



Control Number: 44028



Item Number: 10

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<b>APPLICATION OF THE CITY OF THREE RIVERS TO AMEND A CERTIFICATE OF CONVENIENCE AND NECESSITY IN LIVE OAK COUNTY (37900-C)</b>	§ § § § §	<div style="text-align: right;"> RECEIVED  2015 FEB 10 AM 9:24  PUBLIC UTILITY COMMISSION  FILING CLERK  OF TEXAS </div>
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### COMMISSION STAFF'S RESPONSE TO ORDER NO. 2 AND STATUS UPDATE

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 Status Update and would show the following:

#### I. BACKGROUND

On April 25, 2014, the City of Three Rivers filed with the Texas Commission on Environmental Quality (TCEQ) an application to amend a water certificate of convenience and necessity in Live Oak County. Subsequently, on June 24, 2014, the Water Supply Division of TCEQ filed a notice of deficiency regarding this application. Effective September 1, 2014, functions relating to the economic regulation of water and sewer utilities transferred from the TCEQ to the Commission.<sup>1</sup> On January 6, 2015 the administrative law judge (ALJ) issued Order No. 2 requiring Commission Staff to file an update on the status of this proceeding and propose a procedural schedule, if necessary, by February 10, 2015, thus this pleading is timely filed.

#### II. STATUS UPDATE AND STAFF'S RECOMMENDATION ON NOTICE AND THE APPLICATION

On January 12, 2015, the Commission received the City of Three Rivers' response to TCEQ's notice of deficiency. As detailed in the attached memorandum of Mary Lupo of the Commission's Water Utilities Division, Staff has reviewed the application and the January 12, 2015 submission and recommends that the application continue to be found materially deficient pursuant to P.U.C. SUBST. R. 24.105 and 24.106. Staff has identified multiple mapping and related notice deficiencies in the application. P.U.C. SUBST. R. 24.8(a) provides that, if material deficiencies exist in a CCN application or notice, the application may be rejected. In order to cure the identified mapping deficiencies, Staff recommends the Applicant update the application as specified in the attached memorandum.

<sup>1</sup> See House Bill (HB) 1600 and Senate Bill (SB) 567, the 83rd Legislature.

Pursuant to P.U.C. SUBST. R. 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, therefore, recommends that the application package be found **not administratively complete** pursuant to P.U.C. SUBST. R. 24.105 and 24.106. At this time, Staff recommends that the application package be rejected pursuant to P.U.C. SUBST. R. 24.8(a) until the deficiencies are cured and that the Applicant be given until March 19, 2015 to cure the identified deficiencies and submit a revised proposed notice.

### **III. PROPOSED PROCEDURAL SCHEDULE**

As explained in the attached memorandum, Staff recommends that the application be found not administratively complete due to the identified deficiencies. Accordingly, Staff has not proposed a procedural schedule for this application at this time. Staff recommends that the Applicant be given until March 19, 2015 to cure the deficiencies in the application. Staff also requests that it be given until April 21, 2015 to review the items submitted and make a supplemental recommendation regarding the sufficiency of the application.

### **IV. CONCLUSION**

Staff recommends that the application continues to be deemed not administratively complete due to the noted deficiencies. Staff further recommends that the Applicant be given until March 19, 2015 to amend its application in order to cure the deficiencies identified in Staff's memo and submit a revised proposed notice. At this time, Staff further requests that it be given until April 21, 2015 to supplement its recommendation regarding notice and administrative completeness of the application. In the event that Staff determines that the Applicant's amended application and notice are administratively complete, Staff will propose a procedural schedule for processing the matter. Staff respectfully requests the ALJ issue an order consistent with this Response.

**Dated: February 10, 2015**

Respectfully Submitted,

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**DOCKET NO. 44028**  
**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on the 10<sup>th</sup> of February, 2015, in accordance with P.U.C. Procedural Rule 22.74.

Maria Faconti  
Maria Faconti

## PUC Interoffice Memorandum

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**To:** Maria Faconti  
Legal Division

**Thru:** Tammy Benter, Director  
Water Utilities Division

**From:** Mary Lupo Utility Rates Analyst/Auditor  
Water Utilities Division  
*ml*

Tracy Harbour, GIS Specialist  
Water Utilities Division

**Date:** February 10, 2015

**Subject:** Staff Recommendation for Docket No. 44028 (37900-C)

On April 25, 2014, the City of Three Rivers (Applicant) filed an application with the Texas Commission on Environmental Quality (TCEQ) to amend water Certificate of Convenience and Necessity (CCN) No. 12642 in Live Oak County. The application was filed under the criteria in the Texas Water Code, Chapter 13, and the TCEQ's rules outlined in Title 30, Texas Administrative Code (TAC), Sections 291.102 - 291.107. On September 1, 2014, the rates and CCN programs were transferred from the TCEQ to the Public Utility Commission of Texas (PUC). This application was part of the transfer and is now under the PUC's purview. The application is now being reviewed under the PUC's Substantive Rules in Chapter 24, §§24.102 - 24.107.

Based on a review of the information in the application, staff recommends the application be deemed insufficient due to the following issues:

1. The 2014 financial statements were not submitted along with the application. To cure the deficiency, submit a copy of the 2014 financial statements. If available, please submit the audited 2014 financial statements;
2. Mapping deficiencies. The Applicant has not satisfied the mapping requirements as listed on page 5 of the CCN amendment application and as required in the P.U.C. SUBST. Rule in Chapter 24. To cure the remaining mapping deficiencies submit the following:
  - i. Digital data including only the proposed service area in either an AutoCAD drawing (DWG) or shapefile (SHP) format on a data disk (CD):
  - ii. The proposed digital data must be a single, continuous polyline or polygon record, which is clearly labeled as the proposed service area.
  - iii. The proposed digital data must include the projection or coordinate system used to create the digital data.
  - iv. If submitting a DWG formatted file, please include the world (WLD) file.
  - v. If submitting a SHP formatted file, please include the projection (PRJ) file.
3. A CD labeled with the utility name and docket number assigned to this case.

Staff suggests the Applicant download the PUC's official CCN digital data on the agency's website to create their proposed digital data.

**The Applicant should not notice neighboring entities, customers, landowners or other parties until their digital data, maps, and 5-mile list of entities and notice documents have been approved by the Commission.**