



Control Number: 44820



Item Number: 24

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DOCKET NO. 44820

**APPLICATION OF THE CITY OF
HACKBERRY FOR A SEWER
CERTIFICATES OF CONVENIENCE
AND NECESSITY IN DENTON
COUNTY**

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PUBLIC UTILITY COMMISSION

OF

TEXAS

2016 MAY 13 PM 1:45
PUBLIC UTILITY COMMISSION
FILING CLERK

COMMISSION STAFF'S RECOMMENDATION ON SUFFICIENCY

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

I. BACKGROUND

On June 9, 2015, City of Hackberry (City or Applicant) filed with the Public Utility Commission of Texas (Commission) an application to obtain a new sewer certificate of convenience and necessity in Denton County. The proposed project consists of a new sewer system to serve an area of approximately 1,035 acres and 1,182 current customers. The proposed service area is located approximately six miles west of downtown Frisco, Texas.

Order No. 8 allowed the Applicant until February 26, 2016 to cure deficiencies previously noted by Staff. The Applicants timely filed supplemental documents. Order No. 9 allowed Staff until March 31, 2016 to make sufficiency comments on the Applicant's supplemental filing.

II. RECOMMENDATION

As detailed in the attached memorandum of Heidi Graham and Tracy Montes of the Water Utilities Division (Attachment A), Staff recommends that the Application be deemed sufficient. Attachment A also provides instructions for issuing notice and instructions for demonstrating that Applicant has obtained permission from North Texas MWD to allow the Applicant to provide retail sewer service within North Texas MWD boundaries. Attachment B includes draft notice and affidavit forms.

III. PROPOSED PROCEDURAL SCHEDULE

Deadline for the Applicant to file proof of notice, including affidavits and a sample of the notice and map that was issued	May 1, 2016
Deadline for the Applicant to file proof of permission to serve from North Texas MWD	May 1, 2016
Deadline for parties other than Staff to intervene, request a hearing or file comments	30 days from the issuance of notice
Deadline for Staff to file a recommendation or additional Procedural Schedule	June 15, 2016

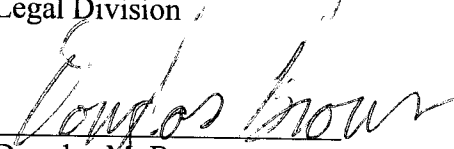
IV. CONCLUSION

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

Respectfully Submitted,


Margaret Uhlig Pemberton
Division Director
Legal Division

Stephen Mack
Managing Attorney
Legal Division


Douglas M. Brown
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Austin, Texas 78711-3326

DOCKET NO. 44820
CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on March 31, 2016 in accordance with 16 Tex. Admin. Code § 22.74.


Douglas M. Brown

ATTACHMENT A

PUC Interoffice Memorandum

To: Doug Brown
Legal Division

Thru: Tammy Benter, Director
Lisa Fuentes, Work Lead
Water Utilities Division

From: Heidi Graham, Staff Engineer
Tracy Montes, GIS Specialist
Water Utilities Division

Date: March 29, 2016

Subject: **Docket 44820**, *Application of the City of Hackberry for a Sewer Certificate of Convenience and Necessity (CCN) in Denton County*

On June 9, 2015, City of Hackberry (Applicant) filed an application with the Public Utility Commission of Texas (Commission) to obtain a sewer CCN in Denton County, pursuant to Tex. Water Code Ann. §§ 13.242-13.250 (TWC) and 16 Tex. Admin. Code §§ 24.101-24.107 (TAC).

Staff reviewed the additional maps and digital data filed by the Applicant on February 19, 2016, and found that they are sufficient. Although the maps and digital data are now sufficient, a portion of the proposed sewer service area requested by the Applicant in this docket overlaps with small slivers of area requested by the Town of Little Elm (Little Elm) in Docket 43452. Staff recommends that the application be deemed sufficient for filing. Staff further recommends the Applicant be ordered to:

- 1) Provide notice to the following entities, in addition to those entities listed in the application. These additional entities are located within five miles of the outer boundary if the proposed service area:
 - Town of Cross Roads
 - Town of Hickory Creek
 - Town of Lake Dallas
 - Town of Lewisville
 - Town of Providence Village
 - Town of Shady Shores
 - Town of Lakewood Village (CCN No. 20075)
 - City Oak Point (CCN No. 20908)
 - City of Prosper (CCN No. 20888)
 - Denton County FWSD 4-A (District No. 2721844)

- Denton County MUD 8 (District No. 2722090)
- Denton County FWSD 8-C (District No. 2721812) (CCN No. 21024)
- Denton County FWSD 9 (CCN No. 20922)
- Denton County FWSD 11 (CCN No. 20924)
- Frisco Square Management District (District No. 3111050)
- Highway 380 MMD (District No. 4636875)
- Lake Cities Municipal Utility Authority (CCN No. 20060) (District No. 5301000)
- North Texas GCD (District No. 6007500)
- North Texas MWD (District No. 6010000)
- Oak Point WCID 1 (District No. 6183125)
- Oak Point WCID 2 (District No. 6183750)
- Oak Point WCID 3 (District No. 6184375)
- Oak Point WCID 4 (District No. 6184688)
- Prosper Management District 1 (District No. 7158000)
- Providence Village WCID of Denton (District No. 2721854)
- Upper Trinity Regional Water District (District No. 8149000)
- Valencia on the Lake WCID (District No. 8254500)
- Denton County

- 2) By May 1, 2016, file documentation signed by North Texas MWD allowing the Applicant to provide retail sewer service within the district's corporate boundaries.
- 3) Provide 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 areas;
 - b) any city with an extraterritorial jurisdiction which overlaps the proposed service area;
 - c) any customers or other affected parties in the requested area; and
 - d) landowners with more than 25 acres in the requested CCN service 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
 - e) notice to the public which must be published once each week for two (2) consecutive weeks in a newspaper of general circulation in Denton County.
- 4) Include a copy of a map showing the proposed service area with the individual notices to neighboring utilities, customers and other affected parties. It is the Applicant's burden to provide an accurate map delineating the proposed service areas 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/>

ATTACHMENT B

Notice for Publication

NOTICE OF APPLICATION TO OBTAIN A CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) FOR THE PROVISION OF SEWER SERVICE IN DENTON COUNTY, TEXAS

The City of Hackberry has filed an application with the Public Utility Commission of Texas to obtain a sewer Certificate of Convenience and Necessity in Denton County.

The proposed utility sewer service area is located approximately 5 miles west of the downtown Frisco, Texas, and is generally bounded on the north by Lake Lewisville; on the east by the intersection of King Road and Witt Road; on the south by Hidden Cove Park; and on the west by Lake Lewisville.

The proposed sewer service area being requested is approximately 1,035 acres which includes 1,182 current customers.

A copy of the proposed service area map is available at: City of Hackberry; 119 Maxwell Road, Frisco, Texas 75034 or by calling (972) 292-3223.

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
Central Records
1701 N. Congress, 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, 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 service area, you may request to be excluded from the proposed service 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 requests to opt out of the requested service area must include a large scale 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
Central Records
1701 N. Congress, 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, Cities, Landowners and Customers

NOTICE OF APPLICATION TO OBTAIN A CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) FOR THE PROVISION OF SEWER SERVICE IN DENTON COUNTY, TEXAS

To: _____ Date Notice Mailed: _____, 2016
(Name of Neighboring systems, cities)

(Address)

(City State Zip)

The City of Hackberry has filed an application with the Public Utility Commission of Texas to obtain a sewer Certificate of Convenience and Necessity in Denton County.

The proposed utility sewer service area is located approximately 5 miles west of the downtown Frisco, Texas, and is generally bounded on the north by Lake Lewisville; on the east by the intersection of King Road and Witt Road; on the south by Hidden Cove Park; and on the west by Lake Lewisville.

The proposed sewer service area being requested is approximately 1,035 acres which includes 1,182 current customers.

See enclosed map of the proposed service area.

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.

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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

PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE TO NOTICE NEIGHBORING SYSTEMS, CITIES, LANDOWNERS AND CUSTOMERS

DOCKET NO. 44820

STATE OF TEXAS
COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared

_____, who being by me

duly sworn, deposes and that (s)he is the _____
(TITLE)

of the _____
(NAME OF UTILITY)

that the attached notice was provided to customers and other affected parties by

(METHOD USED TO PROVIDE NOTICE)

on or about the following date, to wit: _____
(DATE)

(SIGNATURE OF UTILITY OFFICIAL)

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 _____

PUBLIC UTILITY COMMISSION



PUBLISHER'S AFFIDAVIT
DOCKET NO. 44820

STATE OF TEXAS
COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared

_____, who being by me

duly sworn, deposes and that (s)he is the

(TITLE)

of the

(NAME OF NEWSPAPER)

that said newspaper is regularly published in:

(COUNTY/COUNTIES)

and generally circulated in

_____, Texas: and
(COUNTY/COUNTIES)

that the attached notice was published in said newspaper on the following date(s), to wit:

(DATES)

(SIGNATURE OF NEWSPAPER REPRESENTATIVE)

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 _____

PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE TO LANDOWNERS DOCKET NO. 44820

STATE OF TEXAS
COUNTY OF _____

_____ has provided individual notice to the following landowners:

(NAME OF UTILITY)

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 _____