

Control Number: 43585



Item Number: 3

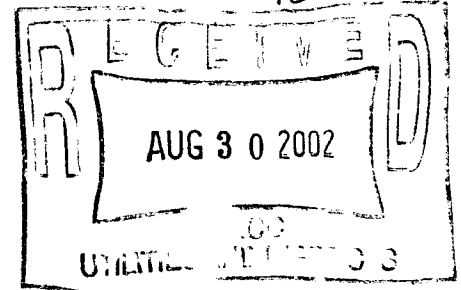
Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83<sup>rd</sup>  
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 7<sup>th</sup> Street, P.O. Box 1088  
Austin, Texas 78767-8845  
(512)974-2268



Writer's Direct Line

512 / 974-2568

Writer's Fax Line

512 / 974-2912

August 30, 2002

**Hand-Delivered**

Ms. LaDonna Castanuela, Chief Clerk  
Office of the Chief Clerk  
Texas Natural Resource Conservation Commission  
P.O. Box 13087  
Austin, Texas 78711-3087

Texas Natural Resource Conservation Commission  
Water Permits and Resources Management Division  
Utilities and Districts Section, MC-153  
P.O. Box 13087  
Austin, Texas 78711-3087

**SUBJECT:** Hornsby Bend Utility Company, Application to Amend CCN Nos. 11978  
and 20650; Application Nos. 33988-C and 33989-C

Dear Ms. Castanuela:

The City of Austin ("City") requests a public hearing on the application of Hornsby Bend Utility Company ("Hornsby Bend") to Amend CCN Nos. 11978 and 20650. The City may be contacted by mailing correspondence to my address shown on this letterhead and by telephone to my direct number (512) 974-2568.

The City is a municipal corporation that owns, operates, and maintains facilities for providing water and wastewater utility services. The City has a personal justiciable interest that would be adversely affected by the application to amend CCN Nos. 11978 and 20650. The proposed amendment to CCN Nos. 11978 and 20650 overlaps the proposed water and sewer service areas of the City, and would adversely affect the legal authority of the City under state law over issues contemplated by this application. The proposed CCN amendments would also adversely affect the economic interest of the City regarding the

provision of water and sewer utility services to customers within the proposed water and sewer utility service area. The City bases its request for a public hearing on the following legal and economic concerns:

1. The proposed CCN amendments overlap the proposed water and sewer service areas of the City. According to information provided to the City by the TNRCC, the requested water and sewer utility service areas in Hornsby Bend's application overlaps the proposed water and sewer service areas requested by the City in Application No. 33562-C and Application No. 33563-C. The proposed amendments adversely affect the City's economic interest in providing urban-level water and sewer services to customers residing within the areas overlapped by Hornsby's application. The proposed water and sewer utility service area is within the City's extraterritorial jurisdiction and current Impact Fee Area. The City has authority under Chapter 395 of the Local Government Code and the Austin Code of Ordinances to impose water and sewer impact fees for capital improvements related to water and sewer service in its Impact Fee Area. The City's Impact Fee Area is established by the Austin City Council. The proposed amendment of CCN Nos. 11978 and 20650 would adversely affect the authority of the City under state law to assess and collect water and sewer impact fees.
2. The City has the demonstrated ability to provide continuous and adequate urban-level water and sewer service to the proposed water and sewer utility service area. The City possesses the requisite financial, managerial, and technical resources to provide cost-effective water and sewer services to customers residing in the proposed water and sewer utility service area within its jurisdiction. The City has multiple regional water facilities serving approximately 176,000 water connections in portions of Travis, Williamson, and Hays counties. Currently, the City provides water service to virtually all land within its corporate limits. More specifically, the City provides wholesale service, through a wholesale water supply agreement, to Manville Water Supply Corporation, a retail water supplier whose certificated water service area is adjacent to the proposed water utility service area. By and through its wholesale and retail customer relationships, the City provides urban-level wastewater service to over 154,000 customers within Travis and Williamson Counties. The City owns three regional wastewater treatment plants, and owns wastewater treatment facilities near the area that could be used to provide sewer service to customers that reside in the proposed sewer service area. The City does not believe that Hornsby Bend possesses the requisite financial, managerial, and technical resources to provide cost-effective urban-level water and wastewater services to customers residing in the proposed water and sewer utility service areas. The City also does not believe that Hornsby Bend has the technical capability to provide continuous or adequate water and sewer services for urban-level development in the proposed water and sewer

utility service area. Additionally, the City does not believe that Hornsby Bend has access to an adequate water supply or wastewater treatment capacity to provide continuous and adequate service to the proposed water and sewer utility service areas. In contrast, the City has the necessary water supply, wastewater treatment capacity, and resources and has provided wholesale and retail water and sewer utility services to its customers for decades; and is capable of meeting the requirements of the Commission and Chapter 13 of the Water Code.

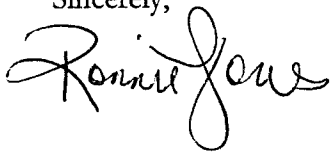
3. According to information provided to the City, proposed developments in the proposed water and sewer utility service area may include subdivisions that require urban-level water and sewer utility service, which the City currently provides to its customers. The provision of urban-level water and sewer utility service in the proposed water and sewer utility service area is consistent with the requirements in the Austin City Code and Design Criteria Manual and would provide fire flows for connections in the proposed water utility service area and the construction of compatible sewer facilities in the proposed sewer utility service area.
4. The granting of Hornsby Bend's proposed amendment to CCN Nos. 11978 and 20650 would adversely affect the City's Water and Wastewater Utility because it would permit Hornsby Bend to extend retail water and sewer utility service to customers within the City's extraterritorial jurisdiction and current Impact Fee Area. The granting of the proposed amendment to CCN's 11978 and 20650 would adversely affect the City's economic interest in providing urban-level water and sewer services to customers residing within the proposed water and sewer utility service areas that are primarily within its extraterritorial jurisdiction and adversely affect the City's economic interest in collecting revenue for water and sewer services provided within its extraterritorial jurisdiction.
5. It is feasible for the proposed water and sewer utility service area to be served by the City. The City possesses the requisite financial, managerial, and technical resources to provide cost-effective urban-level water and sewer services to customers residing in the proposed water and sewer utility service areas. Presently, the City is conducting engineering planning that will result in wastewater collection, treatment, and disposal services for a subregional area that includes the proposed sewer utility service area. Additionally, the City is negotiating long-term water supply agreements with other water suppliers that may be used to provide cost-effective urban-level water service to customers residing in the proposed water utility service area. The City does not believe that Hornsby Bend can provide urban-level cost-effective water and sewer service to customers in the proposed water and sewer utility service areas or meet the Commission's applicable public water supply requirements or design criteria for sewer systems.
6. The City could provide improved water and sewer service at lower long-term costs to consumers in the proposed water and sewer utility service areas. Because of the City's financial, managerial, and technical capability, it is able to provide improved water and sewer service at lower costs for comparable service to customers in the proposed water and sewer utility service areas. The quality of the service the City can provide exceeds that of Hornsby Bend.

LaDonna Castanuela  
August 30, 2002  
Page 4

To promote and protect the general health, safety and welfare of persons residing within its jurisdiction, the City requests that the proposed amendment of CCN Nos. 11978 and 20650 be denied.

Please schedule this hearing request for an evidentiary hearing at the State Office of Administrative Hearings and advise me of the time and date of the hearing. If you have any questions, please call me at (512) 974-2568.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ronnie Jones".

Ronnie Jones  
Assistant City Attorney

xc: Doug Holcomb, TNRCC  
Sedora Jefferson, City Attorney  
Martha Terry, Division Chief  
Ken Ramirez, Bracewell and Patterson  
Joe Canales, Deputy City Manager  
Chris Lippe, Director, Water and Wastewater Utility  
Andy Covar, Assistant Director, Water and Wastewater Utility  
Bart Jennings, Water and Wastewater Utility