

Control Number: 43587



Item Number: 15

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DOCKET NO. 43587

APPLICATION OF TRINITY RTC GP, §
LLC TO OBTAIN WATER AND §
SEWER CERTIFICATES OF §
CONVENIENCE AND NECESSITY IN §
HARRIS COUNTY §

PUBLIC UTILITY COMMISSION
OF TEXAS
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CLERK

COMMISSION STAFF'S RESPONSE TO ORDER NO. 6

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Response to Order No. 6 and would show the following:

I. BACKGROUND

On October 17, 2014, Trinity RTC GP, LLC (Applicant) filed an application to obtain new water and sewer certificates of convenience and necessity (CCN) in Harris County, Texas pursuant to TEX. WATER CODE ANN. Subchapter G and Title 16, TEX. ADMIN. CODE (16 TAC) Subchapter G.

On October 21, 2014, the Commission Administrative Law Judge (ALJ) issued Order No. 1, requiring Commission Staff to file comments on the administrative completeness of the application and proposed notice and to file comments regarding how this petition should be processed and propose a procedural schedule by October 31, 2014. On October 31, 2014, Staff filed its Response to Order No. 1, Status Update, and Request for an Extension of Time. On November 5, 2014, the ALJ issued Order No. 2 extending the deadline for Staff to file comments on the administrative completeness of the application and proposed notice and a proposed procedural schedule until December 1, 2014.

On December 1, 2014, Staff filed its Response to Order No. 2 and Request for an Extension of Time. In this Response, Staff requested that the deadline for Staff to file comments on the administrative completeness of the application and proposed notice be extended in order to allow Staff adequate time to complete the overlap mapping review of the application. On December 5, 2014, the ALJ issued Order No. 3 extending the deadline for Staff to file comments on the administrative completeness of the application and proposed notice and a proposed procedural schedule until January 6, 2015. On January 6, 2015, Staff filed its Response to Order No. 3, in which Staff recommended that the application be found materially deficient. On

January 8, 2015, the ALJ issued Order No. 4 directing the Applicant to file an amended application by February 9, 2015 and Staff to file a supplemental recommendation on administrative completeness by March 11, 2015.

On March 6, 2015, Staff filed its Response to Order No. 4 and recommended that the supplemental mapping information provided by the Applicant on January 27, 2015 was insufficient to cure the deficiencies. On March 10, 2015, the ALJ issued Order No. 5 finding the application incomplete, directing the Applicant to amend its application to cure the deficiencies by April 10, 2015, and directing Staff to file a supplemental recommendation regarding administrative completeness of the amended application and notice along with a proposed procedural schedule by May 15, 2015. On May 13, 2015, Staff filed its Response to Order No. 5 in which Staff requested an extension of the deadline to make a recommendation on the sufficiency of the application. On May 15, 2015, the ALJ issued Order No. 6 Extending the Deadline for Review and directing Staff to file comments on the administrative completeness of the amended application and proposed notice and a proposed procedural schedule until June 5, 2015. This Response is timely filed.

II. STAFF'S RECOMMENDATION ON SUFFICIENCY OF THE APPLICATION

In response to Order No. 5, the Applicant filed supplemental mapping information on April 9, 2015. As stated in the attached memo of Elisabeth English and Tracy Harbour in the Commission's Water Utilities Division, Staff has reviewed the supplemental information and recommends that the Applicant has not cured the deficiencies identified by Staff in its January 6, 2015 Response. Specifically, the supplemental maps and mapping documents do not meet the Commission's mapping requirements pursuant to 16 TAC § 24.105(a). Specifically, Staff recommends that the Applicant has failed to provide a general location (small scale) map delineating both the proposed water and sewer service areas with enough detail and clearly labeling surrounding streets, roads, and/or highways in order to accurately locate the proposed service areas within the requested county. Additionally, the Applicant has failed to provide a detailed (large scale) map delineating the proposed water and sewer service areas with enough detail to accurately locate the proposed service areas in the vicinity of surrounding streets, roads, and/or highways in order. The deficiencies identified by Staff prevent staff from completing a mapping overlap check of the application to determine the actual location of the proposed new CCN service areas. The overlap check is integral in determining whether the information

submitted by the Applicant in its application is sufficient. The overlap check allows Staff to determine whether the Applicant's proposed CCN area overlaps with other existing CCN areas and whether the Applicant has provided notice to the proper affected parties. Until the Applicant submits sufficient small and large scale maps of the proposed water and sewer service areas, Staff is unable to evaluate the proposed digital data, notice documents, or the 5-mile list of neighboring entities.

Additionally, Staff notes that, during the review of the application, there were nine active violations outstanding with the Texas Commission on Environmental Quality (TCEQ) associated with the Applicants waste water permit (WQ0012450001). Staff recommends that the Applicant resolve these violations prior to the final determination of this application.

16 TAC § 24.8(a) provides that, if material deficiencies exist in a rate/tariff change application or notice, the application may be rejected. Pursuant to 16 TAC § 24.8(a), the application is not considered filed until the Commission determines that the application and notice are both administratively complete. Staff has identified deficiencies in the application and cannot complete its administrative review of the application until the deficiencies are cured. Staff is unable to complete an overlap check or evaluate the digital data provided by the Applicant until sufficient mapping information is provided by the Applicant. Additionally, Staff is unable to determine whether the submitted list of entities to be noticed is sufficient until sufficient maps are received. Therefore, Staff recommends that the application package be found **not administratively complete** pursuant to TEX. WATER CODE ANN. Subchapter G and 16 TAC Subchapter G.

Staff further recommends that the Applicant be directed to not publish notice of the application until the maps, digital data, notice documents, and a five-mile list of entities have been approved by Staff.

III. STAFF'S PROPOSED PROCEDURAL SCHEDULE

Staff recommends that the Applicant has not cured the identified deficiencies and that the application remain not administratively complete due to deficiencies in the mapping information supplied by the Applicant. Staff recommends that the Applicant be given until **July 6, 2015** to cure the identified deficiencies. Upon review of the amended application, Staff proposed to file comments on administrative completeness by **August 6, 2015**. Accordingly, Staff has not proposed a procedural schedule for this application at this time.

IV. CONCLUSION

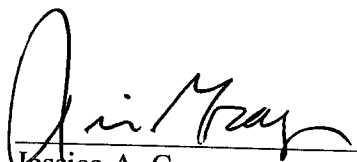
Staff recommends that the Applicant has not cured the deficiencies identified by Staff, and that application is not administratively complete due to deficiencies in the mapping information filed by the Applicant. Therefore, Staff respectfully recommends that the Applicant be given until July 6, 2015 to submit additional information in order to cure the mapping deficiencies identified by Staff. Upon review of the amended application, Staff proposes to file comments on administrative completeness on or before August 5, 2015. In the event that Staff determines that the Applicant's amended application is administratively complete, Staff will propose a procedural schedule. Staff respectfully requests that the ALJ issue an order consistent with this Response.

Date: June 5, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

Shelah J. Cisneros
Managing Attorney
Legal Division

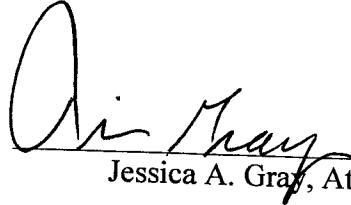


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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on June 5, 2015, in accordance with 16 TAC § 22.74.



Jessica A. Gray, Attorney

ATTACHMENT A

PUC Interoffice Memorandum

To: Jessica Gray, Attorney
Legal Division

Through: Tammy Benter, Director
Water Utilities Division

From: Elisabeth English, Engineering Specialist
Tracy Harbour, GIS Specialist
Water Utilities Division

Date: June 4, 2015

Subject: Docket No. 43587: *Application of Trinity RTF GP, LLC to obtain water and sewer Certificate of Convenience and Necessity in Harris County.*

On October 17, 2014, Trinity RTF GP, LLC, filed an application with the Public Utility Commission to obtain water and sewer Certificates of Convenience and Necessity (CCN) in Harris County pursuant to the criteria in the TEXAS WATER CODE ANN. (TWC) §§ 13.242 thru §13.250 and TITLE 16 TEX. ADMIN CODE (TAC) §§24.101-291.107.

The previous Staff memo, in response to Order No. 4, deemed the application administratively incomplete due to mapping deficiencies, and Order No. 5 requested that the Applicant cure the specified deficiencies on or before April 10, 2015. Supplemental mapping information was submitted by the Applicant on April 9, 2015. Order No. 6 requested that staff provide a recommendation regarding administrative completeness and sufficiency of the application on or before June 5, 2015.

The application remains administratively incomplete and deficient.

Small and large scale maps still deficient.

On January 6, 2015, Staff requested the Applicant to submit revised small scale and large scale maps of their proposed water and sewer service areas. The Applicant submitted a CD with digital data of their proposed service areas on April 9, 2015. Staff has reviewed this information and is still unable to determine the actual location of the proposed water and sewer CCN service areas being requested in this application. Until the Applicant submits sufficient small and large scale maps of the proposed water and sewer service areas, Staff is unable to evaluate the proposed digital data, notice documents, or the 5-mile list of neighboring entities.

Staff recommends the Applicant submit the following items to cure the mapping related deficiencies resolve the mapping deficiencies:

1. A general location (small scale) map delineating both the proposed water and sewer service areas with enough detail and clearly labeling surrounding streets, roads, and/or highways in order to accurately locate the proposed service areas within the requested county.

2. A detailed (large scale) map delineating the proposed water and sewer service areas with enough detail to accurately locate the proposed service areas in the vicinity of surrounding streets, roads, and/or highways in order.

Applicant may contact mapping staff for guidance resolving their mapping deficiencies.

Additionally, Staff requests that the Applicant resolve violations outstanding with the Texas Commission on Environmental Quality (TCEQ) associated with the Applicants waste water permit (WQ0012450001) prior to the final determination of this application. During the review of the application there were nine (9) active violations. The Applicant may review the TCEQ database on the agency website: <http://www15.tceq.texas.gov/crpub/index.cfm>

The applicant should be informed that public notice should not be provided until maps, digital data, notice documents and 5-mile list of entities are reviewed and considered sufficient by staff.