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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)	§	PUBLIC UTILITY COMMISSION OF TEXAS
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**COMMISSION STAFF'S RESPONSE TO ORDER NO. 4 – 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. 4 – 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. 4, issued on April 23, 2015, found the application to be administratively incomplete and deficient and directed Applicant to amend its application to cure the noted deficiencies by May 18, 2015. Order No. 4 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 June 17, 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 May 5, 2015, the City of Three Rivers filed its response to Order No. 4. Subsequently, on May 26, 2015, the City of Three Rivers filed an amendment to the application. As detailed in the attached memorandum of Mary Lupo of the Commission's Water Utilities Division, Staff has reviewed the application and the May 5, 2015 and May 26, 2015 submissions and recommends that the application continue to be found materially deficient pursuant to 16 Texas Administrative Code §§ 24.105 and 24.106 (TAC). After review of all documents, Staff found that the hardcopy maps filed by the applicant appear to show a different proposed boundary that does not match the digital data previously submitted with the original application. 16 TAC § 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 by submitting digital data of the revised proposed CCN boundary on two CDs.

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 a mapping deficiency in the application and, therefore, recommends that the application package be found **not administratively complete** pursuant to TEX. WATER CODE ANN. § 13.301 and 16 TAC §§ 24.105 and 24.106. At this time, Staff recommends that the application package be rejected pursuant to 16 TAC § 24.8(a) until the deficiencies are cured and that the Applicant be given until July 1, 2015 to cure the identified deficiency 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 deficiency. Accordingly, Staff has not proposed a procedural schedule for this application at this time. Staff recommends that the Applicant be given until July 1, 2015 to cure the deficiencies in the application. Staff also requests that it be given until July 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 deficiency. Staff further recommends that the Applicant be given until

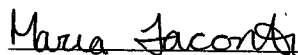
July 1, 2015 to amend its application in order to cure the deficiencies identified in Staff's memo and submit a revised proposed notice. Staff further requests that it be given until July 21, 2015 to supplement its recommendation regarding notice and administrative completeness of the application. In 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: June 17, 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 the 17th of June, 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: June 12, 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 May 5, 2015, the Applicant submitted mapping information in response to Order No. 4. Staff has reviewed the maps, and found that the hardcopy maps filed by the applicant now show a different proposed boundary that does not match the digital data previously submitted. After review, it appears that the boundary along the lake and roads are now different from the information provided with the application.

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

1. Submit digital data of the revised proposed CCN boundary on 2 CDs.

The application remains administratively incomplete and deficient.