

Control Number: 44028



Item Number: 42

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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 PUBLIC UTILITY COMMISSION FILING CLERK 2016-03-25 11:10:12
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COMMISSION STAFF'S FINAL RECOMMENDATION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this response to Order No. 9, Commission Staff's Final Recommendation, and would show the following:

I. BACKGROUND

On April 25, 2014, the City of Three Rivers (Applicant) filed an application with the Texas Commission on Environmental Quality (TCEQ) to amend its water certificate of convenience and necessity (CCN) no. 12642 in Live Oak County. The Public Utility Commission of Texas (Commission) received the application on January 2, 2015.

In Order No. 9, issued on January 13, 2016, the Commission administrative law judge (ALJ) adopted a new procedural schedule which required Staff to file its final recommendation by March 25, 2016. Therefore, this pleading is timely filed.

II. STAFF'S FINAL RECOMMENDATION

Staff has reviewed the City of Three River's application and as detailed in Attachment A, the memorandum of Mary Lupo and Elisabeth English of the Water Utilities Division, Staff respectfully recommends that the Application be approved. In accordance with this recommendation, the corresponding map and CCN are attached as Attachments B and C. On or before April 15, 2016, the parties will jointly file proposed findings of fact and legal conclusions.

III. CONCLUSION

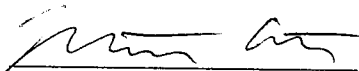
For the reasons stated above, Staff respectfully recommends that the City of Three River's application to amend their water CCN No. 12642 be approved. On or before April 15, 2016, the parties will jointly file proposed findings of fact and legal conclusions.

Dated: March 25, 2016

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division


Katherine Lengieza Gross
Managing Attorney
Legal Division



Matthew Arth
Attorney-Legal Division
State Bar No. 24090806
(512) 936-7021
(512) 936-7268 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

DOCKET NO. 44028
CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this the 25th of March, 2016, in accordance with 16 TAC § 22.74.



Matthew Arth

Attachment A

PUC Interoffice Memorandum

To: Matthew Arth, Attorney
Legal Division

Thru: Tammy Benter, Director
Water Utilities Division

From: Mary Lupo, Utility Rates Analyst/Auditor
Elisabeth English, Engineering Specialist
Water Utilities Division

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)*

DATE: March 22, 2016

On April 25, 2014, the City of Three Rivers ("City" or "Applicant") filed an application with the Texas Commission on Environmental Quality (TCEQ) to amend its water Certificate of Convenience and Necessity (CCN) No. 12642 in Live Oak County. On September 1, 2014, the water and sewer rates and CCN programs were transferred from the TCEQ to the Public Utility Commission of Texas (PUC or Commission). This application was part of the transfer and is now under the PUC's jurisdiction. The application is being reviewed pursuant to Tex. Water Code §§ 13.241-.250 (TWC) and 16 Tex. Admin. Code §§ 24.101-.107 (TAC).

Proper notice was published on July 29, 2015 and August 5, 2015, in the *Progress Newspaper*. Proper notice was provided to neighboring utilities, landowners and other affected parties in Live Oak County on October 4, 2015 and August 4, 2015. Affidavits of notice were filed by the City on October 8, 2015 and August 17, 2015. The Commission did not receive any protests, requests for hearing, or opt-out requests during the comment period.

Based on Staff's review of the application and information provided by the Applicant, the City has demonstrated adequate financial, managerial and technical capabilities to provide service to the proposed areas plus the areas already certificated to the City. TWC § 13.246(c) and 16 TAC § 24.102(d) require the Commission to consider nine criteria when granting or amending a CCN. Therefore, the following criteria were considered:

TWC § 13.246(c)(1) requires the Commission to consider the adequacy of service currently provided to the requested area. The Applicant is in compliance with TCEQ's minimum capacity requirements. In addition, the Applicant does not have any TCEQ issued violations pertaining to 30 TAC § 290, Subchapter F, which governs the drinking water quality and reporting requirements for a Public Water System (PWS) in Texas. The Applicant has the capability of providing water that meets the TCEQ's water quality requirements and is safe for household usage. While the Applicant has technical capability, it has one outstanding violation with the TCEQ for failure to repair or upgrade the automatic filter backwash; however, the Applicant is working on resolving

the violation and has submitted a request for an exception of this requirement to the TCEQ. The exception request is currently under review by the TCEQ but has not yet been approved. In addition the Applicant has provided documentation that it has the capability to cure the enforcement violation, even if it is not granted the exception requested.

TWC § 13.246(c)(2) requires the Commission to consider the need for service in the requested area. The Applicant provided documentation showing that part of the area is already being serviced by the Applicant. In addition, the Applicant has received additional requests for service in the proposed area.

TWC § 13.246(c)(3) requires the Commission to consider the effect of granting an amendment on the recipient and on any other retail water utility servicing the proximate area. The City's water CCN boundary will be amended to include the proposed area and the City will be obligated to provide service to all qualified applicants in the requested area. No other retail water utility providers will be affected.

TWC § 13.246(c)(4) requires the Commission to consider the ability of the City to provide adequate service. The City currently provides retail water service to 1,515 service connections. The application seeks to obtain approval to add 37 additional water service connections, for a projected total of 1,552 water connections. The Applicant has the capacity to serve its current customers and has demonstrated that there is currently infrastructure in place to serve the additional connections. Therefore, the Applicant meets the requirements of TWC § 13.246(c)(4) and 16 TAC § 24.102(d)(4).

TWC § 13.246(c)(5) requires the Commission to consider the feasibility of obtaining service from an adjacent retail public utility. The Applicant is already providing service to part of the area. In addition, the City has received additional requests for service in the requested area.

TWC § 13.246(c)(6) requires the Commission to consider the financial ability of the City to pay for facilities necessary to provide continuous and adequate service to the requested area. The City's audited financial statements for September 30, 2014 were available. The statements include an unqualified auditor's opinion that the financial statements present fairly, in all material respects, the financial position of the City and are in accordance with accounting principles generally accepted in the United States of America. The City's total net assets were \$13,087,987 for all City funds. The City's total debt-to-net-position (equity) ratio, as of September 30, 2014, was \$7,329,317 to \$13,087,987, or .56 to 1.00. A ratio of less than 1 to 1 is preferred for analysis of financial/managerial capabilities because it demonstrates that the City funds capital as well as operations and maintenance expenses with more equity than debt. The City's total increase in net position for 2014 was \$1,235,184 (see page 7 of the financial statements). Principle and interest expense on long term debt for Fiscal Year (FY) 2015 will be \$438,545 (as shown in note F of the financial statements). Therefore, the debt service coverage ratio is \$1,235,184 to \$438,545, or 2.82 to 1.00. A debt service coverage ratio greater than 1 means the entity has sufficient income to pay its current debt obligations. Therefore, if needed, the City can easily cover the anticipated repairs through its general fund and tax revenues.

TWC §§ 13.246(c)(7) and (9) require the Commission to consider the environmental integrity and the effect on the land to be included in the certificate. Other than minor disturbances for installing taps and/or meters to serve a few new customers in the proposed area, the land and the environment are not expected to be effected.

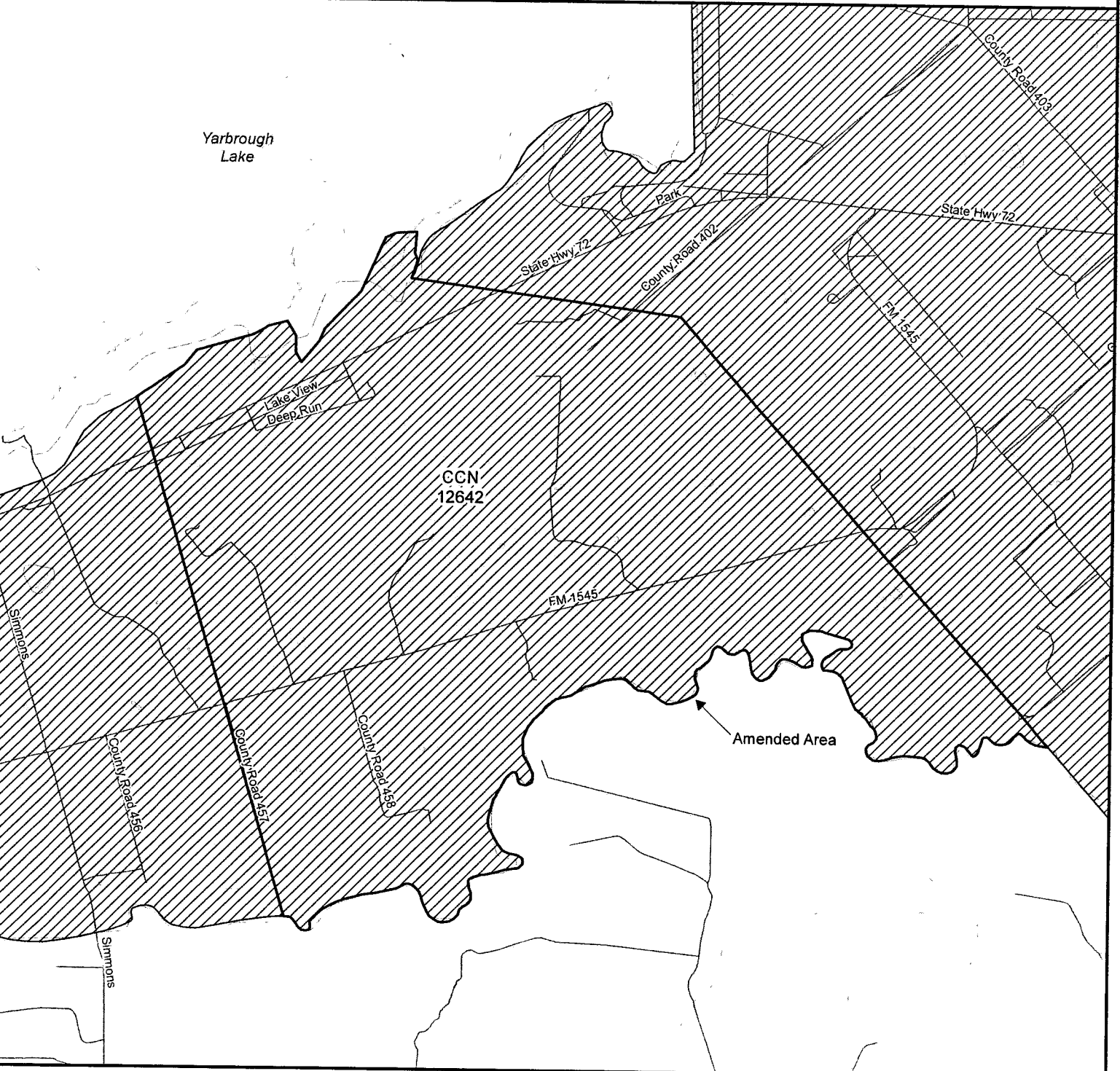
TWC § 13.246(c)(8) requires the Commission to consider the probable improvement in service or lowering of cost to consumers. The fact that there will be a retail public utility obligated to provide water service in the proposed area will be an improvement in service because there is currently no utility required to provide retail service in the area.

For the above stated reasons, Staff recommends approval of the application. The City filed its consent to the attached map and certificate on March 21, 2016. Therefore, Staff recommends that the Commission approve the application as requested and grant the CCN amendment by providing the order, CCN certificate and corresponding map to the City.

Staff further recommends that the City file certified copies of the CCN map along with a written description of the CCN service area in the county clerk's office pursuant to TWC §§ 13.257(r) and (s).

Attachment B

City of Three Rivers
Portion of Water Service Area
CCN No. 12642
PUC Docket No. 44028
Amended CCN No. 12642 in Live Oak County



Water CCN Service Area

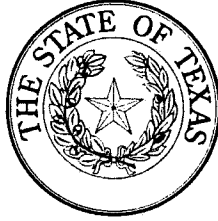


12642 - City of Three Rivers

0 1,500 3,000
Feet



Attachment C



Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Three Rivers

having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, the City of Three Rivers is entitled to this

Certificate of Convenience and Necessity No. 12642

to provide continuous and adequate water utility service to that service area or those service areas in Live Oak and McMullen Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 44028 are on file at the Commission offices in Austin, Texas; and are a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty City of Three Rivers to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, the _____ day of _____ 2016.