

Control Number: 44380



Item Number: 8

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PUC DOCKET NO. 44380

APPLICATION OF THE CITY OF	§	PUBLIC UTILITY COMMISSION
AUSTIN TO CANCEL WATER AND	§	
SEWER CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY	§	OF
HELD BY LOST CREEK MUNICIPAL	§	
UTILITY DISTRICT, IN TRAVIS	§	
COUNTY	§	TEXAS

COMMISSION STAFF'S RESPONSE TO ORDER NO. 3

Comes Now, Staff (Staff) of the Public Utility Commission of Texas (Commission) and files this Response to Order No. 3. In support of this filing, Staff states the following:

I. BACKGROUND

On January 28, 2015, the City of Austin (COA or Applicant) filed with the Commission an application (Application) requesting to cancel Lost Creek MUD's (Lost Creek) water certificate of convenience (CCN) No. 10307 and wastewater CCN No. 20118 in Travis County, Texas. The Application is being reviewed under the P.U.C. SUBST. R. 24.115.

Order No 2 deemed the Application insufficient and allowed the Applicant time to cure the deficiencies. The Applicant supplemented the Application on April 14, 2015. Order No. 3 instructed Staff to file a second recommendation by May 12, 2015. Therefore, this pleading is timely filed.

II. RECOMMENDATION

As noted by the attached memorandum (Attachment A) of Elizabeth English and Suzanne Burt of the Water Utilities Division, the Application still has many deficiencies. Attachment A provides detailed instructions on what the Applicant may do to cure the Application. Therefore Staff recommends, the Applicant be given until June 15, 2015 to cure the noted deficiencies, and that Staff be allowed until July 7, 2015 to make a supplemental recommendation.

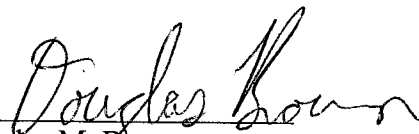
III. CONCLUSION

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

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

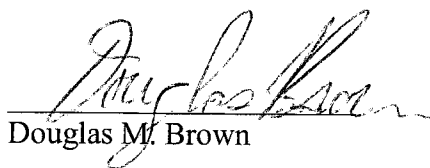
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Austin, Texas 78711-3326

DOCKET NO. 44380 CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on May 12, 2015 in accordance with P.U.C. PROC. R. 22.74.



Douglas M. Brown

ATTACHMENT A

PUC Interoffice Memorandum

To: Doug Brown, Attorney
Legal Division

Thru: Tammy Benter, Director
Water Utilities Division

From: Elisabeth English, Engineering Specialist
Suzanne Burt, GIS Specialist
Water Utilities Division

Date: May 7, 2015

Subject: Docket No. 44380: *Application of the City of Austin to Cancel Water and Sewer Certificates of Convenience and Necessity Held by Lost Creek Municipal Utility District in Travis County*

On January 28, 2015, the City of Austin (City) filed with the Public Utility Commission of Texas (Commission) an application requesting to cancel Lost Creek Municipal Utility District's (MUD) water and sewer Certificates of Convenience and Necessity (CCN), Nos. 10307 and 20118 respectively, in Travis County, Texas. The application is being reviewed under Texas Water Code (TWC) §13.250 and 16 Tex. Admin. Code §24.115. Order No. 1 requested that staff review the application for administrative completeness and file a recommendation no later than February 24, 2015.

The application was found to be deficient during the initial staff review, and Order No. 2 instructed the City to cure the noted deficiencies no later than March 25, 2015. The City supplemented the application on April 14, and Order No. 3 requested that staff file a second recommendation

Upon review of the supplemented application, Staff continues to recommend that the application be deemed insufficient for filing. The previous staff memo, dated February 19, 2015 stated:

“Any water or sewer utility that wishes to discontinue operations must first receive approval from the Commission. The Applicant, in this case, is not the utility ceasing utility service but rather the municipality currently operating within the certificated area. The application should contain information pertaining to the utility that currently possesses the CCN, and will subsequently relinquish the responsibilities associated with retaining a CCN once the application is approved. Staff recommends that the application be amended to reflect the current CCN holder, Lost Creek MUD.”

The City's supplemental filing fails to meet the requirements set forth in Tex. Admin. Code 24.115 which requests information about the CCN holder. Furthermore, the amended notices continue to state that Austin Water Utility (on behalf of Lost Creek MUD) will “cease operations; discontinue providing water/sewer utility service”. It is Staffs understanding that this statement is inaccurate due to the City's current status as the utility operator for this area.

Specifically, staff recommends that the applicant address the following deficiencies in the application content:

1. The Applicant is a District not a Municipality; the "Applicant" is the certificated entity that wishes to cease operations and cancel the CCN (Question 2)
2. Question 8-B should be answered in reference to the certificated entity. The Application lists 'Greg Meszaros' as a partner or officer of the entity; however, Mr. Meszaros is not associated with the MUD and is the Director of Austin Water Utility.
3. Question 11 requests that the Application include any documents that support the explanation of why CCN cancellation is being requested. The Application does include a cover letter which outlines the annexation of the MUD by the City, but the supporting documentation was not included. Documentation of the annexation which outlines the operation of the utilities should be filed to support the request.
4. Question 13 should pertain to the certificated entity, not the annexation of the MUD by the City. Service beginning on December 1, 2014, cannot be accurate as the MUD provided utility service prior to the City's annexation
5. Question 15 should be answered in reference to the Public Water Supply (PWS) and Sewer system currently in existence within the certificated area. TCEQ records show that the PWS is currently purchasing 100% capacity from the City of Austin.
6. Question 16 lists the PWS identification number (ID) of '2270001' and the sewer discharge permit of 'WQ10543'. The PWS ID is for City of Austin, not Lost Creek MUD; the discharge permit is not a valid permit number.
7. The proposed notice should inform the customers that Lost Creek MUD is cancelling its CCN, not that City of Austin intends to. The notice as proposed could potentially confuse current customers, who are presently receiving water utility service from City of Austin in Lost Creek MUD's CCN.
8. The proposed notice should be amended to include an accurate general location of the service area, as noted in the previous Staff memo: *on the north by Whitmarsh Valley Walk, on the east by Capital of Texas Hwy, and on the west and south by Barton Creek.*

And the following deficiencies in mapping:

1. The sewer CCN map for Lost Creek MUD has 2 polygon type CCN areas and also a facilities line type (+200 feet) CCN area. The sewer map does not show the facilities (+200 feet) CCN which connects the 2 polygons.

Applicant should be instructed not to notice neighboring entities, customers, or other parties until digital data and/or maps are approved by Staff. Furthermore, the Applicant should be aware that the effective date of the action shall be at least 120 days from the time the application is approved for filing per Tex. Admin. Code §24.115(a)(2); therefore the notice shall be amended to reflect this date upon Commission approval.