



Control Number: 44820



Item Number: 4

Addendum StartPage: 0

**DOCKET NO. 44820**

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

§  
§  
§  
§  
§  
§

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

2015 JUL -8 PM 5:50

FILED

**COMMISSION STAFF'S RESPONSE TO ORDER NO. 1**

**COMES NOW** the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Commission Staff's Response to Order No. 1, and would show the following:

**I. BACKGROUND**

On June 9, 2015, City of Hackberry (Hackberry or Applicant) filed with the Public Utility Commission of Texas (Commission) an application to obtain a new sewer certificate of convenience and necessity (CCN) in Denton County. The applicant currently provides sewer service to 193 customers located within its corporate limits and 1005 customers in three different public improvement districts located in the Applicant's extraterritorial jurisdiction.<sup>1</sup> Because Hackberry is a municipally-owned utility it is not required to have a sewer CCN,<sup>2</sup> but in this proceeding is requesting one over the area it currently serves and approximately 1000 customers that it anticipates will be added to its base of wastewater service customers.<sup>3</sup> The area sought consists of approximately 1,035 acres.<sup>4</sup>

In Order No. 1, issued June 10, 2015, Staff was given a deadline of July 9, 2015, to file comments on the administrative completeness of the application and proposed notice. Staff's response to Order No. 1 is therefore timely filed.

---

<sup>1</sup> *Application of City of Hackberry for a Sewer Certificate of Convenience and Necessity in Denton County* (Application) Attachment 7, Question 5 G.

<sup>2</sup> TWC § 13.242(a) (relating to Certificate Required) states that, unless otherwise specified, a utility, a utility operated by an affected county, or a water supply or sewer service corporation may not in any way render retail water or sewer utility service directly or indirectly to the public. The statute does not include municipally-owned utilities as entities that are required to have CCNs.

<sup>3</sup> Application at 7.

<sup>4</sup> Application at 9.

4

## **II. APPLICABLE STATUTES AND RULES**

The Commission has jurisdiction to determine whether to grant a CCN pursuant to Texas Water Code (TWC) § 13.241. The factors to be considered are outlined in TWC § 13.246 and in 16 Texas Administrative Code (TAC) § 24.102.

## **III. COMMENTS ON ADMINISTRATIVE COMPLETENESS**

Staff has reviewed Hackberry's application and, based on the attached memorandum of Lisa Fuentes, Heidi Graham, and Tracy Harbour of the Water Utilities Division, Staff has identified material deficiencies in the application and recommends that it be found administratively incomplete. Specifically, the maps provided do not provide enough detail to locate accurately the relationship of the service area with the nearest city, town, or county. The maps also are insufficient to locate the surrounding roads, streets and highways. Additionally, the maps provided include requested areas that overlap with the CCN boundaries of the City of Frisco (CCN 20591) and the Town of Little Elm (CCN No. 20931). Furthermore, the proposed service area overlaps the boundaries of the City of Frisco, Town of Little Elm, and The Colony. Pursuant to TWC § 13.245(b) the Commission may not grant to a retail public utility a CCN for a service area within the boundaries or extra territorial jurisdiction of a municipality without the consent of the municipality. Therefore, the applicant should provide forms indicating consent or remove the areas of overlap from its application or amend the application to exclude the areas of overlap. Finally, Hackberry needs to submit maps that include proposed digital data in a single polyline or polygon record that is clearly labeled as the proposed service area, and the proposed digital data must include the projection or coordinate system used to create the digital data. TWC § 13.244(d) and 16 TAC §§ 24.105(a)(2) and 24.119 require maps that contain an accurate description of the proposed area in a CCN application. Therefore Staff recommends the application be deemed not administratively complete.

## **IV. COMMENTS ON PROCEDURAL SCHEDULE**

Staff recommends that the Commission order the Applicant to supply the information requested in the attached memorandum by August 9, 2015. Staff further recommends that the Commission include in its order a deadline for Staff to respond to the sufficiency of the amended application and propose a procedural schedule, if appropriate, by September 9, 2015.

### III. CONCLUSION

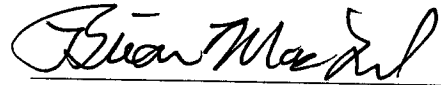
Staff requests that the Commission issue an order consistent with this recommendation.

**DATE: July 9, 2015**

Respectfully Submitted,

Margaret Pemberton  
Director-Legal Division

Shelah J. Cisneros  
Managing Attorney-Legal Division



Brian MacLeod  
Attorney-Legal Division  
State Bar No. 12783500  
(512) 936-7230  
(512) 936-7268 (facsimile)  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

**PUC DOCKET NO. 44820**

### CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on July 9, 2015 in accordance with 16 TAC § 22.74.



Brian MacLeod