

Control Number: 44892



Item Number: 23

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RECEIVED

APPLICATION OF CITY OF LUBBOCK §  
TO AMEND A CERTIFICATE OF §  
CONVENIENCE OF TEXAS AND §  
NECESSITY IN LUBBOCK COUNTY §

PUBLIC UTILITY COMMISSION

2016 MAY -9 PM 2:30

OF TEXAS

**COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION FINDING  
AMENDED APPLICATION ADMINISTRATIVELY COMPLETE**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Supplemental Recommendation finding the amended application administratively complete. In support thereof, Staff shows the following:

**I. Background**

On June 30, 2015, the City of Lubbock (Lubbock) filed with the Public Utility Commission of Texas (Commission) an application to amend its water certificate of convenience (CCN) No. 10627 in Lubbock County, Texas pursuant to Texas Water Code Ann. (TWC), §§13.242-.250 and the 16 Tex. Admin Code (TAC) §§24.101-107. On October 28, 2015, the City filed an amended application to amend its water CCN No. 10627 and its sewer CCN No. 20230.

On March 16, 2016, Order No. 7 was issued requiring Lubbock to amend its application to cure the deficiencies noted by Staff by April 8, 2016. Lubbock amended its application on April 8, 2016. Order No. 7 also required Staff to file a supplemental recommendation regarding administrative completeness of the amended application and notice along with a proposed procedural schedule if the application is deemed administratively complete by May 9, 2016. Accordingly, this pleading is timely filed.

**II. Supplemental Recommendation on Administrative Sufficiency**

Review for administrative completeness of CCN applications is governed by 16 TAC § 24.8. Furthermore, 16 TAC § 24.105 provides the Commission's required contents of a CCN application, and 16 TAC § 24.106 provides the Commission's notice requirements for CCN applications. As supported by the attached memorandum from Patricia Garcia, Staff Engineer,

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and Tracy Montes, GIS Specialist with the Water Utility Regulation Division, Staff recommends that the application and notice be deemed administratively complete and accepted for filing. In addition, Staff recommends that Lubbock issue the attached notices as directed below:

- 1) Lubbock provide notice of the application to the following:
  - a) any districts, groundwater conservation districts, counties, utilities, cities, cities with an extraterritorial jurisdiction within two miles of the proposed service area (list provided below in Item 2);
  - b) any city with an extraterritorial jurisdiction which overlaps the proposed service area;
  - c) landowners with more than 25 acres and any affected parties in the proposed CCN area. The landowner information may be obtained from the county appraisal district tax rolls for the county or counties in which the proposed CCN; and
  - d) public notice which must be published once each week for two (2) consecutive weeks in a newspaper of general circulation in Lubbock County.
  
- 2) Lubbock provide notice to the following entities:
  - a) New Deal, Texas
  - b) Buffalo Springs, Texas
  - c) Wolfforth, Texas
  - d) AIM Water Company (CCN No. 12526)
  - e) Casey Homes Estates Water (CCN No. 12231)
  - f) J E Franklin Trust (CCN No. 20743)
  - g) Franklin Water Service (CCN No. 12374)
  - h) New Deal WSC (CCN No. 11080)
  - i) North University Estates Water (CCN No. 12179)
  - j) Smith Management Services (CCN No. 11168)
  - k) Southwest Gardens Water (CCN No. 12891)
  - l) Southwest Water System (CCN No. 12735)
  - m) Texin Enterprises Water System (CCN No. 12650)
  - n) Brazos River Authority (District No. 1685000)
  - o) Canadian River Municipal Water Authority (District No. 2253000)
  - p) High Plains Underground Water Conservation District No. 1 (District No. 5448660)
  - q) Lubbock County WCID 1 (District No. 5530000)
  - r) Lubbock County Judge
  
- 3) Lubbock include a copy of a map showing the proposed service area with the individual notices to neighboring entities, other affected parties and each landowner. It is Lubbock's burden to provide an accurate map delineating the proposed area with each individual notice. Information related to districts including addresses can be obtained from the TCEQ's web site located at <http://www14.tceq.texas.gov/iwud/>.
  
- 4) File copies of the actual notice and map issued, along with signed affidavits indicating that the notice was given.

Staff further recommends that within 30 days of the Commission order, Lubbock file a copy of the actual notice and map issued with the individual mailed notice, tearsheets of the published notice, and the signed affidavits (copies attached), indicating that the publication and notice was given in accordance with 16 TAC § 24.106(b)(6) and § 24.106(c).

### III. Proposed Procedural Schedule

Staff proposes the following procedural schedule:

Event	Date
Lubbock files with the Commission a copy of the notice sent to the affected parties and published in a newspaper of general circulation with attached signed affidavits that the notice was given	Within 30 days of the issuance of the Commission's order.
Deadline for Staff to file a recommendation on sufficiency of notice	Within 7 days of Lubbock filing proof of notice
Deadline for intervention; deadline for intervenors to request a hearing on the merits.	Within 30 days of mailing or publication of notice, whichever occurs later. <sup>1</sup>

### IV. Conclusion

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

**Dated: May 9, 2016**

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<sup>1</sup> 16 TAC § 24.106(a)(3)

Respectfully Submitted,

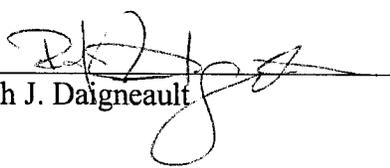
Margaret Uhlig Pemberton  
Division Director – Legal Division

Karen S. Hubbard  
Managing Attorney – Legal Division

  
\_\_\_\_\_  
Ralph J. Daigneault  
Attorney-Legal Division  
State Bar No. 24040755  
(512) 936-7348 (telephone)  
(512) 936-7268 (facsimile)  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on May 9, 2016,  
in accordance with 16 TAC § 22.74.

  
\_\_\_\_\_  
Ralph J. Daigneault

## PUC Interoffice Memorandum

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**To:** Ralph Daigneault  
Legal Division

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

**From:** Patricia Garcia, Staff Engineer  
Tracy Montes, GIS Specialist  
Water Utilities Division

**Date:** May 9, 2016

**Subject:** **Docket 44892**, *Application of City of Lubbock to Amend its Certificates of Convenience and Necessity (CCN) in Lubbock County*

On June 30, 2015, City of Lubbock (City) filed with the Public Utility Commission of Texas (Commission) an application to amend its amend its water certificate of convenience and necessity (CCN) No. 10627 and its sewer CCN No. 20230 in Lubbock County, Texas pursuant to Texas Water Code Ann. (TWC), §§ 13.242 to 13.250 and the 16 Tex. Admin Code (TAC) §§24.101 to 24.107.

A Staff review of the additional information filed by the applicant on April 8, 2016, found that it is sufficient in the required application and mapping information. Therefore, Staff recommends that the application be deemed sufficient for filing and found administratively complete. Staff further recommends the following:

- 1) The Applicant provide notice of the application to the following:
  - a) any districts, groundwater conservation districts, counties, utilities, cities, cities with an extraterritorial jurisdiction within two miles of the proposed service area (list provided in item number 2);
  - b) any city with an extraterritorial jurisdiction which overlaps the proposed service area;
  - c) landowners with more than 25 acres and any affected parties in the proposed CCN area. The landowner information may be obtained from the county appraisal district tax rolls for the county or counties in which the proposed CCN; and
  - d) public notice which must be published once each week for two (2) consecutive weeks in a newspaper of general circulation in Lubbock County.

2) Provide notice to the following entities:

- a) New Deal, Texas
- b) Buffalo Springs, Texas
- c) Wolfforth, Texas
- d) AIM Water Company (CCN No. 12526)
- e) Casey Homes Estates Water (CCN No. 12231)
- f) J E Franklin Trust (CCN No. 20743)
- g) Franklin Water Service (CCN No. 12374)
- h) New Deal WSC (CCN No. 11080)
- i) North University Estates Water (CCN No. 12179)
- j) Smith Management Services (CCN No. 11168)
- k) Southwest Gardens Water (CCN No. 12891)
- l) Southwest Water System (CCN No. 12735)
- m) Texin Enterprises Water System (CCN No. 12650)
- n) Brazos River Authority (District No. 1685000)
- o) Canadian River Municipal Water Authority (District No. 2253000)
- p) High Plains Underground Water Conservation District No. 1 (District No. 5448660)
- q) Lubbock County WCID 1 (District No. 5530000)
- r) Lubbock County Judge

3) The Applicant include a Copy of a map showing the proposed service area with the individual notices to neighboring entities, other affected parties and each landowner. It is the Applicant's burden to provide an accurate map delineating the proposed area with each individual notice. Please note, the map submitted for water on March 3, 2016 and the map submitted for sewer on April 8, 2016 were the maps considered for this sufficiency review. Information related to districts including addresses can be obtained from the TCEQ's web site located at <http://www14.tceq.texas.gov/iwud/>.

4) Return within 30 days of the Commission order, a copy of the actual notice and map issued, along with signed affidavits indicating that the notice was given.

It is recommended that the Applicant use the attached notices and affidavits to meet these requirements.

**Notice for Publication**

**NOTICE OF APPLICATION TO AMEND AND DECERTIFY PORTIONS OF A  
CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) TO PROVIDE  
WATER AND SEWER UTILITY SERVICE IN LUBBOCK COUNTY, TEXAS**

The City of Lubbock has filed an application with the Public Utility Commission of Texas to amend and decertify portions of its Certificate of Convenience and Necessity for water CCN No. 10627 and for sewer CCN No. 20230 for the provision of Water and Sewer utility service in Lubbock County.

The proposed utility service areas for water and sewer are located approximately 2 miles south of downtown New Deal, Texas, and is **generally** bounded on the north by CR 5700; on the east by CR 3100; on the south by CR 7600; and on the west by CR 1100.

The proposed water service area requested includes approximately 84,057 acres and 82,172 current customers.

The proposed sewer service area requested includes approximately 84,057 acres and 77,293 current customers.

A copy of the proposed service area map is available at: 402 Municipal Drive, Lubbock, TX 79457

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 area, you may request to be excluded from the proposed 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 scaled, general location 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 and Cities*

NOTICE OF APPLICATION TO AMEND AND DECERTIFY PORTIONS OF A  
CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) TO PROVIDE  
WATER AND SEWER UTILITY SERVICE IN LUBBOCK COUNTY, TEXAS

To: \_\_\_\_\_  
(Neighboring System or City)  
  
\_\_\_\_\_  
(Address)  
  
\_\_\_\_\_  
(City State Zip)

Date Notice Mailed: \_\_\_\_\_, 2016

The City of Lubbock has filed an application with the Public Utility Commission of Texas to amend and decertify portions of its Certificate of Convenience and Necessity for water CCN No. 10627 and for sewer CCN No. 20230 for the provision of Water and Sewer utility service in Lubbock County.

The proposed utility service areas for water and sewer are located approximately 2 miles south of downtown New Deal, Texas, and is **generally** bounded on the north by CR 5700; on the east by CR 3100; on the south by CR 7600; and on the west by CR 1100.

**See enclosed map of the proposed service area.**

The proposed water service area requested includes approximately 84,057 acres and 82,172 current customers.

The proposed sewer service area requested includes approximately 84,057 acres and 77,293 current customers.

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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Public Utility Commission of Texas  
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1701 N. Congress, P. O. Box 13326  
Austin, TX 78711-3326

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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, the 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 area, you may request to be excluded from the proposed 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 scaled, general location map and a metes and bounds description of the tract of land.

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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.

# PUBLIC UTILITY COMMISSION



## AFFIDAVIT OF NOTICE TO NOTICE NEIGHBORING SYSTEMS AND CITIES

DOCKET NO. 44892

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. 44892

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. 44892

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ has provided individual notice to the following landowners:  
(NAME OF UTILITY)

DATE

(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 for 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 \_\_\_\_\_