



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** §  
§  
§  
§  
§

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

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2015 SEP 22 AM 10:11  
PUBLIC UTILITY COMMISSION  
FILING CLERK

**STAFF'S SECOND 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 Second Recommendation on Sufficiency of Notice Issued. In support thereof, Staff shows the following:

**I. BACKGROUND**

On January 16, 2015, City of DeKalb (DeKalb or Applicant) 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) deemed the Application administratively complete and instructed the Applicant to submit proof of notice by June 10, 2015. On June 10, 2015, DeKalb filed supplemental information evidencing the notice it issued. Order No. 4, issued on July 21, 2015, instructed the Applicant to reissue notice and allowed it until August 20, 2015 to provide proof of the reissued notice. The Applicant filed notice documents on August 21, 2015. Order No. 4 allowed Staff until September 22, 2015 to file a supplemental procedural schedule, request a hearing, or make a final recommendation.<sup>1</sup> 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 again reissue notice. While some of the notice deficiencies have been cured, Attachment A notes that the Applicant did not send notice to Sulphur River Basin Authority, Red River Authority of Texas, or Bowie County as instructed.

Therefore, Staff recommends that the Applicant be allowed to cure the notice deficiencies in accordance with the proposed procedural schedule below.

### III. PROPOSED PROCEDURAL SCHEDULE

Staff proposes the following procedural schedule:

Deadline for DeKalb to resubmit affidavits of notice and the actual notice issued.	October 15, 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	November 17, 2015

Staff notes that customers have the ability to opt out of a CCN request.<sup>2</sup> 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.

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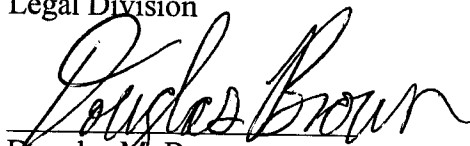
<sup>1</sup> TWC §§ 13.242-50 and Title 16 TAC §§ 24.101-07 do not prescribe a deadline by which the Commission must make a final decision on the Application or refer it to a hearing.

<sup>2</sup> 16 TAC § 24.102(h).

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director  
Legal Division


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Managing Attorney  
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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on September 22, 2015 in accordance with 16 TAC § 22.74.

  
Douglas M. Brown

# **ATTACHMENT A**

## PUC Interoffice Memorandum

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**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:** September 18, 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 16 Tex. Admin. Code §§24.102 – 24.107 (TAC).

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.

On July 20, 2015, Staff recommended that the Applicant be required to *re-publish 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.

On July 21, 2015, the Commission issued Order No. 4 requiring the Applicant to re-submit affidavits of notice and the actual notice issued by August 20, 2015.

On August 21, 2015, the Applicant filed affidavits of notice in the PUC's filing interchange. Upon review of the filed documents, Staff found that they are still insufficient. The Applicant complied with the newspaper publication requirement, however, notice was still not provided to the *Sulphur River Basin Authority, Red River Authority of Texas and Bowie County*.

Based on the foregoing, Staff recommends that Applicant be required to send notice to Sulphur River Basin Authority, Red River Authority of Texas and Bowie County as instructed.