



Control Number: 43733



Item Number: 12

Addendum StartPage: 0

DOCKET NO. 43733

2014-12-8 PM 2:16
Public Utility Commission

**APPLICATION OF THE TOWN OF
PROVIDENCE VILLAGE TO OBTAIN
CERTIFICATES OF CONVENIENCE
AND NECESSITY AND REQUEST TO
DECERTIFY A PORTION OF
MUSTANG SPECIAL UTILITY
DISTRICT'S CERTIFICATE OF
CONVENIENCE AND NECESSITY IN
DENTON COUNTY**

PUBLIC UTILITY COMMISSION

OF TEXAS

STAFF'S RESPONSE TO ORDER NO. 2

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Response to Order No. 2, and would show the following:

I. BACKGROUND

On November 6, 2014, the Town of Providence Village (Providence Village) filed with the Commission an application to obtain new water and sewer certificates of convenience and necessity (CCN) in Denton County, Texas under Texas Water Code § 13.255. On November 19, 2014, Order No. 2 was issued which required that Staff file comments on the administrative completeness of the application and proposed notice and a proposed procedural schedule is extended to December 8, 2014.

II. RECOMMENDATION ON ADMINISTRATIVE SUFFICIENCY

Based on the attached memorandum from Heidi Graham of the Water Utility Division, Staff recommends that the application be deemed administratively sufficient subject to the Providence Village Water Control and Improvement District (WCID) joining this proceeding as the franchised utility pursuant to Texas Water Code § 13.255(i). In addition, because Providence Village and the Mustang Special Utility District (SED) did not execute an agreement pursuant to Texas Water Code § 13.255(b), Staff recommends that this proceeding be referred to the State Office of Administrative Hearings (SOAH) for a hearing. Texas Water Code § 13.255(b) states that “[i]f an application for single certification is filed, the utility commission shall fix a time and place for a hearing and give notice of the hearing to the municipality and franchised utility, if

12

any, and notice of the application and hearing to the retail public utility.” Therefore, notice of this hearing should be provided to Providence Village, the WCID, and the SED.

III. PROPOSED PROCEDURAL SCHEDULE

Order No. 2 requires that Staff provide a procedural schedule in this proceeding. Because Staff is recommending that this proceeding be referred to SOAH, Staff is not recommending a procedural schedule at this time.

Dated: December 8, 2014

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director-Legal Division

Karen S. Hubbard
Managing Attorney – Legal Division



Jason Haas
Attorney-Legal Division
State Bar No. 24032386
(512) 936-7295 (telephone)
(512) 936-7268 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on December 8, 2014, in accordance with P.U.C. Procedural Rule 22.74.


Jason Haas

Public Utility Commission of Texas

Memorandum

TO: Jason Haas
Legal Division

THRU: Tammy Benter, Director
Water Utility Division

FROM: Heidi Graham
Water Utility Division

SUBJECT: Docket No. 43733, Application of the Town of Providence Village to Obtain Certificates of Convenience and Necessity and Request To Decertify A Portion of Mustang Special Utility District's Certificate of Convenience and Necessity (CCN) in Denton County

DATE: December 5, 2014

On November 6, 2014, the Town of Providence Village (Town) filed an application for single certification of both water and sewer retail service on behalf of Providence Village Water Control and Improvement District (WCID) under Texas Water Code (TWC) Section 13.255. The intent of this Application is to cancel Mustang Special Utility District's (SUD) dual certification for the area within the Town, and leave the WCID as the sole certified retail water and sewer service provider.

TWC 13.255(a) requires that an executed agreement between a municipality and a municipally-owned utility, a franchised utility, or a retail public utility, be filed with the Commission. The Statute defines a franchised utility as a retail public utility that has been granted a franchise by a municipality to provide water or sewer service inside its municipal boundaries. In addition, the franchised utility is required to be a party to the agreement.

Based on Staff's review, it has been determined that the Town does not own the utilities that provide water and sewer service to its customers. The WCID has been providing retail water and sewer service to the requested area since 2002. The Town indicates in its application that the WCID is its exclusive water and sewer franchised utility as a result of passing an ordinance on June 9, 2014 granting an exclusive franchise to the WCID for the provision of retail water and sewer utility service to the Town. According to the ordinance, the effective date of the franchise will be the first day following the entry of an order by the Commission to cancel the CCN of the SUD inside the Town. The ordinance also conditioned the effectivity of the Franchise on the acceptance of the grantee, the WCID. In the application, a letter was provided showing that the WCID accepted the franchise to operate a water system in the Town.

TWC 13.255(b) states that if an agreement is not executed within 180 days after the municipality, in writing, notifies the retail public utility of its intent to provide service to the incorporated or annexed area, and has filed an application with the Commission to grant single certification to the municipally owned water or sewer utility or to a franchised utility, the Commission shall fix a time and place for a hearing and give notice of the hearing to the municipality and franchised utility. In its application, the Town included a letter dated April 30, 2014 to the SUD indicating the Town's intent to provide water and sewer service through the Town's franchised utility, the WCID. 180 days after April 30, 2014 was October 27, 2014. The Town and the SUD did not execute an agreement within the 180 days.

While the WCID indicated acceptance of the franchise, the WCID has not formally joined the proceeding pursuant to Texas Water Code § 13.255(i). Staff recommends that administrative completeness of the application be conditioned upon the WCID joining this proceeding. In addition, because the Town and the SUD did not reach an agreement, Staff recommends that this proceeding be referred for a hearing pursuant to Texas Water Code § 13.255(b).