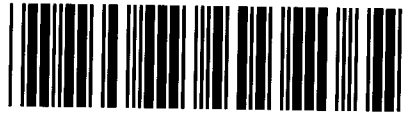


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DOCKET NO. 44028

APPLICATION OF THE CITY OF THREE RIVERS TO AMEND A CERTIFICATE OF CONVENIENCE AND NECESSITY IN LIVE OAK COUNTY (37900-C)	§ § § § §	2015 APR 20 PM 2:04 PUBLIC UTILITY COMMISSION PUBLIC UTILITY COMMISSION FILING CLERK OF TEXAS
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**COMMISSION STAFF'S RESPONSE TO ORDER NO. 3 – SUPPLEMENTAL
RECOMMENDATION ON ADMINISTRATIVE COMPLETENESS OF THE
APPLICATION**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest and files this Response to Order No. 3 – Supplemental Recommendation on Administrative Completeness of the Application 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.¹ 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. On February 10, 2015, Commission Staff filed comments on the applications deeming the application not administratively complete because it contained material deficiencies. Order No. 3, issued on February 10, 2015, found the application to be administratively incomplete and deficient and directed Applicant to amend its application to cure the noted deficiencies by March 19, 2015. Order No. 3 also directed Commission Staff to file a supplemental recommendation regarding administrative completeness of the amended application and notice along with a proposed procedural schedule by April 21, 2015. Therefore, this pleading is timely filed.

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

II. STAFF'S RECOMMENDATION ON NOTICE AND THE APPLICATION

On February 25, 2015, the Commission received the City of Three Rivers' response to Order No. 3. As detailed in the attached memorandum of Mary Lupo of the Commission's Water Utilities Division, Staff has reviewed the application and the February 25, 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.

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 TEX. WATER CODE ANN. § 13.301 and Title 16, TEX. ADMIN. CODE (16 TAC) §§ 24.105 and 24.106 as well as 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 May 18, 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 May 18, 2015 to cure the deficiencies in the application. Staff also requests that it be given until June 17, 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 May 18, 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 June 17, 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: April 20, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director-Legal Division


Shelah J. Cisneros
Managing Attorney-Legal Division



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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 20th of April, 2015, in accordance with P.U.C. Procedural Rule 22.74.



Maria Faconti

PUC Interoffice Memorandum

To: Maria Faconti
Legal Division

Thru: Tammy Benter, Director
Water Utilities Division

From: Mary Lupo, Utility Rates Analyst/Auditor
Tracy Harbour, GIS Specialist
Water Utilities Division

Date: April 17, 2015

Subject: Docket No. 44028; Application of the City of Three Rivers to Amend a Certificate of Convenience and Necessity in Live Oak County (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 of the 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, specifically §§24.102 - 24.107.

On February 25, 2015, the Applicant updated their application to re-submit mapping information in response to Order No. 3. Staff has reviewed the maps, and has found they still do not meet the mapping requirements as outlined in Chapter 24; therefore, the application is insufficient for filing.

To cure the mapping deficiencies the applicant must submit the following:

1. A general location (small scale) map showing only the proposed water service area with enough detail to accurately locate the service areas within Live Oak County.
2. A large scale map delineating only the proposed water service area with enough detail to accurately locate the service area in the vicinity of surrounding roads, streets, and highways. This map should be used for notice purposes.
3. The total acreage provided on notice documents and on their large scale map of the proposed water service area do not match the Applicant's digital data. The Applicant must either revise their digital data to include approximately 3448 acres, or they must revise their large scale map to show the proposed water service area includes approximately 3396 acres.
4. A scaled map showing requests for water service from property owners located within the proposed water service area.

Mapping guidance for small and large scale maps submitted:

- a. Do not show existing CCN service areas.
- b. The map title should include the utility name and CCN number being amended.

The Applicant should not issue notice until instructed to do so by the Commission.