



Control Number: 45272



Item Number: 17

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DOCKET NO. 45272

RECEIVED

APPLICATION OF ZIPP ROAD UTILITY §
COMPANY, LLC TO OBTAIN A §
CERTIFICATE OF CONVENIENCE AND §
NECESSITY IN GUADALUPE COUNTY §

2016 MAY -2 PM 1:43
PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
OF TEXAS
FILING CLERK

COMMISSION STAFF'S RECOMMENDATION ON SUFFICIENCY OF APPLICATION

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Response to Order No. 5 and Recommendation on Sufficiency of Application. In support thereof, Staff shows the following:

I. BACKGROUND

On October 21, 2015, Zipp Road Utility Company, LLC (Zipp Road) filed with the Commission an application to obtain a new sewer certificate of convenience and necessity in Guadalupe County. In Order No. 5, issued April 5, 2016, Staff was ordered to file a recommendation on the administrative completeness of the application by May 2, 2016. This pleading is therefore timely filed.

II. RECOMMENDATION ON ADMINISTRATIVE SUFFICIENCY

Staff has reviewed Zipp Road's application and recommends it be found sufficient for filing, as supported by the attached memorandum of Elisabeth English and Kristy Nguyen of the Water Utilities Division (Attachment A). The Applicant should be ordered to provide notice and proof of that notice using the forms (Attachment B) and in the manner detailed in the attached memorandum.

III. PROCEDURAL SCHEDULE

Staff recommends the application be found administratively complete. Staff therefore proposes the following procedural schedule:

Event	Date
Zipp Road 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	June 15, 2016

17

Deadline for Staff to file a recommendation on sufficiency of notice and further disposition	June 27, 2016
Deadline to intervene	30 days after notice is issued

IV. CONCLUSION

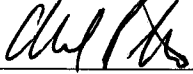
Staff respectfully requests the entry of an order consistent with the above recommendation.

Dated: May 2, 2016

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director - Legal Division

Karen S. Hubbard
Managing Attorney - Legal Division



Alexander Petak
Attorney-Legal Division
State Bar No. 24088216
(512) 936-7377
(512) 936-7268 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

DOCKET NO. 45272

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record May 2, 2016, in accordance with 16 Texas Admin. Code § 22.74.



Alexander Petak

ATTACHMENT A

PUC Interoffice Memorandum

To: Alexander Petak, Attorney
Legal Division

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

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

DATE: April 28, 2016

SUBJECT: **Docket No. 45272**, *Application of Zipp Road Utility Company, LLC to Obtain a Certificate of Convenience and Necessity in Guadalupe County*

On October 21, 2015, Zipp Road Utility Company, LLC (Applicant) filed with the Public Utility Commission of Texas (Commission) an application to obtain new sewer certificate of convenience and necessity in Guadalupe County, Texas, pursuant to the criteria in the Texas Water Code §§ 13.242-.250 (TWC) and Title 16 Tex. Admin Code §§24.101-.107(TAC).

Based upon a review of the application and supplemental information, filed on April 11, 2016, Staff recommends that the application be deemed sufficient for filing and administratively complete. Staff further recommends the following:

- 1) The Applicant provide correct notice of the application to the following:
 - a) any districts, groundwater conservation districts, counties, utilities, cities, cities with an extraterritorial jurisdiction within two (2) miles of the proposed service area;
 - 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 in which the proposed CCN area lies;
 - d) published notice once each week for two (2) consecutive weeks in a newspaper of general circulation in Guadalupe County;
- 2) The Applicant include copy of a map showing the proposed service area with the individual notices to neighboring utilities, 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; and
- 3) The Applicant return within 30 days of the Commission order, a copy of the actual notice sent, the map that was sent with the individual notice, and the attached signed affidavit that the notice was given.
- 4) In addition to the notice list provided in the application, the applicant should notice the following additional entities:
 - City of New Braunfels
 - City of Santa Clara
 - City of Seguin
 - Harvest Hills Treatment LTD (CCN 21044)
 - Guadalupe Blanco River Authority (CCN 20892)
 - Canyon Regional Water Authority
 - Comal County Water Recreational District 1
 - Edwards Aquifer Authority

Staff have corrected the notice documents and it is recommended that the Applicant use the attached notice and affidavits to meet the above requirements.

Technical Review

The Application is sufficient for filing, but at this time the Applicant has not provided all necessary documentation to support the granting of the requested CCN area.

District Consent:

Pursuant to TWC § 13.244(c) CCN application shall include evidence that the Applicant has obtained the necessary consent to be granted the service area requested from the proper municipality or public authority. The service area requested in this application is wholly located within the district boundaries of Guadalupe Blanco River Authority (GBRA). Staff is aware that the service area requested was released from GBRA's CCN area in Docket No.'s 45142 and 45113; however, the area remains within the district boundaries. The sewer CCN may only be granted to the Applicant if consent from GBRA is obtained, and evidence of such is provided to the Commission.

Additionally, the application states that potable water service within the requested service area will be provided by Green Valley SUD. Pursuant to TWC § 49.215(d) a district may not provide services in an area within the boundaries of another district without that district's consent unless that district has a valid CCN to serve the area.

For continued processing of the application, Staff requests documentation supporting consent from GBRA to provide sewer service within the district boundaries.

ATTACHMENT B

Notice to Neighboring Systems, Landowners and Cities

**NOTICE OF APPLICATION TO OBTAIN A CERTIFICATE OF CONVENIENCE AND
NECESSITY (CCN) TO PROVIDE SEWER UTILITY SERVICE IN GUADALUPE COUNTY,
TEXAS**

To: _____
(Neighboring System, Landowner or City)

Date Notice Mailed: _____, 2016

(Address)

(City State Zip)

Zipp Road Utility, LLC., has filed an application with the Public Utility Commission of Texas to obtain a CCN to provide sewer utility service in Guadalupe County.

The proposed utility service area is located approximately 5 miles southeast of downtown New Braunfels, Texas, and is generally bounded on the north by **the intersection of CR 366 and FM 725**; on the east by **the intersection of Skytrail Dr and FM 725**; on the south by **Skytrail Dr**; and on the west by **the intersection of Prado Verde and CR 366**.

See enclosed map of the proposed service area.

The total area for the sewer CCN being requested includes approximately 86 acres and 0 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.

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, 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 exclude the tract 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 request 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
Water Utilities Division
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 for Publication

**NOTICE OF APPLICATION TO OBTAIN A CERTIFICATE OF CONVENIENCE AND
NECESSITY (CCN) TO PROVIDE SEWER UTILITY SERVICE IN GUADALUPE COUNTY,
TEXAS**

Zipp Road Utility, LLC., has filed an application with the Public Utility Commission of Texas to obtain a CCN to provide sewer utility service in Guadalupe County.

The proposed utility service area is located approximately 5 miles southeast of downtown New Braunfels, Texas, and is generally bounded on the north by **the intersection of CR 366 and FM 725**; on the east by **the intersection of Skytrail Dr and FM 725**; on the south by **Skytrail Dr**; and on the west by **the intersection of Prado Verde and CR 366**.

The total area for the water/sewer CCN being requested includes approximately 86 acres and 0 current customers.

A copy of the proposed service area map is available at: 14203 Savannah Pass San Antonio, Texas 78216
210-209-8029

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



AFFIDAVIT OF NOTICE TO NEIGHBORING UTILITIES, LANDOWNERS AND CITIES
DOCKET NO. _____

STATE OF TEXAS
COUNTY OF _____

_____ has provided individual notice to the
following entities and landowners:

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 _____

PUBLIC UTILITY COMMISSION



PUBLISHER'S AFFIDAVIT

DOCKET NO. _____

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 _____