



Control Number: 45702



Item Number: 13

Addendum StartPage: 0



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PUBLIC UTILITY COMMISSION  
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APPLICATION OF THE CITY OF §  
CIBOLO FOR SINGLE §  
CERTIFICATION IN §  
INCORPORATED AREA AND TO §  
DECERTIFY PORTIONS OF GREEN §  
VALLEY SPECIAL UTILITY §  
DISTRICT'S SEWER CERTIFICATE §  
OF CONVENIENCE AND §  
NECESSITY IN GUADALUPE §  
COUNTY §

PUBLIC UTILITY COMMISSION

OF TEXAS

**CITY OF CIBOLO'S RESPONSE TO ORDER NO. 2**

COMES NOW the City of Cibolo (the "City"), by and through its undersigned attorneys of record, and files this Response to Order No. 2 ("Response"), Finding Application Incomplete and Deficient, Establishing Deadlines and Opportunity to Cure in this matter, and would respectfully show the following:

**I. BACKGROUND**

On March 8, 2016, the City timely filed its application at the Public Utility Commission ("Commission") under TWC § 13.255 (the "Application") to grant the City single sewer certification over certain, specific tracts of land that are currently within the City's corporate limits and that are also within the boundaries of Green Valley Special Utility District's ("GVSUD") sewer certificate of convenience and necessity ("CCN") No. 20973. On April 7, 2016, Commission Staff filed its Comments on Completeness indicating that the Application was administratively incomplete and deficient. On April 12, 2016, Order No. 2 was issued, adopting the recommendations of the Commission Staff's findings and requiring the City to cure such deficiencies by May 11, 2016. Thus, this response is timely filed.

## II. NOTICE OF APPLICATION

The City has provided GVSUD with notice of the Application. On April 12, 2016, the City provided a copy of the Application to GVSUD's general counsel, Mark Zeppa, by electronic mail. Based upon prior written correspondence and phone conversations between the undersigned counsel and Mr. Zeppa, it is the City's understanding and belief that Mr. Zeppa was GVSUD's attorney.

The City also mailed a copy of the Application to GVSUD on April 12, 2016, at its physical address - 529 South Center Street, Marion, Texas 78124 - and to the attention of Pat Allen, General Manager of GVSUD, via certified mail return receipt requested. However, the letter was returned on April 20, 2016 to the City as undeliverable.

Consequently, the City re-mailed a copy of the Application to GVSUD on April 20, 2016, at its P.O. Box address - P.O. Box 99, Marion, Texas 78124 - and to the attention of Pat Allen, General Manager of GVSUD, via certified mail return receipt requested. The City received verification from the U.S. Postal Service that the Application was delivered and accepted by GVSUD, and a copy of such verification is attached hereto as Attachment A.<sup>1</sup>

## III. STATUS ON COMMENCING THE "APPRAISER" PROCESS UNDER 16 TEX. ADMIN. CODE § 24.120(m).

The City has commenced the portion of the CCN decertification process described in Tex. Water Code § 13.255(l) and 16 Tex. Admin. Code § 24.120(m), as requested by the Commission. On April 26, 2016, the City provided a letter to Mr. Paul Terrill, attorney for GVSUD, and Pat Allen, General Manager for GVSUD, asking whether GVSUD would be willing to agree, select, and appoint Mr. Jack Stowe, President of NewGen Strategies &

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<sup>1</sup> On page 4 of GVSUD's Motion to Intervene and Deadline Request (page 3 of the Motion itself), classified as Item No. 9 on the Commission's Interchange for this matter, GVSUD's new attorney also acknowledges receipt of the notice of this Application.

Solutions, LLC to serve as the independent appraiser to conduct the appraisal in this matter. A copy of such letter is attached hereto as **Attachment B**. A response has not been received from GVSUD as of the time of this filing, and more than 11 days have passed since the City provided such April 26, 2016 letter to GVSUD.

Accordingly, by a separate filing filed contemporaneously with this Response, the City appoints Mr. Jack Stowe to serve as its independent appraiser in this matter. At this point, GVSUD is required under Texas Water Code § 13.255(l) to appoint an independent appraiser as well, and that the two appraisers are required to meet within 10 days of today to reach an agreed determination of the amount of compensation, if any.

#### **IV. CONCLUSION AND PRAYER**

The City respectfully requests that the Commission deem the Application administratively complete and such other and further relief to which it may be entitled.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE &  
TOWNSEND, P.C.**

816 Congress Avenue, Suite 1900

Austin, Texas 78701

(512) 322-5800

(512) 472-0532 (Fax)



DAVID J. KLEIN

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ATTORNEYS FOR THE CITY OF CIBOLO

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was transmitted by fax, hand-delivery and/or regular, first class mail on this 11<sup>th</sup> day of May, 2016 to the parties of record.



David J. Klein

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Mr. Pat Allen  
 Green Valley Special Utility District  
 P.O. Box 99  
 Marion, TX 78124

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<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature  X <u>Brandy Barrios</u> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Mr. Pat Allen  Green Valley Special Utility District  P.O. Box 99  Marion, TX 78124</p>		<p>B. Received by (Printed Name) <u>Brandy Barrios</u> C. Date of Delivery <u>4-22-16</u></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If YES, enter delivery address below:</p>	
<p>2. Article Number  (Transfer from service label) <u>7015 3010 0001 0405 0986</u></p>		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	



816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
Telephone: (512) 322-5600  
Facsimile: (512) 322-0522  
www.lglawfirm.com

Mr. Klein's Direct Line: (512) 322-5818  
E-mail: dklein@lglawfirm.com

April 26, 2016

Terrill & Waldrop  
Attn: Paul M. Terrill III  
810 W. 10<sup>th</sup> Street  
Austin, TX 78701

VIA ELECTRONIC MAIL  
AND HAND DELIVERY

Re: Selecting an Appraiser for the City of Cibolo's Application to Decertify Portions of GVSUD's Sewer CCN Boundaries under Texas Water Code § 13.255; Public Utility Commission Docket No. 45702

Dear Mr. Terrill:

It is our understanding from the "Green Valley Special Utility District's Motion to Intervene and Deadline Request," filed with the Public Utility Commission ("*Commission*") on Friday, April 22, 2016, that your firm is representing Green Valley Special Utility District regarding the above-referenced matter. Please let me know if this understanding is incorrect.

As you may know, by letter dated August 18, 2015, the City of Cibolo ("*City*") provided Green Valley Special Utility District with notice under Texas Water Code § 13.255 that it intends to provide retail sewer service within certain portions of Green Valley Special Utility District's ("*GVSUD*") sewer certificate of convenience and necessity ("*CCN*") No. 20973 that are also located within the City's corporate limits (through annexation). During the 180 day period following the delivery of such notice to GVSUD, the City attempted to work with the GVSUD to determine whether an agreement could be reached regarding this service area transition, but GVSUD refused to meet with the City and an agreement was not reached. Consequently, after the completion of that 180 day period, the City filed a petition at the Public Utility Commission ("*Commission*") to decertify such portions of GVSUD's sewer CCN service area and to become singly certificated for such land under Texas Water Code § 13.255 (the "*Application*"). My firm represents the City with this pending application.

At this point, Texas Water Code § 13.255(l) and 16 Tex. Admin. Code § 24.120(m) provide that the City and GVSUD need to determine whether they can agree on a qualified individual or firm to serve as an independent appraiser. The purpose of the appraiser is to evaluate whether the City should compensate GVSUD under the factors in Texas Water Code §

Mr. Paul M. Terrill III  
April 26, 2016  
Page 2

13.255(g). The City believes that the City and GVSUD should select and appoint Mr. Jack Stowe, President of NewGen Strategies & Solutions, LLC, to conduct such appraisal. With decades of experience in conducting appraisals of water and wastewater utility systems, Mr. Stowe is qualified to complete this appraisal for the City and GVSUD. A copy of his resume is attached hereto as Attachment 1 for your convenience.

Please let me know if GVSUD will agree to join the City and appoint Mr. Stowe as the appraiser for the Application no later than Thursday, May 5, 2016.

I look forward to discussing this matter with you, and hopefully the parties can proceed in a cooperative, cost-efficient manner. If you have any questions in the meantime, do not hesitate to contact me at (512) 322-5800.

Sincerely,

A handwritten signature in black ink, appearing to read 'David J. Klein', with a stylized flourish at the end.

David J. Klein,  
Attorney for the City of Cibola

cc: Jack Stowe, President, NewGen Strategies & Solutions, LLC  
Robert Herrera, City Manager for the City  
Landon Lill, Attorney for the Commission  
Mark Zeppa, attorney for GVSUD  
Christie Dickenson, of the Firm

ATTACHMENT 1



**Jack E. Stowe, Jr.**  
 Director, Environmental Practice  
[jstowe@newgenstrategies.net](mailto:jstowe@newgenstrategies.net)

Mr. Stowe's Public Sector consulting career began in 1975. His career includes nine years in a "big-eight" public accounting and consulting firm where he held the title of Manager at the time of his resignation. After serving one and one-half years as Chief Financial Officer and Treasurer of an International Real Estate firm, Mr. Stowe founded Aries Resource Management as a consulting group dedicated to serving the Public Sector. In 1986, Aries Resource Management entered into a partnership agreement with Reed Municipal Services, Inc., to form Reed-Stowe & Co. Effective October 2000 the company was renamed Reed, Stowe & Yanke, LLC and in March 2003 was acquired by R. W. Beck, Inc. During his tenure with R.W. Beck, Mr. Stowe served as the Local Practice Leader for the Firm's Utility Services Practice - Gulf Coast Region. Upon expiration of his employment contract with R.W. Beck in March 2008, Mr. Stowe founded J. Stowe & Co. In September 2012, Mr. Stowe became President of the Environmental Practice for NewGen Strategies & Solutions. Mr. Stowe assumed the position of Director, in January of 2015.

## EDUCATION

- Bachelor of Arts in Accounting, North Texas State University

## PROFESSIONAL AFFILIATIONS

- Texas Water Conservation Association (TWCA)
- American Water Works Association (AWWA)

## EXPERIENCE

Mr. Stowe's experience is highlighted by the major roles he has fulfilled in assisting Public Sector entities in achieving major cost savings through contract negotiations for services and implementation of organization and operational enhancements. A brief example of engagements conducted by Mr. Stowe includes:

- Raw water service contract negotiations between the City of Arlington and the Tarrant County Water Improvement District No. 1 (now Tarrant Regional Water District).
- Wastewater service contract negotiations between the Customer Cities and the City of Fort Worth. Representing the twenty-one Customer Cities of Fort Worth a detailed wastewater cost of service study was conducted to provide the foundation for contract renewal negotiations.
- Assisted TWCA-USA, Inc. in the electric load aggregation of 15 TWCA members. This effort has resulted in the release of a Request For Bid on approximately 800,000,000 kWh brought to market.

Mr. Stowe has also participated in negotiations of operation, maintenance and management privatization/outsourcing contracts for the following:

- Red River Redevelopment Authority – water, wastewater, gas, electric, steam and industrial waste treatment
- Southwest Division of United States Navy-privatization of electric, gas, water and wastewater operations

In addition, Mr. Stowe authored the "Market Strategies for Improved Service by Water Utilities Report" on behalf of the Texas Water Development Board. This study analyzes and presents the status of privatization of water utility operations within the State of Texas contrasted against national activity. Also for the Texas Water Development Board, Mr. Stowe authored the study titled "Socioeconomic Impact of Interbasin Transfers in Texas"

This study was undertaken to determine the impact of current legislation on the consideration of interbasin transfers as potential water management strategies by the State's regional water planning groups.

**Jack E. Stowe, Jr.**  
 Director, Environmental Practice

Mr. Stowe has also been actively involved in water utility system valuation, and has performed such studies for the following entities:

- RCH Water Supply Corporation
- Kelly Air Force Base
- Walker County Water Supply Corporation
- Johnson County Water Supply Corporation
- High Point Water Supply Corporation
- Liberty City Water Supply Corporation
- Royse City, Texas / BHP Water Supply Corporation
- Groundwater Valuation – Oakland County, Michigan, Wood Wind Water System, LLC
- Groundwater Valuation – Oakland County, Michigan, Oakland Explorations Water System, LLC

The results of the above valuations served as the foundation for the sale/transfer of ownership for the utilities identified or the donation of the assets in accordance with Section 170 of the Internal Revenue Service Code of 1986.

The following is sample list of clients for which Mr. Stowe has performed water and/or wastewater cost of service, customer class cost allocation, and/or rate design study, including wholesale, clients:

- |   |                                    |
|---|------------------------------------|
| ▪ Arlington, Texas                                | ▪ Grapevine, Texas                 |
| ▪ Argyle Water Supply Corporation                 | ▪ Hobbs, New Mexico                |
| ▪ Barton Creek Lakeside                           | ▪ Kaufman, Texas                   |
| ▪ Bellaire, Texas                                 | ▪ Kempner Water Supply Corporation |
| ▪ Borger, Texas                                   | ▪ Kilgore, Texas                   |
| ▪ Cameron County Fresh Water Supply District No.1 | ▪ Knollwood, Texas                 |
| ▪ Celina, Texas                                   | ▪ Lewisville, Texas                |
| ▪ Copperas Cove, Texas                            | ▪ Lubbock, Texas                   |
| ▪ Corsicana, Texas                                | ▪ Mesquite, Texas                  |
| ▪ Dallas Water Utilities                          | ▪ Midlothian, Texas                |
| ▪ Denton, Texas                                   | ▪ Montgomery County MUD            |
| ▪ Devers Canal System                             | ▪ North Myrtle Beach, SC           |
| ▪ El Oso Water Supply Corp.                       | ▪ North Richland Hills, Texas      |
| ▪ Farmers Branch, Texas                           | ▪ Paris, Texas                     |
| ▪ Ft. Worth, Texas                                | ▪ Richmond, Virginia               |
| ▪ Georgetown, Texas                               | ▪ Rockett Special Utility District |
| ▪ Gilmer, Texas                                   | ▪ Rowlett, Texas                   |
| ▪ Glenn Heights, Texas                            | ▪ Sachse, Texas                    |
|   | ▪ Sanger, Texas                    |

**Jack E. Stowe, Jr.**  
Director, Environmental Practice

- Tarrant Regional Water District
- United Irrigation District
- Weatherford, Texas
- Westminster, Colorado
- Wylie, Texas

Other services provided by Mr. Stowe are further detailed below:

- Assisted Dallas Water Utilities and Tarrant Regional Water District in examining the financing alternatives, obtaining state funding, and establishing the cost allocation methodology associated with the \$1.9 billion Lake Palestine Pipeline Project. Mr. Stowe also performed a comprehensive examination of the impact of energy costs on the proposed Project alternatives, including developing a forecasting model of electricity costs through 2060.
- Developed an impact fee econometric model used by the Cities of North Richland Hills, Grapevine, Lewisville and Wylie to calculate the maximum allowable fee under S.B. 336. Also responsible for the development and implementation of administrative procedures and systems modifications enabling these Cities to comply with the monitoring requirements of S.B. 336.
- Performed an economic feasibility study for the City of Arlington for alternative wastewater diversion. The study provided a twenty year projected population growth within defined service areas, discharge characteristics, and related capital improvement requirements for each alternative.
- Participated in the acquisition of the Street Lighting System from Texas Electric Service Company by the City of Arlington which was consummated after a six-month study and purchase negotiation. Purchase pay back was achieved within three years with annual operating cost reduction currently accruing at the annual rate of approximately \$700,000 to the City.
- Assisted Dallas Water Utilities, North Texas Municipal Water District, Sabine River Authority of Texas, and Tarrant Regional Water District in assessing the feasibility and economic impact of the Toledo Bend Water Supply Project, which proposes to supply at least 600,000 acre-feet of raw water to the DFW Metroplex.

Mr. Stowe has had extensive consulting experience within the utility industry. His experience encompasses not only utility ratemaking under federal, state and municipal jurisdictions, but also includes significant experience in the following areas:

- Organization and operations for investor owned utilities and municipal utilities;
- Financial projections and operating system requirements;
- Contract Negotiations;
- Breach of Franchise Agreements; and
- Economic Feasibility Studies.

Specifically, Mr. Stowe has conducted and/or supervised analyses of rate base, operating income, rate of return, revenue requirements, fully allocated cost of service and rate design. The results of these studies were generally summarized into expert testimony and presented in rate case proceedings at either the state and/or local jurisdictions. The various jurisdictions Mr. Stowe has performed consulting services in are as follows:

- Arizona Corporation Commission
- Federal Energy Regulatory Commission
- Illinois Commerce Commission
- Kentucky Public Service Commission
- Mississippi Public Service Commission
- New Mexico Public Service Commission
- Oklahoma Corporation Commission
- Public Utility Commission of Texas
- Railroad Commission of Texas
- Texas Commission on Environmental Quality

**Jack E. Stowe, Jr.**  
 Director, Environmental Practice

- Utah Public Service Commission
- Wyoming Public Service Commission

Samples of the specific utility companies analyzed by Mr. Stowe are presented below. Many of these Mr. Stowe has investigated on numerous engagements during his career:

- ATC Satelco
- AT&T
- Arkansas-Oklahoma Gas Corporation
- Arizona Public Service
- Central Power & Light (now AEP)
- Canadian River Municipal Water Authority
- Dallas Water Utilities
- Denton County Electric Cooperative (now CoServ)
- Detroit Edison
- Gulf States Utilities (now Entergy)
- Houston Lighting & Power (now Reliant)
- Indianapolis Power & Light
- Kentucky Power & Light
- Lake Dallas Telephone Company
- Lower Colorado River Authority
- Lone Star Gas Company (now ATMOS)
- Magnolia Gas
- Metro-Link Telecom, Inc.
- Mississippi Power & Light
- Mojave Electric Cooperative
- Mountain States Bell
- Southern Union Gas Company
- Southwest Electric Service Company (now TXU)
- Southwestern Bell Telephone
- Southwestern Public Service Company
- San Miguel Electric Cooperative
- Texas Electric Service Company (now TXU)
- Texas-New Mexico Power Company
- Texas Power & Light (now TXU)
- Tucson Gas & Electric
- Utah Power & Light
- United Telecommunications
- West Texas Utilities (now AEP)

**Publications and Presentations**

"Street Lighting Cost Reduction, a Game Plan for the 80's", Texas Institute of Traffic Engineers

"The Impact of Senate Bill No. 336"

- Research Group of the Texas Association of City Managers
- Central Region of the Texas Association of City Managers
- Gulf Coast Region of the Texas Government Financial Officers Association

Government Finance Officers Association of Texas Newsletter

- "A New Challenge for Municipal Gas Regulation"
- "The Case of the Vanishing Gross Receipts Tax"
- "Impact of Senate Bill 336" (Assessment of Developer Impact Fees)
- "Street Lighting Cost Reduction Through Municipal Ownership"

"Rate Impact of Water Conservation Pricing", Texas Water Conservation Association, 1993

"Alternative Funding for Capital Improvements", Water Environmental Association of Texas, 1994

"Construction Management and Financing Alternatives", Water Environmental Association of Texas, 1994

*Thoughtful Decision Making for Uncertain Times*

4

**Jack E. Stowe, Jr.**  
Director, Environmental Practice

"Management Audits", Texas Water Conservation Association - Technical Seminar, 1994

"Ins and Outs of Rate Making", American Association of Water Board Directors, 1995

"Solid Waste Full Cost Accounting", Texas Natural Resource Conservation Commission, 1995

"SBI Deregulation 101",

- Texas Water Conservation Association, 1998
- Texas Rural Water Association, 1999

"The Benefits of Electric Aggregation", Texas Water Conservation Association, 1999

"Water Retail Wholesale Ratemaking", Texas Water Conservation Association – Technical Seminar, 2000

"Electric Deregulation in Texas", Texas Chapter of the Public Works Association, 2000

"Innovative Financing for Water and Wastewater Utilities", Texas Water Law Seminar, February 2002

"Encroachment Issues: Your Service Area is Worth How Much?" Texas Rural Water Association Annual Conference, March 2002

Allocating the Costs of Population Growth in Wholesale Water Contracts, Texas Rural Water Association and Texas Water Conservation Association Water Law Seminar, January 2007

