

Control Number: 44962



Item Number: 11

Addendum StartPage: 0

11.5.15

APPLICATION OF ORBIT
SYSTEMS, INC. FOR AN
AMENDMENT TO CERTIFICATE
OF CONVENIENCE AND
NECESSITY IN FORT BEND
COUNTY

§
§
§
§
§
§

PUBLIC UTILITY COMMISSION 9:18
OF TEXAS
PUBLIC UTILITY COMMISSION
FILING CLERK

COMMISSION STAFF'S RESPONSE TO ORDER NO. 2

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Response to Order No. 2.

I. Background

On July 21, 2015, Orbit Systems, Inc. (Orbit) filed an application to amend its water certificate of convenience (CCN) No. 11892 in Fort Bend County, Texas pursuant to Texas Water Code §§ 13.242-.250 (TWC) and 16 Tex. Admin Code §§24.101-.107 (TAC). In its application, Orbit proposes to remove the Televue Terrace Subdivision from its service area because Fort Bend FWSD 1 is taking over as the retail water service provider.

On August 24, 2015, the Administrative Law Judge (ALJ) issued Order No. 2 finding the application administratively incomplete and deficient. Order No. 2 requires Staff to file a supplemental recommendation on the revised application and propose a procedural schedule. Therefore, this response is timely filed.

II. Staff's Recommendation on Administrative Completeness

Staff reviewed the application and supplemental documents filed by Orbit on August 25, 2015 and September 8, 2015. As detailed in the attached memorandum of Elisabeth English and Kristy Nguyen, in the Commission's Water Utilities Division, Staff recommends the application the application be deemed administratively incomplete pursuant to 16 TAC § 24.105.

Staff identified deficiencies involving the agreement between Orbit and Fort Bend FWSD 1 for water service after the proposed service area is decertified from Orbit's CCN. The agreement provided by Orbit is not signed by both parties and contemplates a sale, transfer, or merger application to be filed with the Texas Commission on Environmental Quality. In order to cure this deficiency, Staff recommends Orbit provide written documentation, such as an agreement signed by both parties or a letter from Fort Bend FWSD 1, supporting the continuance of water service by Fort Bend County FWSD 1 to customers in the decertified area.

11

Pursuant to 16 TAC § 24.8(a), the Application is not considered filed until the Commission determines that application is administratively complete. Staff has identified deficiencies in the application and, therefore, recommends that the application package be found not administratively complete pursuant to 16 TAC § 24.105.

III. Proposed Procedural Schedule

Due to the deficiencies in the application, Staff does not recommend a procedural schedule for the evaluation of the merits of the application at this time. Staff respectfully recommends that Orbit be given until **October 12, 2015** to cure the deficiencies identified by Staff. Staff proposes a deadline of **November 2, 2015** for Staff to file additional comments regarding administrative completeness. In the event that Staff determines that Orbit's supplemented application is administratively complete, Staff will propose a procedural schedule for processing the matter.

IV. Conclusion

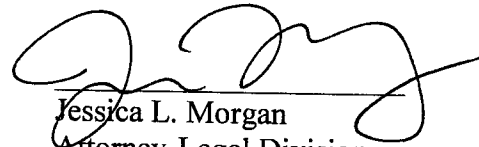
Staff respectfully requests that an order be issued consistent with this Response.

Dated: September 18, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

Karen S. Hubbard
Managing Attorney
Legal Division

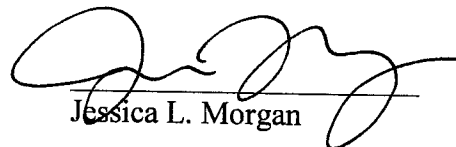


Jessica L. Morgan
Attorney-Legal Division
State Bar No. 24079023
(512) 936-7229
(512) 936-7268 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

DOCKET NO. 44962

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this September 18, 2015 in accordance with 16 TAC § 22.74.



Jessica L. Morgan

PUC Interoffice Memorandum

To: Jessica Morgan, Attorney
Legal Division

Thru: Tammy Benter, Director
Water Utilities Division

From: Elisabeth English, Engineering Specialist
Kristy Nguyen, GIS Specialist
Water Utilities Division

Date: September 18, 2015

Subject: **Docket No. 44962:** *Application of Orbit Systems, Inc. for an amendment to Certificate of Convenience and Necessity in Fort Bend County*

On July 21, 2015, Orbit Systems, Inc. ("Orbit" or "Applicant") filed an application with the Public Utility Commission of Texas (Commission) to amend its water Certificate of Convenience and Necessity (CCN) No. 11892 in Fort Bend County, Texas, pursuant to Texas Water Code §§ 13.242-.250 (TWC) and 16 Tex. Admin Code §§24.101-.107 (TAC).

Order No. 1 requested that Staff review the application for administrative completeness and Staff recommended the application not be accepted for filing on August 21, 2015. Order No. 2 requested that the Applicant amend the application to cure the identified deficiencies no later than September 18, 2015. The Applicant filed additional documentation on August 25, 2015 and September 9, 2015.

Staff reviewed the supplemental information and recommends that the application be deemed administratively incomplete and not accepted for filing. The Applicant provided information that resolved a majority of the previously noted deficiencies; however, the Applicant has not provided adequate documentation that supports the continuance of water service by Fort Bend County FWSD 1 to customers in the decertified area.

The Applicant provided the following information, resolving previously noted deficiencies:

1. The application was amended to include the appropriate CCN;
2. A completed and signed Oath;
3. A statement addressing the effect of the proposed CCN amendment on the customers already being served by Orbit;
4. A large scale map delineating the proposed service area with enough detail to accurately locate the proposed area within the county;
5. A complete list of neighboring entities, who are required to receive notice, within in a 2 mile buffer of the proposed decertified water service area.

The CCN is being amended to decertify a portion of the water service area to remove Teleview Terrace Subdivision. The Application states that Fort Bend County FWSD 1 will become the retail water service provider following decertification of the area. An executed agreement or contract was not included in the original application. The Applicant filed a sale agreement between Orbit and Fort Bend County FWSD 1 which contemplates a Texas Commission on Environmental Quality approved sale of the proposed area through a sale, transfer, merger application. Further this agreement is not signed by both parties and dates back to 2007. Therefore, the Applicant should provide the following:

1. Written documentation that supports the continuance of water service by Fort Bend County FWSD 1 to customers in the decertified area. This could include the closing documents referenced in the filed agreement, signed by both parties or a letter from Fort Bend County FWSD 1 describing their intent to serve the proposed area following decertification.