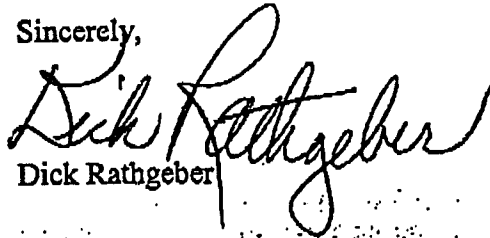
Re: The City of Austin's Water and Sewer Applications for Certificates of Convenience
and Necessity

Dear Mr. Howell:

The purpose of this letter is to express my support for the City of Austin's ("City") applications for water and sewer certificates of convenience and necessity ("CCNs"). In the past, I have been the primary developer for projects located in the eastern and northern areas of the City's extraterritorial jurisdiction ("ETJ"), which are now encompassed by the City's CCN applications. Currently, I am engaged in developing projects in the southeastern and northern portions of the City's ETJ; these ongoing projects are also within the area covered by the City's applications. As a developer, the cost-effectiveness and reliability of utility service is extremely important to me. I agree with the City's position that such reliable, cost-effective service can best be achieved as the result of long-term, regional planning. My past experience with the City and my understanding of the City's long-range plans and capabilities lead me to believe that the City is the best utility to provide regional water and wastewater service to the areas identified in the City's applications. Consequently, when my development projects reach a point where it is appropriate to plan for utility service, I will be requesting water and sewer service from the City.

Again, for the above reasons, I fully support the City's efforts to obtain water and sewer CCNs in the areas identified in its CCN applications.

Sincerely,



Dick Rathgeber

cc: Bart Jennings, Water and Wastewater Utility



SAMUEL T. BISCOE

COUNTY JUDGE

TRAVIS COUNTY ADMINISTRATION BUILDING

P.O. BOX 1748 ROOM 520

AUSTIN, TEXAS 78767

(512) 854-9555

COPY

May 7, 2002

Texas Natural Resource Conservation Commission

Attn: Mike Howell

Registration, Review & Recording Division

Permits Administrative Review Section

Water Quality Applications Team

MC-153

P.O. Box 13087

Austin, Texas 78711-3087

Re: Application to Amend Sewer CCN for the City of Austin, Texas, No. 33563-C

Dear Mr. Howell:

The Travis County Commissioners Court has recently been informed that a privately owned wastewater treatment plant in Southeast Travis County known as Thoroughbred Farms is failing. This wastewater treatment facility is daily discharging between 15,000 and 25,000 gallons of minimally treated sewage. The facility is no longer licensed by the TNRCC, its permit having expired on December 27, 1998.

The facility has a poor maintenance record, and it has recently come to our attention that it has not been properly operated for many years. Inspections have demonstrated lab results that violate guidelines for chlorine, D.O., B.O.D., and T.S.S. On February 7, 2002, the concentration of fecal coliform in a sample of the wastewater discharged from the plant into Dry Creek was so high that the laboratory was unable to measure it.

The TNRCC recently filed suit against the owners of the facility and are asking the Court to appoint a receiver to collect the assets and carry on the business of operating the facility. This will necessarily involve bringing the facility into compliance with state permitting guidelines.

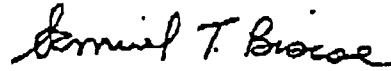
The City of Austin has expressed interest in being appointed as the receiver for the Thoroughbred Farms Wastewater Treatment Facility. We support that appointment. The City has the expertise and the resources to repair and improve the facility, and to operate it properly, thereby ending the continuous discharge of untreated or minimally treated effluent onto the land and into the waters of Travis County.

COPY

COPY

The City of Austin has already applied for a Certificate of Convenience and Necessity (CCN) to provide sewer services for the area surrounding the Thoroughbred Farms Wastewater Treatment Facility, and while we have no position regarding the CCN in general, to the extent that approval of the CCN would facilitate the appointment of the City of Austin as the receiver for the Thoroughbred Farms Wastewater Treatment Facility, we support the City's application to amend its CCN.

Sincerely,



Samuel T. Biscoe
Travis County Judge

COPY



CITY OF ROUND ROCK

221 East Main Street
Round Rock, Texas 78664
512-218-5400

May 17, 2002

Mr. Mike Howell
Utility Certification & Rate Analysis Team
Utilities & Districts Section, MC-153
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, TX 78767-1308

Re: The City of Austin's Water and Sewer Applications for Certificates of Convenience and Necessity

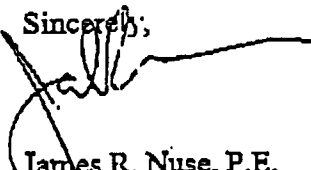
Dear Mr. Howell:

The purpose of this letter is to express the City of Round Rock's ("Round Rock") support for the City of Austin's ("Austin") applications for water and sewer Certificates of Convenience and Necessity ("CCNs"). Round Rock supports Austin's applications because it recognizes the need for long-term, regional planning of utility service in the rapidly growing metropolitan area. Without such long-term, regional planning, service areas and levels of service may become discontinuous, differentiated, and uncoordinated, leading to both greater costs to ratepayers and customer dissatisfaction.

Specifically, Round Rock shares Austin's view that piecemeal provision of service often leads to significant additional costs due to a lack of economies of scale and retrofitting when municipalities annex an area previously served by a utility that has not built its infrastructure to municipal urban and suburban standards. In addition, Round Rock believes that Austin's CCNs will allow for more cost-effective utility infrastructure placement and sizing.

For these reasons, Round Rock supports Austin's applications and encourages TNRCC to grant these CCNs.

Sincerely,


James R. Nuse, P.E.
Director of Public Works
City of Round Rock

cc: Bart Jennings, Water and Wastewater Utility

Mayor
Robert A. Sluka, Jr.
Mayor Pro-tem
Tom Nielson
Council Members
Alan McGraw
Carrie Pitt
Earl Palmer
Isabel Gallahan
Gary Coe
City Manager
Robert L. Bennett, Jr.
City Attorney
Stephan L. Sheets

C:\My Documents\VN\Austin CNN-R.R Support letter.DOC

89820 v Fax: 512-218-7097

1-800-735-2989 TDD
www.ci.round-rock.tx.us

1-800-735-2988 Voice

Attachment 7

Milburn

Welcome Home

June 18, 2002

Mr. Mike Howell
Utility Certification & Rate Analysis Team
Utilities & Districts Section, MC-153
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, TX 78767-1308

Re: ~~The City of Austin's~~ Water and Sewer Applications for Certificates of Convenience and Necessity

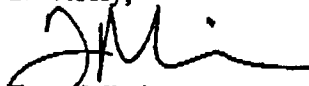
Dear Mr. Howell:

The purpose of this letter is to express my support for the City of Austin's ("City") applications for water and sewer certificates of convenience and necessity ("CCNs"). I develop communities located in the southeastern, eastern and northern areas of the City's extraterritorial jurisdiction ("ETJ"), which are now encompassed by the City's CCN applications. Our communities range in size from a few hundred residents to several thousand residents. I believe that the City can provide reliable, cost-effective service. As with any high growth area, this reliable, cost-effective service can best be achieved as the result of long-term, regional planning - tasks that the City can do very well.

My previous experience with the City has been good and my understanding of the City's long-range plans and capabilities lead me to believe that the City is the best utility to provide regional water and wastewater service to the areas identified in the City's applications. When my development projects reach a point (and some are reaching that point now) where it is appropriate to plan for utility service, I will be requesting water and sewer service from the City.

I support the City's efforts to obtain water and sewer CCNs in the areas identified in its CCN applications.

Sincerely,



Terry Mitchell
Vice-President

cc: Bart Jennings, Water and Wastewater Utility