



Control Number: 44333



Item Number: 8

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DOCKET NO. 44333

RECEIVED

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

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2015 APR 16 PM 3:54
PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
OF TEXAS
FILING CLERK

COMMISSION STAFF'S SECOND RECOMMENDATION ON SUFFICIENCY

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this Commission Staff's Second Recommendation on Sufficiency 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 ANN. §§ 13.242-50 and Title 16, TEX. ADMIN. CODE (16 TAC) §§ 24.101-07. 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. 2, the Administrative Law Judge (ALJ) deemed the Application insufficient and gave DeKalb until March 18, 2015 to amend its notice and allowed Staff until April 17, 2015 to file a supplemental recommendation. On March 6, 2015 DeKalb filed supplemental information. Therefore, this pleading is timely filed.

II. RECOMMENDATION ON SUFFICIENCY

As detailed in the attached memorandum of Leila Guerrero (Attachment A) of the Water Utilities Division, Staff recommends that the Application and proposed notice be deemed

sufficient. Attachment A also contains some instructions on providing notice. Attachment B is draft sample notices, and Attachment C is Affidavit of Notice forms.

III. PROPOSED PROCEDURAL SCHEDULE

Deadline for DeKalb to submit affidavits of notice	June 10, 2015
Deadline to intervene, file comments, or request a hearing	30 days after notice is issued
Deadline for Staff to file recommendation, request for hearing, and/or an additional procedural schedule with hard deadlines ¹	July 20, 2015

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

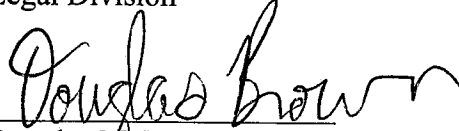
¹ After Staff receives the affidavits of notice and the comment period has elapsed, Staff will be able to recommend other procedural deadlines appropriately.

² P.U.C. SUBST. R. 24.102(h).

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

Stephen Mack
Managing Attorney
Legal Division



Douglas M. Brown
Attorney-Legal Division
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Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

DOCKET NO. 44333

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on April 16, 2015 in accordance with P.U.C. Procedural Rule 22.74.



Douglas M. Brown

ATTACHMENT A

PUC Interoffice Memorandum

To: Douglas Brown, Attorney
Legal Division

Thru: Tammy Benter, Director
Water Utilities Division

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

Date: March 16, 2015

Subject: **Docket No. 44333**, Application of City of DeKalb to amend a 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 March 6, 2015, staff received new maps, mapping data and hard copy maps submitted by the Applicant and was reviewed by staff.

Based on Staff's review of the information in the application and the new mapping information, Staff recommends that the application be deemed sufficient for filing. Staff further recommends the Applicant be ordered to do the following:

- 1) Provide correct notice of the application to the following:
 - a) any districts, groundwater conservation districts, counties, utilities, cities, cities with an extraterritorial jurisdiction within two (2) miles of the proposed service area;
 - b) any city with an extraterritorial jurisdiction which overlaps the proposed service area;
 - c) landowners with more than 25 acres and any affected parties in the proposed CCN area. The landowner information may be obtained from the county appraisal district tax rolls for the county or counties in which the proposed CCN lies; and
 - d) notice to the public which must be published once each week for two (2) consecutive weeks in a newspaper of general circulation in Bowie County;

- 2) Include a copy of a map showing the proposed service area with the individual notices to neighboring utilities, other affected parties and each landowner. It is the Applicant's burden to provide an accurate map delineating the proposed area with each individual notice. Information related to districts including addresses can be obtained by the Applicant from the TCEQ web site located at <http://www14.tceq.texas.gov/iwud/>.
- 3) Notify **Sulphur River Basin Authority, Red River Authority of Texas and Bowie County** in addition to the neighboring entities listed in the application.
- 4) Return a copy of the actual notice sent with attached signed affidavit indicating that the notice was given by June 10, 2015.

ATTACHMENT B

Notice for Publication

**NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE AND
NECESSITY (CCN) TO PROVIDE WATER UTILITY SERVICE IN BOWIE COUNTY,
TEXAS**

City of DeKalb filed an application to amend CCN No. 10524 and to obtain dual certification with a portion of Central Bowie County WSC, CCN No. 10525 with the Public Utility Commission of Texas to provide water utility service in Bowie County.

The proposed service area is located approximately **1.0** mile west of downtown DeKalb, Texas, and is generally bounded on the north by **SW Front St.**; on the east by **Rutherford St.**; on the south by **1 mile north of East Elliot Ln**; and on the west by **US 259**.

The total area being requested includes approximately 64 acres and 0 current customers.

The proposed amendment affects customers and/or areas located in the following zip code: 75559.

A copy of the proposed service area map is available at: City of DeKalb, City Hall, 110 East Grizzly drive, DeKalb, TX 75559-1800, PH No. (903)-667-2410.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should write the:

Public Utility Commission of Texas
Water Utilities Division
P. O. Box 13326
Austin, TX 78711-3326

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the Commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the Commission will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If you are a landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the proposed area, you may request to be excluded from the proposed area (or "opt out") by providing written notice to the Commission within (30) days from the date that notice was provided by the applicant. All request to opt out of the requested service area must include a scaled, general location map and a metes and bounds description of the tract of land.

Persons who meet the requirements to opt out, and wish to request this option should file the required documents with the:

Public Utility Commission of Texas
Water Utilities Division
P. O. Box 13326
Austin, TX 78711-3326

A copy of the request to opt out of the proposed area must also be sent to the applicant. Staff may request additional information regarding your request.

Si desea informacion en Espanol, puede llamar al 1-512-936-7221.

Notice to Neighboring Systems, Landowners and Cities

**NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE AND
NECESSITY (CCN) TO PROVIDE WATER UTILITY SERVICE IN BOWIE COUNTY,
TEXAS**

To: _____ Date Notice Mailed: _____, 2014
(Neighboring System, Landowner or City)

(Address)

(City State Zip)

City of DeKalb filed an application to amend CCN No. 10524 and to obtain dual certification with a portion of Central Bowie County WSC, CCN No. 10525 with the Public Utility Commission of Texas to provide water utility service in Bowie County.

The proposed service area is located approximately **1.0** mile west of downtown DeKalb, Texas, and is generally bounded on the north by **SW Front St.**; on the east by **Rutherford St.**; on the south by **1 mile north of East Elliot Ln**; and on the west by **US 259**.

See enclosed map of the proposed service area.

The total area being requested includes approximately 64 acres and 0 current customers.

The proposed amendment affects customers and/or areas located in the following zip code: 75559.

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ATTACHMENT C

PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE TO NEIGHBORING UTILITIES, LANDOWNERS AND AFFECTED PARTIES
DOCKET NO. _____

STATE OF TEXAS
COUNTY OF _____

_____ has provided
individual notice to the following entities and landowners:

DATE

OATH

I, _____, being duly sworn, file this form as

_____ (indicate relationship to applicant, that is, owner, member of partnership, title of officer of corporation, or other authorized representative of applicant); that in such capacity, I am qualified and authorized to file and verify such form, am personally familiar with the notices given with this application, and have complied with all notice requirements in the application and application acceptance letter; and that all such statements made and matters set forth therein are true and correct.

Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant, or its' attorney, a properly verified Power of Attorney must be enclosed.

Subscribed and sworn to before me this _____ day of _____, 20____, to
certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____