



Control Number: 44333



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DOCKET NO. 44333

**APPLICATION OF THE CITY OF
DEKALB TO AMEND A
CERTIFICATE OF CONVENIENCE
AND NECESSITY IN BOWIE
COUNTY**

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PUBLIC UTILITY COMMISSION

2015 JUL 20 AM 11:04

OF TEXAS

CLERK

STAFF'S RECOMMENDATION ON SUFFICIENCY OF NOTICE ISSUED

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this Recommendation on Sufficiency of Notice Issued and would show the following:

I. BACKGROUND

On January 16, 2015, City of DeKalb (DeKalb) filed with the Commission an application (Application) to amend its water certificate of convenience (CCN) in Bowie County, Texas pursuant to Tex. Water Code §§ 13.242-50 (TWC) and Title 16 Tex. Admin. Code (TAC) §§ 24.101-07 (TAC). DeKalb seeks to amend its CCN to extend its service area as a result of the need for water service in the proposed area. In Order No. 3, the Administrative Law Judge (ALJ) provided that the Applicant submit proof of notice by June 10, 2015. On June 10, 2015, DeKalb filed supplemental information evidencing the notice it issued. Order No 3 allowed Staff until July 20, 2015 to file a supplemental procedural schedule, request a hearing, or make a final recommendation.¹ Therefore, this pleading is timely filed.

II. RECOMMENDATION ON SUFFICIENCY OF NOTICE ISSUED

As detailed in the attached memorandum of Leila Guerrero (Attachment A) of the Water Utilities Division, Staff recommends that the Applicant reissue notice. Attachment A notes that the Applicant published notice in a newspaper only once instead of two consecutive weeks and that the Applicant failed to provide notice to Sulphur River Basin Authority, Red River Authority of Texas, and Bowie County. Attachment A instructs the Applicant to reissue newspaper and individual notice with the above noted deficiencies corrected.

III. PROPOSED PROCEDURAL SCHEDULE

Staff proposes the following procedural schedule:

Deadline for DeKalb to resubmit affidavits of notice and the actual notice issued.	August 20, 2015
Deadline to intervene, file comments, or request a hearing	30 days after notice is issued
Deadline for Staff to file a recommendation, request for hearing, and/or an additional procedural schedule with hard deadlines ²	September 22, 2015

Staff notes that customers have the ability to opt out of a CCN request.³ In the event customers wish to opt out of the CCN, additional procedures may be needed before Staff may make a recommendation. Additionally, in the event Staff were to recommend final approval of the CCN amendment, Staff's ability to meet the above deadline is driven in part by Staff's receipt of consent to final mapping from Applicant. Therefore, Staff's proposed procedural schedule allows Staff the opportunity to either file a recommendation after the customer comment period or recommend an additional procedural schedule.

IV. CONCLUSION

Staff respectfully requests the entry of an order consistent with the above recommendations.

¹ TWC §§ 13.242-50 and Title 16 TAC §§ 24.101-07 do not prescribe a deadline by which the Commission must make a final decision on the Application or refer it to a hearing.

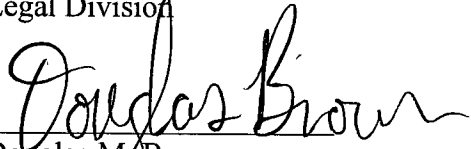
² After Staff receives the affidavits of notice and the comment period has elapsed, Staff will be able to recommend other procedural deadlines appropriately.

³ 16 TAC § 24.102(h).

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

Stephen Mack
Managing Attorney
Legal Division

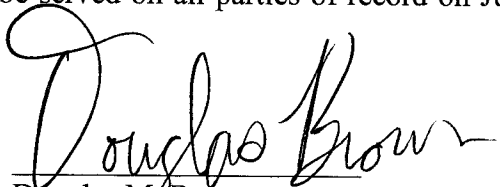


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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on July 20, 2015 in accordance with 16 TAC § 22.74.



Douglas M. Brown

ATTACHMENT A

PUC Interoffice Memorandum

To: Douglas Brown, Attorney
Legal Division

Thru: Tammy Benter, Director
Lisa Fuentes, Work Leader
Water Utilities Division

From: Leila Guerrero, Regulatory Accountant/Auditor
Water Utilities Division

Date: June 17, 2015

Subject: Docket No. 44333, Application of City of DeKalb to amend water Certificate of Convenience and Necessity in Bowie County, Texas

On January 16, 2015, the City of DeKalb (Applicant) filed with the Public Utility Commission of Texas (Commission) an application to amend its water Certificate of Convenience and Necessity (CCN) No. 10524 and to obtain dual certification with a portion of Central Bowie County WSC, CCN No. 10525, in Bowie County, Texas. This application is being reviewed pursuant to the criteria in the Texas Water Code, Chapter 13 and the PUC's Substantive Rules in Chapter, §§24.102 – 24.107.

On April 16, 2015, Staff filed a recommendation deeming the application sufficient for filing and further recommended the Applicant be ordered to do provide proper public notice.

On April 20, 2015, the Commission issued Order No. 2 requiring the Applicant to file affidavit of notice by June 10, 2015.

On June 10, 2015, the Applicant filed affidavits of notice in the PUC's filing interchange. Upon review of the filed documents, Staff found that they are insufficient due to the following:

- a) The Applicant was instructed to publish notice once each week for two (2) consecutive weeks in a newspaper of general circulation in Bowie County; however, the newspaper publication was made only once, on May 6, 2015.
- b) The Applicant was also instructed to notify Sulphur River Basin Authority, Red River Authority of Texas and Bowie County in addition to the neighboring entities listed in the application. The Applicant only provided notice to the neighboring entities listed in the application but not to Sulphur River Basin Authority, Red River Authority of Texas and Bowie County.

Based on the foregoing, Staff recommends that Applicant be required to republish notice once each week for two (2) consecutive weeks in a newspaper of general circulation in

Bowie County, and to send notice to Sulphur River Basin Authority, Red River Authority of Texas and Bowie County as instructed.