



Control Number: 44892



Item Number: 43

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APPLICATION OF CITY OF LUBBOCK
TO AMEND ITS CERTIFICATES OF
CONVENIENCE AND NECESSITY
IN LUBBOCK COUNTY

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PUBLIC UTILITY COMMISSION
OF TEXAS

JOINT PROPOSED NOTICE OF APPROVAL AND MOTION TO ADMIT EVIDENCE.

COMES NOW, the Staff ("Staff") of the Public Utility Commission of Texas ("Commission") together with the City of Lubbock (the "City") (collectively, the "Parties"), and file this Joint Proposed Notice of Approval and Motion to Admit Evidence. In support thereof, the Parties would respectfully show the following:

I. BACKGROUND

On June 30, 2015, the City filed with the Commission an application to amend its water certificate of convenience and necessity ("CCN") No. 10627 in Lubbock County, Texas pursuant to Texas Water Code §§ 13.242-.250 and 16 Tex. Admin. Code §§ 24.101-.107. On October 28, 2015, the City filed an amended application to amend not only its water CCN No. 10627, but also its sewer CCN No. 20230 (the "Application").

The City published notice of the Application on May 15, 2016 and May 22, 2016 in the *Lubbock Avalanche Journal* in Lubbock County. On May 18, 2016, individual notice was mailed to customers, neighboring systems, cities and other affected parties in Lubbock County. Affidavits of notice were filed with the Commission on May 31, 2016. The comment period ended June 21, 2016. No protests, requests for hearing, or opt-out requests were received.

Staff has completed its formal review of the application on the merits, and on January 3, 2017, recommended approval of the Application. Lubbock meets all of the statutory requirements of Texas Water Code Chapter 13 and 16 Tex. Admin. Code Chapter 24.

II. JOINT MOTION TO ADMIT EVIDENCE

The Parties move to admit the following evidence filed with the Commission into the record of this proceeding:

1. Application of the City to amend its water CCN No. 10627 in Lubbock County, filed June 30, 2015 (AIS Item No. 1), and the amended application of the City to amend its water CCN No. 10627 and its sewer CCN No. 20230, filed October 28, 2015 (AIS Item No. 10).
2. The City's supplemental filings, filed on August 24, 2015 (AIS Item No. 7), January 22, 2016 (AIS Item No. 16), March 3, 2016 (AIS Item No. 19), April 8, 2016 (AIS Item No. 22), September 30, 2016 (AIS Item No. 32), and November 15, 2016 (AIS Item No. 38).
3. The City's responses to Staff's request for information, submitted on August 4, 2016 (AIS Item No. 29) and October 14, 2016 (AIS Item No. 33).
4. Commission Order No. 8, dated May 10, 2016, deeming the Application sufficient for filing (AIS Item No. 24).
5. The City's publisher's affidavit and the affidavit of mailed notice to customers, neighboring systems, cities and other affected parties in Lubbock County, filed on May 31, 2016 (AIS Item No. 25).
6. Staff's recommendation on final disposition, filed January 3, 2017 (AIS Item No. 42).

III. PROPOSED NOTICE OF APPROVAL

Staff and the City request that the Commission issue a notice of approval in the form of the attached Joint Proposed Notice of Approval.

IV. CONCLUSION

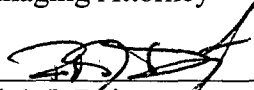
The Parties respectfully request that the Commission admit the evidence as requested and approve the attached Joint Proposed Notice of Approval.

DATED: January 17, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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ATTORNEYS FOR THE CITY OF LUBBOCK

DATED: January 17, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

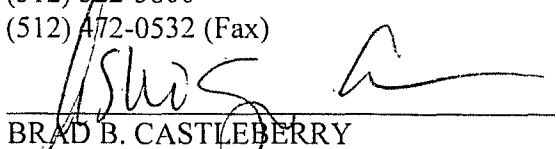
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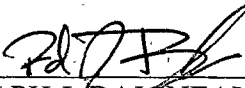
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ATTORNEYS FOR THE CITY OF LUBBOCK

DOCKET NO. 44892
CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record on January 17, 2017 in accordance with 16 TAC § 22.74.



RALPH J. DAIGNEAULT

DOCKET NO. 44892

**APPLICATION OF CITY OF LUBBOCK
TO AMEND ITS CERTIFICATES OF
CONVENIENCE AND NECESSITY
IN LUBBOCK COUNTY**

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**PUBLIC UTILITY COMMISSION

OF TEXAS**

NOTICE OF APPROVAL

This Notice of Approval addresses the application of the City of Lubbock (the “City”) for approval of an amendment to its water and sewer certificates of convenience and necessity No. 10627 and No. 20230 (“CCN”), respectively, in Lubbock County pursuant to Texas Water Code §§ 13.242-.250 and 16 Tex. Admin. Code §§ 24.101-.107 (the “Application”). The City seeks to amend its CCNs to include all of the area within the corporate boundaries of the City and city-owned properties as of June 1, 2015. The estimated population within the proposed expanded area is 25,000. The Public Utility Commission Staff (“Staff”) recommended approval of the Application. The Application is approved. The Commission adopts the following findings of fact and conclusions of law:

I. FINDINGS OF FACT

Procedural History

1. On June 30, 2015, the City filed an application with the Public Utility Commission of Texas (the “Commission”) to amend its water CCN No. 10627 in Lubbock County.
2. On October 28, 2015, the City filed the Application, which amended the June 30 application, to request an amendment to the City’s sewer CCN No. 20230 in addition to the water CCN No. 10627.
3. On August 24, 2015, January 22, 2016, March 3, 2016, April 8, 2016, September 30, 2016, and November 15, 2016, the City filed supplemental application information, which included additional mapping information.

4. On May 10, 2016, Order No. 8 was issued, deeming the Application sufficient for filing.

5. On August 4, 2016 and October 14, 2016, the City filed responses to a Staff request for information pursuant to the resolution of compliance violations and enforcement cases pending at the Texas Commission on Environmental Quality.

6. On December 15, 2016, the City filed a signed consent form evidencing its consent to the proposed maps and certificates.

7. On January 3, 2017, Staff recommended that the Application be approved.

8. On January 17, 2017, the Parties filed this joint proposed notice of approval and a motion to admit evidence.

Notice

9. The Commission caused notice of the City's Application to be published in the *Texas Register*.

10. Notice was provided by publication in the *Lubbock Avalanche Journal* on May 15, 2016 and May 22, 2016.

11. A notarized publisher's affidavit dated May 23, 2016, and signed by Pili Linares, the Vice President of Sales of the *Lubbock Avalanche Journal*, attests to the notice.

12. The City mailed notice of the Application to customers, neighboring systems, cities and other affected parties in Lubbock County on May 18, 2016.

13. An affidavit that these customers, neighboring systems, cities and other affected parties received notice was dated May 24, 2016, and it was filed with the Commission on May 31, 2016.

Evidentiary Record

14. On January _____, 2017, Order No. 14 was issued, admitting evidence into the record of this proceeding.

Informal Disposition

15. More than 15 days have passed since completion of the notice provided in this docket.

16. No protests or hearing requests were filed in response to the public notice.

17. Staff and the City are the only parties to the proceeding.

18. No hearing is necessary.

19. The CCN certificates and maps, as admitted, are approved.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction and authority over this docket pursuant to Tex. Water Code §§ 13.242- 13.250 (“TWC”) and 16 Tex. Admin. Code §§ 24.101 - 24.107 (“TAC”).

2. The City is a retail public utility as defined in TWC § 13.002(19) and 16 TAC § 24.3(59).

3. The City has provided public notice of the Application in compliance with TWC § 13.246 and 16 TAC § 24.106.

4. After considering the relevant factors in TWC § 13.246(c), the City has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and its current service area.

5. The City has demonstrated that the Application meets the requirements set forth in TWC §§ 13.242 - 13.250 and 16 TAC §§ 24.101 and 24.102 to be granted an amendment to its CCNs.

6. The City has demonstrated that an amendment of its water and sewer CCN Nos. 10627 and 20230 is necessary for the service, accommodation, convenience, or safety of the public, as required under TWC § 13.246(b) and 16 TAC § 24.102(c).

7. The requirements for informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

III. ORDERING PARAGRAPHS

In accordance with these findings of fact and conclusions of law, the Commission issues the following order:

1. The City's Application is approved.
2. The City's water CCN No. 10627 is hereby amended and approved consistent with this Notice.
3. The City's sewer CCN No. 20230 is hereby amended and approved consistent with this Notice.
4. The City shall comply with the recording requirements in TWC § 13.257(r) for the area in Lubbock County affected by the application and shall submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.
5. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

SIGNED AT AUSTIN, TEXAS on the day of _____, 2017

PUBLIC UTILITY COMMISSION OF TEXAS
ADMINISTRATIVE LAW JUDGE