



Control Number: 46336



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DOCKET NO. 46336

APPLICATION OF CITY OF TOMBALL TO §  
OBTAIN A WATER AND SEWER §  
CERTIFICATE OF CONVENIENCE AND §  
NECESSITY IN HARRIS AND §  
MONTGOMERY COUNTIES §

PUBLIC UTILITY COMMISSION  
OF TEXAS

2017 AUG 23 PM 2:02

**JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL**

COMES NOW, the City of Tomball (Tomball) together with the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, (collectively, the Parties), and files this Joint Motion to Admit Evidence and Proposed Notice of Approval. In support thereof, the Parties show the following:

**I. BACKGROUND**

On September 1, 2016, the City of Tomball (Tomball) filed with the Commission an application to obtain a new water and sewer certificate of convenience and necessity (CCN) in Harris and Montgomery Counties. On November 4, 2016, Tomball filed revisions to its CCN application. On November 17, 2016, the Commission Administrative Law Judge (ALJ) issued Order No. 3, which deemed the City of Tomball's application administratively complete. On January 25, 2017, the ALJ issued Order No. 6, which deemed the City of Tomball's notice of its application sufficient. On January 6, 2017, Undine Texas, LLC (Undine) and Quadvest, L.P. (Quadvest) filed Motions to Intervene and Request for Hearing. On February 6, 2017, the Commission referred this proceeding to the State Office of Administrative Hearings (SOAH). On May 26, 2017, Undine and Quadvest filed a Withdrawal of Protest, and on June 6, 2017, SOAH Order No. 3 was issued, remanding the City of Tomball's application back to the Commission. Staff filed a final recommendation of approval on August 17, 2017. Order No. 7 gave the parties a deadline of August 24, 2017 to file a joint proposed order, including findings of fact, conclusions of law, and ordering paragraphs. This pleading is therefore timely filed.

**II. JOINT MOTION TO ADMIT EVIDENCE**

The Parties move to admit the following into the record evidence of this proceeding:

- (a) Tomball's Application, filed on September 1, 2016 (AIS Item No. 1);

- (b) Tomball's supplement to its application filed on November 4, 2016 (AIS Item No. 7);
- (c) The affidavits of notice filed on January 10, 2017 (AIS Item No. 14);
- (d) Tomball's consent forms to the final map, certificate and tariff, filed July 21, 2017 (AIS Item No. 42);
- (e) Commission Staff's recommendation that the Application be approved, filed August 17, 2017 (AIS Item No. 43).

### **III. JOINT PROPOSED NOTICE OF APPROVAL**

The attached Joint Proposed Notice of Approval would grant Tomball's Application for a new water CCN No. 13257 and sewer CCN No. 21103 in Harris County, Texas. Also attached are the final map, tariff, and certificate that were included in Staff's recommendation on final disposition filed August 17, 2017.

### **IV. CONCLUSION**

The Parties respectfully request that the Commission grant the Motion to Admit Evidence, and adopt the attached Joint Proposed Notice of Approval.

Dated: August 23, 2017

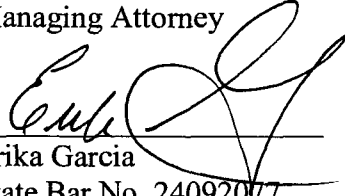
Respectfully Submitted,

**FOR COMMISSION STAFF**

**PUBLIC UTILITY COMMISSION OF  
TEXAS  
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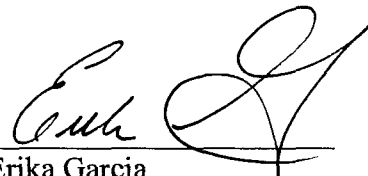


By: \_\_\_\_\_  
Randall B. Wilburn  
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Helen S. Gilbert  
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**ATTORNEYS FOR THE CITY OF  
TOMBALL**

**DOCKET NO. 46336**  
**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on August 23, 2017 in accordance with 16 TAC § 22.74.

  
Erika Garcia

**DOCKET NO. 46336**

<b>APPLICATION OF THE CITY OF TOMBALL</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>TO OBTAIN A WATER AND SEWER</b>	<b>§</b>	
<b>CERTIFICATE OF CONVENIENCE AND</b>	<b>§</b>	<b>OF TEXAS</b>
<b>NECESSITY IN HARRIS AND</b>	<b>§</b>	
<b>MONTGOMERY COUNTIES</b>		

**JOINT PROPOSED NOTICE OF APPROVAL**

This Notice of Approval addresses the application of the City of Tomball (Tomball) for a new water certificate of convenience and necessity (CCN) No. 13257 and sewer CCN No. 21103 in Harris and Montgomery Counties, Texas. The Public Utility Commission Staff (Commission Staff) recommended approval of this application. The application is approved.

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

**I. FINDINGS OF FACT**

**Procedural History**

1. On September 1 2016, the City of Tomball (Tomball) filed with the Commission an application to obtain a new water and sewer certificate of convenience and necessity (CCN) in Harris and Montgomery Counties. Tomball seeks to obtain water and sewer CCNs for the service area containing approximately 10,697 acres (water CCN No. 13257) and 10,998 acres (sewer CCN No. 21103), and serving 12,000 current customers.
2. On September 6, 2016, Order No. 1 was issued, requiring comments on administrative completeness.
3. On November 4, 2016, Tomball filed a supplement to its application.
4. On November 17, 2016, Order No. 3 was issued, deeming the application administratively complete and establishing a procedural schedule.
5. On January 6, 2017, Undine Texas, LLC (Undine) and Quadvest, L.P. (Quadvest) filed Motions to Intervene and Request for Hearing.
6. On January 10, 2017, Tomball filed proof of notice.
7. On January 17, 2017, Order No. 5 was issued, which granted the Undine and Quadvest Motions to Intervene.

8. On January 25, 2017, Order No. 6 was issued, which deemed Tomball's notice of its application sufficient.
9. On February 6, 2017, the Commission referred this proceeding to the State Office of Administrative Hearings (SOAH).
10. On May 26, 2017, Undine and Quadvest filed a Withdrawal of Protest.
11. On June 1, 2017, Tomball, Undine, Quadvest, and Commission Staff filed a joint motion for remand.
12. On June 6, 2017, SOAH Order No. 3 was issued, remanding the City of Tomball's application back to the Commission.
13. On July 21, 2017, Tomball filed consent forms to the map, tariff, and CCN transmitted to it by Commission Staff.
14. On August 17, 2017, Commission Staff filed a final recommendation for approval of the application.
15. The final maps and CCN certificate referenced in Findings of Fact No. 13 are attached to this Notice of Approval.

#### **Notice**

16. On November 29, 2016, Tomball mailed notice of the application to neighboring systems, landowners, and cities and to affected parties.
17. Notice was provided by publication in the *Tomball Potpourri* on December 7, 2016 and December 14, 2016.
18. On January 10, 2017 Tomball filed an affidavit attesting to mailed notice, including copies of individual notices, and a publisher's affidavit.

#### **Evidentiary Record**

19. On \_\_\_\_\_, Order No. \_\_ was issued, admitting evidence into the record of this proceeding.

#### **Informal Disposition**

20. More than 15 days have passed since the completion of the notice provided in this docket.
21. Tomball and Commission Staff are the only remaining parties to this proceeding.

22. No issues of fact or law remain disputed by any party; therefore, no hearing is necessary.

## **II. CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over these matters pursuant to Tex. Water Code Ann. §§ 13.041, 13.241, 13.244, and 13.246 (West 2016) (TWC).
2. Tomball is a retail public utility as defined in TWC § 13.002(19) and 16 Tex. Admin. Code § 24.3(59) (TAC).
3. Public notice of the application was provided in compliance with TWC § 13.246 and 16 TAC § 24.106.
4. The application meets the requirements set forth in TWC §§ 13.241, 13.244 and 13.246, and 16 TAC §§ 24.101-102 and 24.104-106.
5. After considering the factors in TWC § 13.246(c), Tomball is entitled to approval of the application, having demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and its current service area as required by TWC § 13.241(a).
6. Approval of the application is necessary for the service, accommodation, convenience, or safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.102(c).
7. Pursuant to TWC § 13.257(r) and 16 TAC § 24.106(e), Tomball is required to record a certified copy of the approved CCN and map, along with a boundary description of the service area in the real property records of each county in which the service area or a portion of the service area is located, and submit to the Commission evidence of the recording.
8. The requirements for informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

## **III. ORDERING PARAGRAPHS**

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

1. Tomball's application is approved.



2. Tomball's water CCN No. 13257 and sewer CCN No. 21103 are hereby approved, consistent with this Notice.
3. Tomball shall comply with the recording requirements in TWC § 13.257(r) for the area in Harris County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.
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 denied.

**SIGNED AT AUSTIN, TEXAS on the \_\_\_\_ day of \_\_\_\_\_, 2017.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**ADMINISTRATIVE LAW JUDGE**