



Control Number: 44820



Item Number: 46

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RECEIVED

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

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PUBLIC UTILITY COMMISSION

2016 NOV 10 AM 10:00
OF PUBLIC UTILITY COMMISSION
FILING CLERK

TEXAS

COMMISSION STAFF'S 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 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. 15 allowed Staff until November 10, 2016 to make a final recommendation.

II. RECOMMENDATION AND PROPOSED PROCEDURAL SCHEDULE

As detailed in the attached memorandum of Patricia Garcia of the Water Utilities Division (Attachment A), Staff recommends that the Application be approved. The Applicant's October 13, 2016 filing resolved Staff's earlier concerns about the possibility of any TCEQ violations.

Staff proposes that the parties file a joint proposed notice of approval by December 8, 2016.

III. CONCLUSION

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

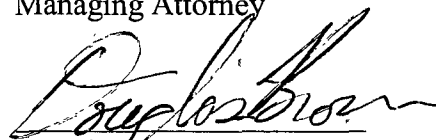
Respectfully Submitted,

PUBLIC UTILITY COMMISSION

LEGAL DIVISION

Margaret Uhlig Pemberton
Division Director

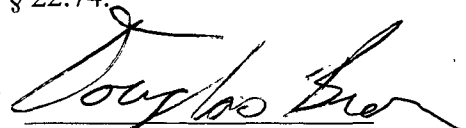
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DOCKET NO. 44820
CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on November 10, 2016 in accordance with 16 Tex. Admin. Code § 22.74.


Douglas M. Brown

ATTACHMENT A

PUC Interoffice Memorandum

To: Douglas Brown
Legal Division

Through: Tammy Benter, Director
Lisa Fuentes, Team Lead
Heidi Graham, Team Lead
Water Utility Regulation

From: Patricia Garcia, Engineering Specialist
Debi Loockerman, Rates Team Lead
Tracy Montes, GIS Specialist
Water Utility Regulation

Date: November 9, 2016

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

On June 9, 2015, City of Hackberry (City or 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).

Background

The City is seeking to obtain sewer CCN service area containing approximately 1,035 total acres and 1,182 current sewer customers. The proposed CCN service area is located approximately six miles west of downtown Frisco, Texas. The application was deemed sufficient for filing on April 1, 2016. The Applicant was provided with instructions for issuing notice along with a draft notice and affidavit forms.

Notice

The Applicant provided public notice on April 22, and 29, 2016, in the Denton Record-Chronicle, circulated in Denton County. In addition, on April 22, and 27, 2016, individual notice was provided to customers, neighboring systems, landowners, cities and affected parties in Denton County. Affidavits stating that the notice was provided to all affected parties and published in the newspaper were filed with the PUC on May 3, 2016. The comment period ended May 29, 2016, and no protests or opt-out requests were received.

Compliance with TCEQ Standards

The City of Hackberry has a Texas Commission on Environmental Quality (TCEQ) issued Wastewater Discharge Permit No. WQ0013434001. The permit is active. The applicant has no current wastewater violations according to TCEQ's Central Registry website.

Financial Test

In Staff's opinion, the City of Hackberry has demonstrated adequate financial and managerial capability to provide service to the area subject to this application. These conclusions are based on information provided by the applicant prior to this date and may not reflect any changes in the applicant's status subsequent to this date.

The City's audited financial statements for 2014 were available for review. The statements include an auditor's unqualified opinion that the financial statements present fairly, in all material respects as of September 30, 2014, in accordance with accounting principles generally accepted in the United States of America. The City holds permit No. WQ0013434001 for the sewer system.

TWC § 13.246(c)(6) requires the Commission to consider the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service and the financial stability of the applicant. 16 TAC § 24.11 (effective after the filing of this application) establishes criteria to demonstrate that an owner or operator of a retail public utility has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and proposed utility service area. Although the criteria were not yet in effect when the application was filed, Staff notes that the criteria were used unofficially in the past to assess financial capability. The following discussion shows that the Applicant met the minimum criteria in any event:

1) 16 TAC § 24.11(e)(2) refers to the leverage test, in which the applicant must meet one or more of the criteria listed which includes "a" and "b" as follows:

- a. **16 TAC § 24.11(e)(2)(A) states that the owner or operator must have a debt to equity ratio of less than one, using long term debt and equity or net assets.** Staff has used the combined the governmental activities, business-type activities and component unit for 2014 reported by the City as the follows:
 - i. Net Assets (equity) of \$7,009,295;
 - ii. Long-term Notes payable of \$22,149,013; therefore,
 - iii. Ratio = $\$22,149,0130 / \$7,009,295 = 3.16$

The applicant does not meet this particular criterion.

- b. **16 TAC § 24.11(e)(2)(B) states the owner or operator must have a debt service coverage ratio of more than 1.25 using annual net operating income before depreciation and non-cash expenses divided by annual combined long term debt payments.**
 - i. Annual net operating income plus excess of revenues over expenditures for other funds, before depreciation and non-cash expenses: \$3,166,924;
 - ii. Annual long-term debt payments, combining the governmental activities, proprietary fund and the component unit = \$2,318,280; therefore,
 - iii. Ratio = $\$3,166,924 / 2,318,280 = 1.37$.

The applicant meets the criterion described in "b".

2) 16 TAC § 24.11(e)(3) refers to the operations test. To pass the operations test, the owner or operator must demonstrate that sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations.

The applicant's current system is adequate to handle the proposed additional connections. The response to section number I (ii) of the application states that "The City of Hackberry's wastewater collection and treatment facilities has been sized to accommodate the projected build out of approximately 2,664 services (1,035 acres). The only undeveloped areas consist of approximately 30-40 acres or 3-4% of the gross CCN acreage." Page 7 of 25 of the application shows that the total number of sewer connection resulting from the proposed application will be 2,198, therefore, the current system is adequate to handle the proposed additional connections. No additional capital improvements are required for providing service. Furthermore, the system is currently producing net operating revenues in excess of expenditures of \$3.2 million. The system is already built, therefore, any additional revenues due to new connections will cover increased operating expenses incurred. Therefore, no cash shortages are projected for the next five years.

Criteria Considered

TWC § 13.246(c) requires the Commission to consider nine criteria when granting or amending a CCN. Therefore, the following criteria were considered:

- ***TWC §13.246(c)(1) requires the commission to consider the adequacy of service currently provided to the requested area.*** The City of Hackberry provides adequate service to the 1,182 current sewer customers in the proposed CCN service area.
- ***TWC §13.246(c)(2) requires the commission to consider the need for service in the requested area.*** The City of Hackberry currently provides service to the existing customers in the proposed CCN service area.
- ***TWC §13.246(c)(3) requires the commission to consider the effect of granting an amendment on the recipient and on any other retail public utility servicing the proximate area.*** The City of Hackberry currently provides service to the existing customers in the proposed CCN service area, therefore the granting of this application has no effect on the recipient and on any other retail public utility service providers in the area.
- ***TWC §13.246(c)(4) requires the commission to consider the ability of the Applicant to provide adequate service.*** The City of Hackberry currently provides service to the existing customers in the proposed CCN service area.
- ***TWC §13.246(c)(5) requires the commission to consider the feasibility of obtaining service from an adjacent retail public utility.*** The City of Hackberry currently provides service to the existing customers in the proposed CCN service area, therefore it is not feasible to request service from an adjacent retail public utility.
- ***TWC §13.246(c)(6) requires the commission to consider the financial ability of the Applicant to pay for facilities necessary to provide continuous and adequate service.*** Based on the review of the application and information provided, the City of Hackberry has demonstrated adequate financial and managerial capabilities to provide service to the area being requested.
- ***TWC §§13.246(7) and (9) require the commission to consider the environmental integrity and the effect on the land to be included in the certificate.*** The environmental integrity

of the land will be effected when the City of Hackberry adds the additional collection lines to provide sewer service to the additional future customers in this area.

- ***TWC § 13.246(8) requires the commission to consider the probable improvement in service or lowering of cost to consumers.*** The City of Hackberry has been providing adequate service to the customers in the proposed CCN service area. There will be no change in the cost to the consumers.

The City of Hackberry meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations. Approval of this application will result in a sewer CCN number being assigned to the City of Hackberry for this proposed area CCN No. 21097 for the sewer service area.

The City of Hackberry will be capable of providing continuous and adequate service. Staff recommends approval of the application. The City of Hackberry consented to the attached map and certificate on October 31, 2016.

Based on the above information, Staff recommends the Commission do the following:

- Issue an order and provide the attached map and certificate to the City of Hackberry.

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