



Control Number: 45476



Item Number: 26

Addendum StartPage: 0

RECEIVED

APPLICATION OF CITY OF §
 MARBLE FALLS TO AMEND §
 ITS CERTIFICATES OF §
 CONVENIENCE AND NECESSITY §
 IN BURNET COUNTY §

2016 DEC -5 PM 4:03
 PUBLIC UTILITY COMMISSION
 PUBLIC UTILITY COMMISSION
 FILING CLERK
 OF TEXAS

JOINT PROPOSED NOTICE OF APPROVAL AND MOTION TO ADMIT EVIDENCE

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, on behalf of itself and the City of Marble Falls (City) and files this Joint Proposed Notice of Approval and Motion to Admit Evidence in response to Order No. 6 and would show the following:

I. BACKGROUND

On December 28, 2015, the City filed an application with the Public Utility Commission of Texas (Commission) to amend water certificate of convenience and necessity (CCN) No. 11137 and sewer CCN No. 20426 in Burnet County, Texas. The requested amendments seek to certificate areas within the city limits and extraterritorial jurisdiction of the City and some areas immediately adjacent to those areas. The area to be certificated for water service includes 58 current water customers of the City.

On September 20, 2016, Order No. 6 was issued establishing a deadline of December 5, 2016 for the parties to file proposed findings of fact, conclusions of law, and ordering paragraphs. This pleading is therefore timely.

II. MOTION TO ADMIT EVIDENCE

The parties move to admit the following evidence into the record of this proceeding: (a) City of Marble Fall's December 28, 2015 application (AIS Item No. 1); (b) City's February 9, 2016 Response to Commission Staff's Recommendation of Sufficiency (AIS Item No. 8); (c)

26

City's February 18, 2016 Response to the Commission Staff's First Request for Information (AIS Item No. 9); (d) City's April 8, 2016 Response to Commission Staff's Second Request for Information (AIS Item No. 12); (e) City's April 14, 2016 Supplemental Response to Commission Staff's Second Request for Information (AIS Item No. 13); (f) Publisher's affidavit dated June 17, 2016 (AIS Item No. 17); (g) Affidavit signed by Denise Fregeolle-Burk dated June 17, 2016 attesting to notice mailed on June 1, 2016 (AIS Item No. 17); (h) June 29, 2016 Letter from Doublehorn Ranch Management, LLC to opt out of CCNs (AIS Item No. 18); (i) City's July 20, 2016 Filing of Revised Maps to exclude Doublehorn Ranch property from CCNs (AIS Item No. 21); (j) City's October 26, 2016 Consent form, CCN service area map, and CCN certificate (AIS Item No. 24); and (k) Commission Staff's Final Recommendation dated November 18, 2016 (AIS Item No. 25).

III. JOINT PROPOSED NOTICE OF APPROVAL

The attached Joint Proposed Notice of Approval will grant the City of Marble Falls' application to amend its water CCN No. 11137 and sewer CCN No. 20426.

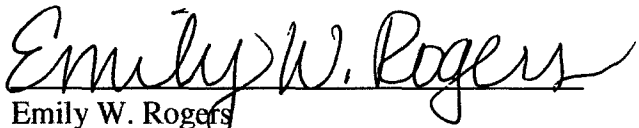
IV. CONCLUSION

The parties respectfully request that the Commission grant the motion to admit the evidence specified above and adopt the attached Joint Proposed Notice of Approval.

Dated: December 5, 2016

Respectfully submitted,

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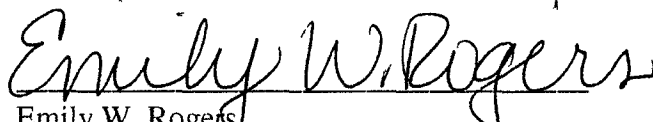
By: 
Emily W. Rogers
State Bar No. 24002863

ATTORNEY FOR CITY OF MARBLE FALLS

CERTIFICATE OF SERVICE

I hereby certify by my signature below that on the 5th day of December, 2016, a true and correct copy of the above and foregoing document was served via hand delivery on all parties of record in accordance with 16 TAC § 22.74.

Margaret Uhlig Pemberton
Karen S. Hubbard
Erika Garcia
Public Utility Commission of Texas
1701 N. Congress Avenue
PO Box 13326
Austin, TX 78711-3326


Emily W. Rogers

DOCKET NO. 45476

APPLICATION OF CITY OF	§	
MARBLE FALLS TO AMEND	§	PUBLIC UTILITY COMMISSION
ITS CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY	§	OF TEXAS
IN BURNET COUNTY	§	

JOINT PROPOSED NOTICE OF APPROVAL

This Joint Proposed Notice of Approval addresses the application of the City of Marble (City) for approval of amendments to its water Certificate of Convenience and Necessity (CCN) No. 11137 and sewer CCN No. 20426 in Burnet County, Texas. Public Utility of Texas Commission Staff (Commission Staff) recommended approval of the application. Consistent with Commission Staff's recommendation, the application is approved.

The Commission adopts the following findings of fact and conclusions of law:

I. FINDINGS OF FACT

Procedural History, Description, and Background

1. On December 28, 2015, the City filed an application with the Public Utility Commission of Texas (Commission) to amend water CCN No. 11137 and sewer CCN No. 20426 in Burnet County, Texas.
2. The requested amendments seek to certificate areas within the city limits and extraterritorial jurisdiction of the City and some areas immediately adjacent to those areas. The area to be certificated for water service includes 58 current water customers of the City.
3. Order No. 1, issued December 30, 2015, set an initial deadline of January 28, 2016 for Commission Staff to file comments on the administrative completeness of the application.

4. Pursuant to several Commission orders and Commission Staff Requests for Information, the City supplemented its application with the following:
 - (a) City's February 9, 2016 Response to Commission Staff's Recommendation of Sufficiency;
 - (b) City's February 18, 2016 Response to the Commission Staff's First Request for Information;
 - (c) City's April 8, 2016 Response to Commission Staff's Second Request for Information; and
 - (d) City's April 14, 2016 Supplemental Response to Commission Staff's Second Request for Information.
5. Order 4, issued May 19, 2016, found the application administratively complete, directed the City to provide notice, and established deadlines for further processing of the application.
6. On June 17, 2016, the City filed affidavits of notice attesting to the provision of notice of the application by direct mail to neighboring systems, landowners, and cities, and by publication in a newspaper of general circulation in Burnet County.
7. The City provided notice of the application by publication in *The Highlander* on May 13, 2016 and June 6, 2015. A publisher's affidavit dated June 17, 2016 and signed by Cheryl Michel, a representative of *The Highlander*, attests to this notice.
8. The City provided notice of the application to neighboring systems, landowners, and cities on June 1, 2016. An affidavit dated June 17, 2016 and signed by Denise Fregeolle-Burk attests to this notice. Notice was provided to the cities, neighboring systems, and landowners listed on the attachment to the June 17, 2016 affidavit.

9. By a letter dated June 29, 2016, Doublehorn Ranch Management, LLC opted out of the proposed water and sewer CCN area.
10. On July 20, 2016, the City filed revised maps to exclude the Doublehorn Ranch property from the proposed CCN area.
11. Order No. 6, issued September 20, 2016, adopted a procedural schedule for the remainder of the docket.
12. On November 1, 2016, the City filed a form consenting to the CCN service area maps and CCNs transmitted by the Commission Staff. A copy of the CCN service area maps and CCNs are attached to this Notice of Approval.
13. On November 18, 2016, Commission Staff filed a Final Recommendation, recommending that the application be approved.

Evidence

15. On _____, 2016, Order No. ____ was issued, admitting the following evidence into the record:
 - (a) City of Marble Fall's December 28, 2015 application (AIS Item No. 1);
 - (b) City's February 9, 2016 Response to Commission Staff's Recommendation of Sufficiency (AIS Item No. 8);
 - (c) City's February 18, 2016 Response to the Commission Staff's First Request for Information (AIS Item No. 9);
 - (d) City's April 8, 2016 Response to Commission Staff's Second Request for Information (AIS Item No. 12);
 - (e) City's April 14, 2016 Supplemental Response to Commission Staff's Second Request for Information (AIS Item No. 13);

- (f) Publisher's affidavit dated June 17, 2016 (AIS Item No. 17);
- (g) Affidavit signed by Denise Fregeolle-Burk dated June 17, 2016 attesting to notice mailed on June 1, 2016 (AIS Item No. 17);
- (h) June 29, 2016 Letter from Doublehorn Ranch Management, LLC to opt out of CCNs (AIS Item No. 18);
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- (k) Commission Staff's Final Recommendation dated November 18, 2016 (AIS Item No. 25).

Informal Disposition

- 18. More than 15 days have passed since the completion of the notice provided in this docket.
- 19. No protests have been filed. No requests for hearing have been filed. No issues of fact or law are disputed by any party; therefore, no hearing is necessary.
- 20. The criteria for informal disposition pursuant to 16 Tex. Admin. Code § 22.35 (TAC) have been satisfied in this proceeding.
- 21. Consistent with Commission Staff's recommendation, the application is reasonable, consistent with the public interest, and should be approved.

II. CONCLUSION OF LAW

- 1. The Commission has jurisdiction and authority over this docket pursuant to Texas Water Code (TWC) §§ 13.041, 13.241, 13.244, and 13.246, and 16 TAC § 24.101 and 24.102.
- 2. The City is a retail public utility as defined in TWC § 13.002(19) and 16 TAC § 24.3(58).

3. The City has provided notice in compliance with TWC § 13.246 and 16 TAC § 24.106.
4. After considering the factors in TWC § 13.246(c), the City has demonstrated adequate financial, managerial, and technical capability to provide continuous and adequate service to the requested area.
5. The City has demonstrated that the application meets the requirements set forth in TWC §§ 13.241, 13.244, and 13.246, and 16 TAC § 24.101 and 24.102 to be granted amendments to its CCNs.
6. The City demonstrated that an amendment to its CCN Nos. 11137 and 20426 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).

III. ORDERING PROVISIONS

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

1. Consistent with Commission Staff's recommendation and this Notice, the City's application is approved.
2. The City's water CCN No. 11137 and sewer CCN No. 20426 are amended consistent with this Notice.
3. The City shall serve every customer and applicant within the areas certificated under its water CCN No. 11137 and sewer CCN No. 20426, and such service shall be continuous and adequate.
4. 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 hereby denied.

SIGNED AT AUSTIN, TEXAS the _____ day of _____ 2016.

PUBLIC UTILITY COMMISSION OF TEXAS
