



Control Number: 44695



Item Number: 19

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DOCKET NO. 44695

APPLICATION OF CRYSTAL CLEAR WATER SUPPLY CORPORATION FOR A SEWER CERTIFICATE OF CONVENIENCE AND NECESSITY IN COMAL COUNTY	§	PUBLIC UTILITY COMMISSION OF TEXAS 2015 NOV 20 AM 9:24 PUBLIC UTILITY COMMISSION FILING CLERK
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**COMMISSION STAFF'S RESPONSE TO ORDER NO. 5
FINAL RECOMMENDATION**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Final Recommendation. In support thereof, Staff shows the following:

I. BACKGROUND

On May 1, 2015, Crystal Clear Water Supply Corporation (Crystal Clear or Applicant) filed with the Public Utility Commission of Texas (Commission) an application (Application) to obtain a new sewer certificate of convenience and necessity (CCN) in Comal County, Texas pursuant to Tex. Water Code §§ 13.242-250 (TWC) and 16 Tex. Admin. Code §§ 24.101-24.107 (TAC). On September 9, 2015, the Administrative Law Judge issued Order No. 5 requiring Staff to file a final recommendation on disposition or request a hearing on the merits of the application by November 20, 2015. Therefore, this pleading is timely filed.

II. RECOMMENDATION

As supported by the attached memorandum of Sean Scaff of the Water Utilities Division, Staff recommends approval of Crystal Clear's Application for a new sewer CCN.

Specifically, Staff reviewed the information in the Application, the supplemental information provided by the Applicant and the Commission's criteria for considering and granting new sewer CCNs. Staff has concluded that the approval of the Application is necessary for the service, accommodation, convenience and safety of the public pursuant to 16 TAC § 24.102(a) and (c). Staff has confirmed that the Applicant has demonstrated adequate financial, managerial and technical capability to provide service to the requested service area subject to this application pursuant to TWC § 13.246(c) and 16 TAC § 24.102(d). Staff recommends that the Applicant meets the statutory requirements of TWC Chapter 13 and 16 TAC Chapter 24 rules

and regulations. Since no one is contesting this Application, no hearing is necessary. Staff therefore recommends approval of the CCN.

The certificate, final map, and consent form are attached.¹ The Applicant consented to the attached map. Staff recommends that the Applicant be ordered to file certified copies of the CCN map along with a written description of the CCN service area in the Comal County's clerk's office pursuant to TWC § 13.257(r) and (s).

III. REMAINING PROCEDURAL SCHEDULE

Deadline for Crystal Clear to respond to Commission Staff's recommendation on final disposition and/or request a hearing	November 30, 2015
Deadline for parties to file a proposed notice of approval, including findings of fact, conclusions of law, and ordering paragraphs	December 21, 2015

IV. CONCLUSION

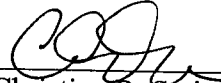
Staff respectfully requests that an order be issued consistent with this Final Recommendation.

¹ Because Crystal Clear is a Water Supply Corporation, it is not required to file a tariff.

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 November 20, 2015 in accordance with 16 TAC § 22.74.



Christina R. Switzer

Attachment A

PUC Interoffice Memorandum

To: Christina Switzer, Attorney
Legal Division

Thru: Tammy Benter, Director
Water Utilities Division

From: Sean Scaff, Engineering Specialist
Water Utilities Division

Date: November 13, 2015

Subject: **Docket No. 44695:** *Application of Crystal Clear WSC to obtain a sewer CCN in Comal County*

On May 1, 2015, Crystal Clear WSC (Applicant), filed an application to obtain a sewer CCN in Comal County, pursuant to Texas Water Code (TWC), §§ 13.241-250 and the 16 Tex. Admin Code (TAC) §§ 24.101-.107.

The Applicant, which is a water supply corporation, is seeking to obtain a sewer CCN for approximately 88 acres in order to provide sewer service to 184 potential connections. The amendment includes one tract of land that will be developed by a third party, SouthStar at Havenwood, LLC (SouthStar) with operational and maintenance duties conveyed to the Applicant at the time of construction completion.

In determining whether to grant or amend a CCN, the Commission shall ensure that the Applicant possesses the financial, managerial, and technical capability to provide continuous and adequate service pursuant to TWC § 13.241(a) and 16 TAC § 24.102(a). The Commission shall also consider the nine elements as stated in TWC § 13.246(c) and 16 TAC § 24.102(d). Staff has reviewed the above referenced application, and has found that it has met the requirements for a new sewer CCN, as detailed below.

TWC § 13.241(c) and 16 TAC § 24.102(a)(2)

For sewer utility service, the Commission shall ensure that the applicant has a TCEQ approved system that is capable of meeting the TCEQ's design criteria for sewer treatment plants, TCEQ rules and the TWC. On April 15, 2015 the SouthStar received a TCEQ approved permit to discharge waste, Permit No. WQ0015266001. This approval shows that SouthStar has met all design criteria for sewer systems pursuant to Chapter 20 of the Texas Water Code. Southstar will convey ownership and maintenance of the sewer system over to the Applicant after construction has been completed.

TWC § 13.246(c)(1) and 16 TAC § 24.102(d)(1)

In considering whether to grant or amend a certificate, the Commission shall consider the adequacy of service currently provided to the requested area. The Applicant has a TCEQ approved public water system, and has provided proof of an approved waste water permit from the TCEQ dated April 15, 2015. The approved permit shows that the Applicant has met TCEQ's design criteria and allows the Applicant to discharge waste from the site in an approved manner.

TWC § 13.246(c)(2) and 16 TAC § 24.102(d)(2)

In considering whether to grant or amend a certificate, the Commission shall consider the need for additional service in the proposed area. The Applicant received a request for service from Southstar, a developer who intends to build a neighborhood development in the requested area.

TWC § 13.246(c)(3) and 16 TAC § 24.102(d)(3)

In considering whether to grant or amend a certificate, the Commission shall consider the effect of granting a certificate on the Applicant, on the landowners in the area, and on any retail public utility of the same kind already serving the proximate area. The applicant is already certificated to provide water service in the area and has received a request from the developer to provide sewer services in the area as the Applicant will already be providing water to the newly constructed neighborhood. No protests were received in relation to the sewer application. As such, the approval of the sewer CCN should have no effect in landowners and other retail providers in the area.

TWC § 13.246(c)(4) and 16 TAC § 24.102(d)(4)

In considering whether to grant or amend a certificate, the Commission shall consider the ability of the Applicant to provide adequate service, including meeting the standards of the commission, taking into consideration the current and projected density and land use of the area. Applicant has an existing TCEQ approved water system. The addition of 88 new units should have negligible effect on the ability of the applicant to provide adequate sewer service to the area. The Applicant also provided a TCEQ approved waste discharge permit showing that they have met all required operational and design criteria for the requested sewer CCN.

TWC § 13.246(c)(5) and 16 TAC § 24.102(d)(5)

In considering whether to grant or amend a certificate, the Commission shall consider the feasibility of obtaining service from an adjacent retail public utility. The Applicant already has water service infrastructure in place, and is currently servicing areas nearby. The Applicant also received requests to provide sewer service by Southstar. As such, the feasibility of obtaining service from another provider was not considered.

TWC § 13.246(c)(6) and 16 TAC § 24.102(d)(6)

In considering whether to grant or amend a certificate, the Commission shall consider the financial ability of the applicant to pay for the facilities necessary to provide continuous and adequate service and the financial stability of the applicant, including, if applicable, the adequacy of the applicant's debt-equity ratio. A review of the Applicants financial and managerial information has shown that the Applicant has the required capability to provide continuous and adequate service to its customers. According to the application, Southstar will be responsible for constructing the sewer system, and will convey the system to the Applicant after it is constructed; therefore, the Applicant will not incur any capital costs from the construction of the sewer system. The Applicant is a non-profit, member-owned and member-controlled sewer service corporation organized under Chapter 67 of the Texas Water Code and its elected board of directors has adopted a proposed appropriate rate structure sufficient to fund all operation and maintenance costs.

TWC § 13.246(c)(7) and 16 TAC § 24.102(d)(7)

In considering whether to grant or amend a certificate, the Commission shall consider the environmental integrity of the proposed area resulting from the granting of the certificate or amendment. SouthStar will develop the proposed area. As long as all appropriate construction techniques and approved design criteria are used during the construction process, there should be minimal effect to the environmental integrity of the proposed area.

TWC § 13.246(c)(8) and 16 TAC § 24.102(d)(8)

In considering whether to grant or amend a certificate, the Commission shall consider the probable improvement in service or lowering of cost to consumers in that area resulting from the granting of the certificate or amendment. The approval and construction of the sewer system will bring needed infrastructure to the neighborhood development. However, as the utility is a water supply corporation, the Commission does not have jurisdiction over rate structure, so the cost of service to customers was not considered as part of the application.

TWC § 13.246(c)(9) and 16 TAC § 24.102(d)(9)

In considering whether to grant or amend a certificate, the Commission shall consider the effect on the land to be included in the certificated area. The applicant proposes to construct 184 sewer connections on 88 acres of currently undeveloped land after receiving commission approval.

Based on my review of the application, the applicant meets all of the statutory requirements of TWC Chapter 13 and 16 TAC Chapter 24 rules and regulations. Approving this application to issue a sewer Certificate of Convenience and Necessity to the Applicant is necessary for the service, accommodation, convenience and safety of the public pursuant to 16 TAC § 24.102(c). Staff recommends approval of the application.

The Applicant consented to the attached map on November 16, 2015.

Staff also recommends that the Applicant file copies of the CCN map along with a written description of the CCN service area in the respective county clerks' offices in Comal County pursuant to Texas Water Code § 13.257 (r) and (s).

Attachment B



Public Utility Commission Of Texas

By These Presents Be It Known To All That

Crystal Clear WSC

having duly applied for certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

Certificate of Convenience and Necessity No. 21086

to provide continuous and adequate sewer utility service to that service area or those service areas in Comal Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 44695 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the Crystal Clear WSC, to provide such sewer utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this _____ day of _____ 2015

Attachment C

Crystal Clear WSC
Sewer Service Area
CCN No. 21086
PUC Docket No. 44695
Obtained New CCN in Comal County



Public Utility Commission of Texas
1701 N. Congress Ave
Austin, TX 78701

CCN Sewer Service Area



21086 - Crystal Clear WSC

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Feet



Map by: Komal Patel
Date created: November 18, 2015
Project Path: n:\finalmapping\44695CrystalClearWSC.mxd