



Control Number: 44541



Item Number: 28

Addendum StartPage: 0

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APPLICATION OF CITY OF HEATH TO
AMEND A CERTIFICATE OF
CONVENIENCE AND NECESSITY AND
TO DECERTIFY A PORTION OF
FORNEY LAKE WATER SUPPLY
CORPORATION'S SERVICE AREA IN
ROCKWALL COUNTY

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PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

**CITY OF HEATH'S
APPEAL OF ORDER NO. 4**

The City of Heath, the applicant in this matter, files this Appeal of Order No. 4 entered by a Commission ALJ in this proceeding deeming Heath's application as deficient. Order No. 4 was entered on June 10, 2015. This appeal is timely filed pursuant to Commission Procedural Rule 22.123.

I. BACKGROUND/PROCEDURAL HISTORY

This case concerns the City of Heath's application for single certification within parts of its corporate limits. Heath's application seeks single certification for, and the corresponding authorization to provide retail water service to, areas and customers not currently receiving service as authorized by Texas Water Code §§ 13.242(c) and 13.255 and PUC Substantive Rule 24.103(c).¹

As required by statute and rule, Heath provided Forney Lake Water Supply Corporation ("Forney Lake") with notice, on June 2, 2011, of Heath's intent to provide retail water utility service within a portion of Forney Lake's certificated service area. Along with the notice, Heath requested an opportunity to meet with Forney Lake representatives to discuss the potential impact of single certification on Forney Lake's system and appropriate compensation, if any. Forney Lake did not respond to Heath's invitation to meet. In 2013, Heath's City Attorney filed a Public Information Act request with Forney Lake seeking detailed information concerning Forney Lake's system, which was needed to allow Heath to assess the amount of compensation that might be due to Forney Lake. Forney Lake did not provide the information requested.

¹ Tex. Water Code §13.242(c) and PUC Substantive Rule 24.103(c) allow a city to render such service without first obtaining a CCN if the city has given notice under Tex. Water Code §13.255 of its intent to serve and provided a map showing the area affected under §13.255 and location of new customers the city proposes to serve.

After landowners began developing their property in the subject area, Heath filed its application for single certification on March 16, 2015. Commission Staff commented that Heath's application was deficient. The deficiencies identified by PUC staff included: mapping issues; the failure to include a statement as to whether Heath "expects any of Forney Lake's property to be rendered useless and valueless"; the failure to clarify whether the proposed areas were annexed or incorporated²; and the failure to include a statement regarding the status of selection of an appraiser.³ On April 10, 2015, a Commission ALJ concluded that Heath's application was deficient for the reasons identified by Staff and ordered Heath to cure these deficiencies by May 6, 2015.⁴

Heath promptly conferred with Staff to resolve all of the deficiencies identified in the order, even though Heath believed that some of the alleged deficiencies (such as the obligation to provide the status of selection of an appraiser) should not affect the "completeness" of the application since they were items not contained in the Commission's application form. Heath filed its response to Order No. 2 along with an amended application addressing all of the deficiencies identified by Staff.⁵ Heath's filing included its statement regarding Heath's expectation that none of Forney Lake's facilities would be rendered useless or valueless, a map showing the areas that were annexed separately from those that were incorporated, and a statement that Heath had submitted to Forney Lake the names of two appraisers for its consideration.⁶

The parties then agreed on a procedural schedule that provided for the orderly and efficient process for determining the issues raised by the application.⁷ The proposed schedule would allow the Commission to determine whether any property of Forney Lake would be rendered useless or valueless as a result of single certification before the compensation process would begin. The Joint Proposed Procedural Schedule also included a request that the Commission grant a good-cause exemption to a requirement in the rules that compensation be determined within 90-days after an application is "administratively complete."⁸

² The statute prescribes a different valuation procedure for areas that were added to the municipality through incorporation and annexation.

³ Commission Staff's Response to Order No. 1 at 2 (April 8, 2015).

⁴ Order No. 2 (April 10, 2015).

⁵ City of Heath's Response to Order No. 2 and Amendment to Clarify Application (May 4, 2015).

⁶ Id. at 4.

⁷ Joint Proposed Procedural Schedule (May 20, 2015).

⁸ Id. at 2.

Staff determined that Heath had addressed all of the deficiencies identified in Order No. 2 and recommended that Heath's application be deemed administratively complete.⁹ However, Staff also offered in its Response to Order No. 2 its new "belief" that the process would work better if the applicant was required to submit the appraisals required by Texas Water Code §13.255(l) prior to the determination that an application is administratively complete, and Staff conditioned its determination of administrative completeness in this case on the adoption of the parties' joint proposed procedural schedule.¹⁰

On June 10, 2015, a Commission ALJ entered Order No. 4. Order No. 4 failed to address the joint request of the parties for a finding of good cause to grant an exception to the requirements to determine compensation within 90 days after an application is deemed administratively complete.¹¹ Instead order No. 4 cited to the Staff's "belief" that appraisals should be filed before the application is declared administratively complete¹² and determined that Heath's application is "deficient and the application cannot be declared administratively complete until the appraisals are submitted."¹³

II. SUMMARY

There are two issues that the Commission needs to address in this appeal. First, whether Heath's application is "administratively complete" under Commission rules and precedents. Second, whether the Commission should waive the 90-day requirement of Procedural Rule 24.120(h) when all of the parties have agreed to the waiver.

The ALJ erred in concluding that Heath's application is deficient. Heath submitted its application using the Commission's prescribed form. Staff determined that Heath's application contained all of the information required by the form. Heath's application, therefore, is not deficient and is administratively complete. The ALJ erred in determining that the application had to contain the appraisals because the application form does not require the submission of

⁹ Memo from Elizabeth English to AJ Smullen (May 19, 2015) (Attachment A) ("**Accordingly I recommend that the City has addressed the issues identified in Staff's Response to Order No.1, and I recommend that the application be accepted for filing**")*), attached to* Commission Staff's Response to Order No. 2 at 2 (May 20, 2015).

¹⁰ Commission Staff's Response to Order No 2 at 2(May 20,2015).

¹¹ See Joint Proposed Procedural Schedule at 2.

¹²See Commission Staff's Response to Order No. 2 at 2. Staff was describing its views of what should "ordinarily" occur, not what should apply in this case in which the parties had agreed to a schedule that would waive the 90 day requirement.

¹³ Order No. 4 (June 10, 2015) at 2.

appraisals and because it would be unreasonable and impractical to require an applicant, the utility, and the Commission to perform potentially unnecessary appraisals as part of the filing of an application.

The ALJ additionally erred in not granting the good cause exception requested and accepting the proposed procedural schedule agreed to by all of the parties. The Commission has the authority to grant a waiver from the 90-day deadline imposed by its rules, particularly when the parties have consented to the waiver. The 90-day deadline is not a mandatory deadline because it is a procedural requirement without a specified consequence for failure to comply.

III. ARGUMENT

A. Heath's application is administratively complete because it contains the information required by the Commission-prescribed form

Statutes that set out the permit requirements typically only provide general guidance to the Commission and potential applicants as to what should be in an application.¹⁴ By providing general guidance, the Legislature empowers an agency to flesh out application requirements through rules, and through the development of application forms and instructions.

The Commission follows this approach. Generally, the Commission's substantive rules provide additional guidance regarding application requirements, but only the application forms approved by the Commission set out the details of what must be included for an application to be deemed complete. This approach is mandated in Procedural Rule 22.80, which states that the Commission may require that certain applications be submitted on standard forms, and that all such applications must contain "all matters designated in the official form and shall conform substantially to the official form."¹⁵

Historically, the Commission has deferred to Staff to review an application to determine whether the application is complete – that is whether the application contains all of the information requested by a form. When an application does not contain all of the information required by a form, Staff has recommended that the application be found deficient, and the

¹⁴ For example, Texas Water Code §13.241 requires that the Commission ensure that an applicant for a CCN possess the financial, managerial, and technical capability to provide service, but the statute does not specify what information should be included in the application to allow the Commission to make this determination.

¹⁵ P.U.C. Subst. R. 22.80.

Commission has agreed.¹⁶ Conversely, when an application contains the information required by the form, Staff has recommended that the Commission determine that the application is complete.¹⁷ This approach ensures that the Commission treats applicants similarly¹⁸ and is consistent with concept of due process. Otherwise, the Commission could effectively deny an application without a hearing by continually applying new application requirements.

The Commission has an application form for municipalities to use when seeking single certification under Texas Water Code §13.255 and Commission Substantive Rule 24.120.¹⁹ The form requires, among other things, the submission of information regarding the applicant and the incumbent retail public utility, when negotiations between the applicant and the utility commenced, a description of the utility's facility in the associated service area, and mapping information. *Notably, the form does not require the preparation and submittal of appraisals.*

Heath submitted its application using the Commission's form. Commission Staff reviewed the application and advised Heath that its application was deficient for the reasons previously discussed.²⁰ Although Heath was concerned that some of the alleged deficiencies went beyond the application requirements it cooperated by submitting the requested information and amending its application to address those issues. Based on its review, Staff agreed that Heath fully addressed the identified deficiencies.²¹ Based on those facts, and prior Commission precedent, including precedent relating to both electric and water utilities, the Commission should determine that Heath's application is administratively complete. If the Commission wants appraisals to be submitted with the application (which would be an almost impossible and certainly impracticable task as explained below), the Commission may revise its rules or the

¹⁶ *Application of Brazos Electric to Amend a CCN*, Docket No. 32791, Order No. 4 (Sept. 5, 2006) (determining the application deficient because Brazos failed to provide a copy of its EIS as required by Question No. 28 in the application form.)

¹⁷ *Updated Application of ETI and ITC for Approval of Change in Ownership*, Docket No. 41850, Staff's Response to Order No. 1 at 4-5 (Oct. 3, 2013) (Staff recommended application be found sufficient when a completed form was filed); see also Order No. 2 at 2 (Oct. 9, 2013) (holding that application deemed sufficient on filing of complete form).

¹⁸ In the only other case brought pursuant to Texas Water Code §13.255, the Commission deemed the application complete even though the application did not contain any appraisals. *Application of Providence Village to Obtain CCN and Request to Decertify a Portion of Mustang Special Utility District's CCN*, Docket No. 43733, Order No. 2 (Feb 6, 2015). In that docket, the applicant was not required even to provide information regarding the status of appraisals, as Heath was required to do in this case.

¹⁹ Application to Obtain or Amend a Certificate of Convenience and Necessity (CCN) Under Water Code Section 13.255. (Attachment B).

²⁰ Commission Staff's Response to Order No. 1 at 2 (April 8, 2015).

²¹ Memo from Elizabeth English to AJ Smullen (May 19, 2015) (Attachment A), attached to Commission Staff's Response to Order No. 2 at 2 (May 20, 2015).

application form through a process that provides all stakeholders notice and an opportunity to participate. It should not make such changes in the middle of processing an application.

B. Requiring Heath to submit “the appraisals” as part of an application is unreasonable

The Commission should not require the submission of “the appraisals” as required by Order No. 4. The problem with such a requirement is that obtaining the appraisals is not within Heath’s control and could require the exercise of the Commission’s jurisdiction over Forney Lake, without such jurisdiction having been properly invoked.

To understand why the appraisals are beyond Heath’s control requires an understanding of the complexity of the statutory process for determining compensation, when such a determination is necessary. If PUC makes a determination that facilities of the utility will be rendered useless or valueless as a result of single certification, the statute and the rule²² set out two different appraisal approaches depending on whether the area was part of the original incorporation of the municipality or if it was added by annexation.²³ For area that was incorporated, the utility selects a qualified appraiser. For annexed area, the applicant and the utility first attempt to agree on an independent appraiser to determine compensation for the requested area that was annexed. If the applicant and the utility cannot agree on an appraiser, they must each appoint their own appraisers, who are supposed to meet to determine compensation, if any. If the two independent appraisers cannot agree on an amount, either the applicant or the utility may petition the Commission to appoint a third appraiser to “reconcile the appraisals” of the other two appraisers. The costs for appraisals of annexed area are shared equally by the applicant and the utility.²⁴

In order for Heath to comply with Order No. 4 and prepare an application for filing, Heath would have to compel Forney Lake to appoint a qualified appraiser for the incorporated area and to negotiate regarding the selection of mutually acceptable appraiser for the annexed area. Additionally, Heath would have to compel Forney Lake to appoint an appraiser for the annexed area if a mutually acceptable appraiser could not be found and compel that appraiser to meet with Heath’s appraiser. If all of that did not work out, Heath would have to “petition” the Commission to appoint a third appraiser. Heath lacks the authority to compel Forney Lake to

²² Tex. Water Code 13.255 (l) and P.U.C. Subst. R. 24.120(m).

²³ *Id.*

²⁴ *Id.*

participate in this process²⁵, and without an administratively complete application, the Commission may also lack the authority to compel Forney Lake to participate.²⁶ As such, Forney Lake can prevent Heath's application from being deemed administratively complete simply by refusing to cooperate. Such a construction would be unreasonable. As the Commission recognized in Docket 44555, "[t]he construction of the statute to recognize that a CCN holder, by not participating in the process, can halt the entire proceeding is unreasonable."²⁷

The Commission should overturn the ALJ's decision that submission of "the appraisals" is required as part of the submission of an administratively complete application under Texas Water Code §13.255. Such a requirement is unreasonable because it would be beyond the applicant's ability to control and probably beyond the Commission's ability to compel.

C. The Commission has the authority to adopt the procedural schedule jointly proposed by the parties.

Because Heath's application contains all the information required by the Commission's standard form and is complete, the Commission needs to set a procedural schedule. The parties presented the ALJ with an agreed proposed schedule that waived the 90-day requirement of Commission Substantive Rule 24.120(h). Under this schedule, the parties agreed that the Commission should first determine whether any of Forney Lake's facilities would be rendered useless and valueless, a determination that the Commission is required to make by statute.²⁸ If the Commission determines that any facilities are rendered useless and valueless, then the parties will start the appraisal process. As explained in the parties' joint motion, this approach would result in cost savings for the parties, who would not have to hire appraisers unnecessarily, and such approach would produce better appraisals, if ultimately required, since the appraisers would have a common understanding of the property to be appraised.

²⁵ Under the Water Code, Heath only has jurisdiction of water utilities operating within its corporate boundaries. Tex. Water Code §13.042. Forney Lake, as a water supply corporation, is not a water utility. Tex. Water Code §13.002(23).

²⁶ The Commission's broad grant of authority under Chapter 13, only extends to water utilities, which Forney Lake is not.

²⁷ *City of Tyler's Notice of Intent to Provide Sewer Service to Area Decertified from Tall Timbers Utility Company, Inc.*, Docket 44555, Proposed Order at 3 (June 11, 2015).

²⁸ Tex. Water Code 13.255(c) ("The **Commission shall also determine** whether single certification as requested by the municipality would result in **property of the retail public utility being rendered useless and valueless** to the retail public utility, and shall determine in its order the monetary amount that is adequate and just to compensate the retail public utility **for such property.**")

The Commission has the jurisdiction to waive the 90-day requirement to determine compensation. For determinations regarding whether a statutory requirement is directory or mandatory, there is no “absolute test” that applies.²⁹ Statutory provisions that “are included for the purpose of promoting the proper, orderly and prompt conduct of business” are not generally construed as mandatory, particularly when the failure to comply will not prejudice the rights of the interested parties.³⁰ One factor that may weigh in favor of construing a statute that requires timely action as directory is if the statute does not specify consequences for failing to act by the statutory deadline.³¹

Following these guidelines, Commission Staff has previously articulated that certain statutory deadlines, such as the deadline to review CREZ transmission line CCN applications, are mandatory because the consequence for the failure to act is approval of the application, but other deadlines, such as the deadline to review non-CREZ transmission line CCN applications, are not mandatory because the consequence for the failure to act is a court order to act.³²

Texas Water Code §13.255(g-1) does not directly impose a 90 day requirement to determine compensation. Instead it imposes a requirement that the Commission adopt procedures to ensure that compensation to be paid to the utility is determined within 90 days after the Commission determines that the application is administratively complete.³³ The 90-day requirement was included for the purpose of promoting the proper, orderly, and prompt determination of compensation. In this case, the failure to meet the 90-day deadline will not prejudice the rights of any interested party since the parties all agreed to waive the deadline. Also, neither the statute nor the rule specifies a consequence if the Commission fails to act in 90 days.

Additionally, as argued by the parties in the joint motion, the Commission may waive the 90-day deadline established by Substantive Rule 24.120(h) for good cause pursuant to Procedural Rule 22.5. Good cause exists in this case because there is an issue as to whether any property will be rendered useless or valueless as a result of single certification and because the

²⁹ *TJFA, L.P. v. Texas Comm'n on Envtl. Quality*, 368 S.W.3d 727, 734-35 (Tex. App. -- Austin 2012, writ denied); citing *Chisholm v. Bewley Mills*, 155 Tex. 400, 287 S.W.2d 943, 945 (1956).

³⁰ *Id.*

³¹ *Id.*

³² *Application of Oncor to Amend a CCN for a Proposed CREZ Line*, Docket 37408, Staff's Motion for Reconsideration of Order No. 5 at 2-3 (Oct. 28, 2009).

³³ The Commission has adopted a rule that requires that compensation be determined within 90 days, but as is apparent from the filings in this docket, the rule fails to contain procedures to ensure that this can be accomplished.

parties agree that their proposed schedule will result in a cost savings for the parties while efficiently resolving the compensation issue.

Heath recommends that the Commission adopt the schedule proposed by the parties. Given the delay caused by the Order No. 4, Heath suggests that the parties be given the opportunity to revise the current deadlines if necessary. If the Commission concludes that it lacks the authority to waive the 90-day deadline, Heath recommends that the Commission deem the application administratively complete and order the parties to propose a schedule that allows the Commission to determine whether any property will be rendered useless or valueless and the value of such property within 90 days.

IV. CONCLUSION

Heath's application is administratively complete because the application contains all of the information required by the Commission-prescribed application form – as well as additional information requested by Commission Staff. Heath should not be required to file "the appraisals" as part of its application. No determination has been made by the Commission that any property of Forney Lake's will be rendered useless or valueless as a result of single certification, and until such a determination is made, and the specific property identified, there is no need for the appraisals. Moreover, it would be unreasonable to require that Heath file the appraisals when two of the three appraisals are beyond Heath's ability to obtain. Finally, the Commission has the authority to waive the 90-day requirement to complete appraisals after the application is deemed administratively complete because the deadline is not mandatory, all of the parties have consented to the waiver of the deadline and good cause to grant an exception exists.

V. PRAYER

Based on the foregoing, Heath respectfully requests that the Commission issue an order that:

- (a) Overrules Order No. 4 pursuant to Commission Procedural Rule 22.123;
- (b) Finds that Heath's application for single certification under Texas Water Code §13.255 is determined to be administratively complete and accepted for filing;
and,

- (c) Adopts the procedural schedule jointly proposed by the parties, and provide the parties to opportunity to request adjustments to the deadlines to reflect the delay caused by the order.

Dated: June 19, 2015

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jim Mathews", written over a horizontal line.

Jim Mathews
State Bar No. 13188700
Mathews & Freeland, LLP
8140 N. Mopac Expy, Ste 2-260
Austin, Texas 78759
Telephone (512) 404-7800
Facsimile (512) 703-2785

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Appeal of Order No. 8 was served on all parties of record in this proceeding on this 19th day of June, 2015, by hand-delivery, facsimile, electronic mail, and/or First Class Mail.

Arturo Rodriguez, Jr.
Attorney for Forney Lake
Russell & Rodriguez LLP
1633 Williams Dr., Building 2, Suite 200
Georgetown, Texas 78632
866-929-1641 (fax)

A.J. Smullen
Attorney, Legal Division Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
512-936-7268 (fax)



Jim Mathews

Attachment A

Public Utility Commission of Texas

Memorandum

TO: AJ Smullen, Attorney
Legal Division

FROM: Elisabeth English, Engineering Specialist
Water Utilities Division

THRU: Tammy Benter, Director
Water Utilities Division

DATE: May 19, 2015

RE: Docket No. 44541: *Application of City of Heath to Amend a Certificate of Convenience and Necessity and to Decertify a Portion of Forney Lake Water Supply Corporation's Service Area in Rockwell County*

On March 16, 2015, City of Heath (City) filed with the Public Utility Commission (Commission) an application to amend its water certificate of convenience (CCN) No.12060 and to decertify a portion of Forney Lake Water Supply Corporation's (WSC) service area, CCN No. 10086, in Rockwall County. The application was filed pursuant to Texas Water Code (TWC) § 13.255 and the 16 Tex. Admin. Code (TAC) § 24.120.

Order No. 1 requested that Staff provide a recommendation regarding administrative completeness of this application by April 8, 2015. The initial review found that the application was not administratively complete; specifically, that the mapping information included with the application did not comply with the Commission's mapping requirements. Furthermore, Staff concluded that the application did not contain sufficient information to permit a full, timely review of the merits of the application. Order No. 2 requested that the City cure the deficiencies in the Application, and that Staff provide a recommendation by May 20, 2015.

For the reasons discussed below, I recommend that the application be found to be administratively complete.

The City incorporated and annexed portions of the WSC's service area and provided a map detailing the aforementioned areas in relation to the proposed affected area. The City provided a copy of the notice of intent to serve, sent to the WSC on June 2, 2011, pursuant to 16 TAC §24.120(b). An application for single certification was filed as a result of the City and the WSC failing to execute an agreement within 180 days of the notification of intent to serve. The City is seeking single certification to provide water utility service to customers that are not currently receiving service by the WSC in the proposed area.

The WSC identified 8 addresses that it serves within the original proposed area. The City amended its application to exclude the tracts of land that are currently being served by the WSC, as well as areas that are not identified as having a need for service (undeveloped). As amended, the acreage provided in the City's meets and bounds descriptions is 903 acres and 903.54 acres in the digital data. Maps, tract plats, meets and bounds survey descriptions, and a written description of the proposed service area were reviewed by mapping staff and satisfied the mapping requirements as listed in the application, and as required in the 16 TAC § 24.105(a) (2).

The City, on April 24, proposed to Forney Lake WSC the names of two appraisers for its consideration.

Pursuant to 16 TAC §24.120(n) the City demonstrated compliance with TCEQ's minimum requirements for public drinking water systems pursuant to 30 TAC Chapter 290, Subchapter D by providing the most recent Comprehensive Compliance Investigation (CCI) report, and subsequent Notice of Compliance with violations noted during the investigation. The CCI was conducted May 24, 2013 and the Notice of Compliance was dated May 1, 2015.

Accordingly, I recommend that the City has addressed the issues identified in Staff's Response to Order No. 1, and I recommend that the application be accepted for filing.

Attachment B



PURSUANT TO PUC CHAPTER 24, SUBSTANTIVE RULES APPLICABLE TO WATER AND SEWER SERVICE PROVIDERS, SUBCHAPTER G: CERTIFICATES OF CONVENIENCE AND NECESSITY

Application to Obtain or Amend a Certificate of Convenience and Necessity (CCN) Under Water Code Section 13.255

Docket Number: _____

(this number will be assigned by the Public Utility Commission after your application is filed)

7 copies of the application, including the original shall be filed with

Public Utility Commission of Texas

Attention: Filing Clerk

1701 N. Congress Avenue

P.O. Box 13326

Austin, Texas 78711-3326

If submitting digital map data, two copies of the portable electronic storage medium (such as CD or DVD) are required.

CCN Requirements

1. Purpose of application

Check all boxes that apply.

The purpose of this application is to:

☐ Obtain single certification to a service area within the cities limits; and /or

☐ Amend Certificate of Convenience and Necessity (CCN) No. _____

to provide ☐ water or ☐ sewer service to:

_____ (Subdivision or Area) and to decertify
a portion of _____ (Name of Utility and CCN No.)

2. Applicant

Name of City:

Mailing address:

Phone:

Fax:

Email:

Tax Identification number:

3. County or counties

Name of county(ies) where the city intends to provide retail public utility service:

4. Contact information

Contact person regarding this application:

Name:

Title:

Mailing address:

Phone:

Fax:

Email:

5. Retail public utility

Retail public utility currently certificated to the area involved in this application:

Utility Name:

Title:

Mailing address:

Phone:

Fax:

Email:

Retail public utility contact person regarding negotiations with the city over the service area involved:

Name:

Title:

Mailing address:

Phone:

Fax:

Email:

6. Service area

On what date was this proposed service area incorporated by the city? _____

7. Negotiation date between city and retail public utility

On what date did negotiations begin between the city and the retail public utility? _____

8. Notice date

On what date was notice of the city's intent to provide service to the incorporated or annexed area provided to the retail public utility made? _____

Please attach a copy of the notice provided. Also attach a copy of the mailing list indicating to whom such notice was provided.

9. Description of retail public utility facilities

Please provide a brief description of the retail public utility's facilities in the service area involved in this application. Also indicate how many customers are currently receiving service from the retail public utility in this area:

10. Service start date

Provide the date when city service to the area can begin. _____

11. Franchised utility information

If the city will allow a franchised utility to provide service to the area involved, please attach a copy of the city consent or franchise agreement and provide the following information:

Utility Name:

Mailing address:

Phone:

Fax:

Email:

Franchised Utility's CCN Number:

Franchised Utility's contact person and their address:

Name:

Title:

Mailing address:

Email:

Phone:

Phone:

Fax:

Email:

12. Paper map requirements

All maps should include applicant's name, address, telephone number, and date of drawing or revision and be folded to 8½ x 11 inches.

Attach the following maps with each copy of the application:

- A. Subdivision plat or engineering plans or other large scale map showing the following:
 - 1. The exact proposed service area boundary showing locations of requests for service and locations of existing connections (if applicable).
 - 2. Metes and bounds (if available).
 - 3. Proposed and existing service area boundaries should be plotted on the map in relation to verifiable natural and man-made landmarks such as roads, creeks, rivers, railroads, etc.
 - 4. Service area boundaries should be shown with such exactness that they can be located on the ground.
- ❖ ***Applicant may use a USGS 7.5"-minute series map if no other large scale map is available.***
- B. Small scale location map delineating the proposed service area. The proposed service area boundary should be delineated on a copy of the official CCN map. This map will assist the Public Utility Commission in locating the proposed service area in relation to neighboring utility service areas.
- C. Hard copy maps should include the following items:
 - 1. Map scale should be prominently displayed.
 - 2. Color coding should be used to differentiate the applicants existing service areas from the proposed service area.
 - 3. Attach a written description of the proposed service area.
 - 4. Proposed service area should be the same on all maps.
 - 5. Include map information in digital format (if available), see 13, GIS map information.
- D. Each utility shall make available to the public at each of its business offices and designated sales offices within Texas the map of the proposed service area currently on file with the Commission. The applicant employees shall lend assistance to persons requesting to see a map of the proposed area upon request.
- ❖ ***For information on obtaining a CCN base map or questions about sending digital map data, please visit the Water Utilities section of the PUC's website for assistance.***

13. GIS map information

- A. Digital Map Requirements: In order that your digital data can be properly used, the following information is necessary:
1. Submit digital data of the proposed CCN service area on a CD, flash drive, or DVD. Two digital copies are necessary. Most files of CCNs (minus the base map) should be small enough to zip up and put on a CD.
 2. The digital data should include all items represented in the hard copy maps.
 3. Please identify data file format, projection information, map units and base map used. Acceptable Data File Format:
 - a. ArcView shape file (preferred)
 - b. Arc/Info E00 file

❖ *For information on obtaining a CCN base map or questions about sending digital map data, please visit the Water Utilities section of the PUC website for assistance.*

ALL APPLICABLE QUESTIONS MUST BE ANSWERED FULLY.

THE APPLICATION WILL NOT BE ACCEPTED FOR FILING WITHOUT MAPS.

PLEASE NOTE THE FILING OF THIS APPLICATION DOES NOT CONSTITUTE AUTHORITY TO PROVIDE WATER/SEWER SERVICE IN THE REQUESTED AREA.

OATH

State of _____

County of _____

I, _____ being duly sworn, file this

application under V.T.C.A., Water Code Section 13.255 as _____

(Name of the City); that, in such capacity, I am qualified and authorized to file and verify such application, am personally familiar with the maps filed with this application, and have complied with all the requirements contained in this application; and, that all such statements made and matters set forth therein are true and correct. I further state that the application is made in good faith and that this application does not duplicate any filing presently before the Public Utility Commission of Texas.

I further represent that the application form has not been changed, altered or amended from its original form available only from the Commission.

I further represent that the Applicant will provide continuous and adequate service to all customers and qualified applicants for service within its certificated service area.

AFFIANT

(Applicant's Authorized Representative)

If the Affiant 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, a Notary Public in and for the State of
Texas, this _____ day of _____ 20 _____

SEAL

NOTARY PUBLIC



PURSUANT TO PUC CHAPTER 24, SUBSTANTIVE RULES APPLICABLE TO WATER AND SEWER SERVICE PROVIDERS, SUBCHAPTER G: CERTIFICATES OF CONVENIENCE AND NECESSITY

Application to Obtain or Amend a Certificate of Convenience and Necessity (CCN) Under Water Code Section 13.255

Instructions and Checklist

Each question on the application must be answered completely. If additional space is needed, attach additional sheets clearly labeled with the applicant's name and Docket Number if available. If a question is not applicable, please mark it N.A. and briefly explain why the question does not apply. **DO NOT LEAVE ANY QUESTIONS BLANK.**

7 copies of the application package, including the original, must be filed with the commission's filing clerk, per §22.71(c)(9) of the Commission's procedural rules.

The following items must be included in the application package:

- Completed application form, including any attachments
- Copy of notice of city's intent to serve the incorporated or annexed area to the retail public utility
- Completed Oath
- Maps - See the Map section on the application form for more details.

No required filing fee.

7 copies of the completed application package, including the original should be sent to:

Filing Clerk
Public Utility Commission of Texas
1701 North Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326