

Control Number: 45180



Item Number: 31

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DOCKET NO. 45180

RECEIVED

APPLICATION OF THE CITY OF §
AUSTIN TO AMEND ITS SEWER §
CERTIFICATE OF CONVENIENCE AND §
NECESSITY AND ADD AREA TO AQUA §
WATER SUPPLY CORPORATION'S d/b/a §
AQUA WSC'S SEWER CERTIFICATE §
OF CONVENIENCE AND NECESSITY IN §
TRAVIS COUNTY §
§

2016 OCT 20 AM 9:25
PUBLIC UTILITY COMMISSION
OF TEXAS
FILING CLERK

**COMMISSION STAFF'S RECOMMENDATION THAT
APPLICATION BE APPROVED**

Comes now the staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Response to Order No. 9. In support thereof, Staff would show the following:

I. BACKGROUND

On September 9, 2016, the Administrative Law Judge issued Order No. 9, requiring Staff to request a hearing or file a final recommendation on or before October 20, 2016. Therefore, this pleading is timely filed.

II. STAFF'S FINAL RECOMMENDATION

Staff recommends that the application be approved. As detailed in the attached memorandum (Attachment A) from Elizabeth English, Engineering Specialist in the Commission's Water Utilities Division, the Applicant has provided sufficient evidence that it possesses adequate financial and technical capability to provide continuous and adequate service. Also attached to this pleading are signed consent forms (Attachment B), the CCN service area map (Attachment C), and CCNs (Attachment D).

III. CONCLUSION

For the reasons stated above and in the attached memorandum, Staff recommends that the application be approved. Staff will work with the parties to file a joint proposed notice of approval by November 3, 2016 as required by Order No. 9.

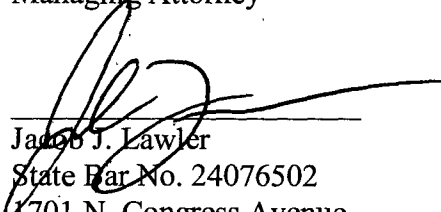
Date: October 20, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Stephen Mack
Managing Attorney



Jacob J. Lawler
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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on October 20, 2016 in accordance with 16 TAC § 22.74.



Jacob J. Lawler

ATTACHMENT A

PUC Interoffice Memorandum

To: Jacob Lawler, Attorney
Legal Division

Thru: Tammy Benter, Director
Lisa Fuentes, Manager
Water Utilities Division

From: Elisabeth English, Engineering Specialist

Date: October 18, 2016

Subject: **Docket No. 45180:** *Application of the City of Austin to amend its Water Certificate of Convenience and Necessity and add area to Aqua Utilities Inc. Water Certificate of Convenience and Necessity in Travis County*

On September 21, 2015, the City of Austin (City) filed with the Public Utility Commission of Texas (Commission) an application requesting to amend its water Certificate of Convenience and Necessity (CCN) No. 20636 and Aqua Water Supply Corporation's (WSC) sewer CCN 20962 in Travis County, Texas. The application is being reviewed under Texas Water Code (TWC) § 13.248 and 16 Tex. Admin. Code §24.117 (TAC).

Pursuant to TWC § 13.248, contracts between retail public utilities designating areas to be served and customers to be served by those retail public utilities, when approved by the Commission after public notice and hearing, are valid and enforceable and are incorporated into the appropriate areas of the CCN.

Proper notice of the application was published in the *Austin American-Statesman* on August 3 and August 10, 2016, as noted in the affidavit filed on August 24, 2016. Proper notice was provided to neighboring utilities and affected parties in Travis County on July 27, 2016. The comment period ended September 23, 2016, and no protests or requests for hearing were received.

The total area to be transferred is approximately thirty-seven (37) acres and does not include any current customers. The effect of the proposed amendment is that it would amend the existing CCN boundaries of both the City and the WSC. A portion of the City's CCN sewer service area, approximately 37 acres, would be transferred to the WSC. There are no facilities, or existing customers of the City's that are currently in the area that would be transferred to the WSC. There are no other retail public utilities of the same kind that would be affected by the proposed transaction. Granting the proposed amendment meets the expectations of both WSC and the City as they have jointly entered into an agreement to transfer 37 acres from the City to the WSC. As a result of this application, the WSC's service area will be expanded by approximately 37 acres and the City's CCN will be reduced to remove the area.

The WSC has the financial and technical capability to provide continuous and adequate service to the proposed area. A financial review found that the WSC has adequate financial and managerial capability to provide continuous and adequate service to the area subject to this application plus the area already certificated to the WSC.

Staff has considered the WSC's ability to provide continuous and adequate service pursuant to the CCN criteria outlined in TAC § 24.102(d). Pursuant to the requirements set forth in 16 TAC § 24.117, Staff recommends the following:

- 1) Approve the application and grant the CCN amendments as requested in the application; and
- 2) Provide the attached certificates and maps to the City and the WSC.

ATTACHMENT B

CONSENT FORM

Applicant's Name: Aqua WSC
Docket No.: 45180

- ✓• I concur with the map and certificate transmitted by e-mail on **Oct. 5, 2016.**
- I do not concur with the map and certificate transmitted by e-mail on **Oct. 5, 2016.** I understand that I have 7 days from the date of this email to provide my response.

I am authorized by Aqua WSC, to sign this form.

Signature: 

Printed Name: DAVE McHARRY

Relationship to Applicant: General Manager

Date signed: October 6, 2016

CONSENT FORM

Applicant's Name: City of Austin
Docket No.: 45180

☒ I concur with the map and certificate transmitted by e-mail on **Oct. 5, 2016.**

- ☐ I do not concur with the map and certificate transmitted by e-mail on **Oct. 5, 2016** I understand that I have 7 days from the date of this email to provide my response.

I am authorized by City of Austin, to sign this form.

Signature:  _____

Printed Name: Bart Jennings

Relationship to Applicant: Division Manager



Date signed: 10/14/16

ATTACHMENT C

Aqua WSC
Portion of Sewer Service Area
CCN No. 20962
PUC Docket No. 45180
13.248 Contract Service Agreement to Transfer a Portion
of City of Austin, CCN No. 20636 in Bastrop and Travis Counties

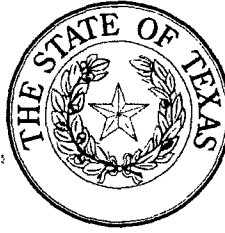


Sewer CCN Service Areas

-  20962 - Aqua WSC
-  20636 - City of Austin



ATTACHMENT D



Public Utility Commission of Texas

By These Presents Be It Known To All That

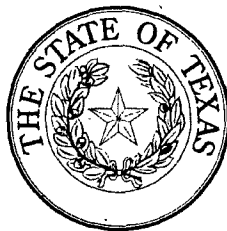
City of Austin

having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, the City of Austin is entitled to this

Certificate of Convenience and Necessity No. 20636

to provide continuous and adequate water utility service to that service area or those service areas in Travis County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45180 are on file at the Commission offices in Austin, Texas; and are a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of Austin to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, the _____ day of _____ 2016.



Public Utility Commission of Texas

By These Presents Be It Known To All That

Aqua WSC

having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, the City of Austin is entitled to this

Certificate of Convenience and Necessity No. 20962

to provide continuous and adequate water utility service to that service area or those service areas in Bastrop, Caldwell, Lee and Travis Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45180 are on file at the Commission offices in Austin, Texas; and are a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the Aqua WSC to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, the _____ day of _____ 2016.