

Control Number: 46336



Item Number: 49

Addendum StartPage: 0

RECEIVED
2017 OCT 11 PM 1:26

APPLICATION OF CITY OF
TOMBALL TO OBTAIN WATER AND
SEWER CERTIFICATES OF
CONVENIENCE AND NECESSITY IN
HARRIS AND MONTGOMERY
COUNTIES

§
§
§
§
§
§

PUBLIC UTILITY COMMISSION

OF TEXAS

ORDER

This Order addresses the application of the City of Tomball to obtain water and sewer certificates of convenience and necessity in Harris and Montgomery Counties. Commission Staff recommended approval of the application, as supplemented. The application, as supplemented, 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, Tomball filed an application to obtain new water and sewer certificates of convenience and necessity in Harris and Montgomery Counties.
2. Tomball seeks to provide services to an area consisting of the Tomball city limits and its extraterritorial jurisdiction, excluding existing certificate of convenience and necessity (CCN) areas.
3. On September 6, 2016, Order No. 1 was issued, requiring comments on administrative completeness and notice, requesting a procedural schedule, and addressing other procedural matters.
4. On October 3, 2016, Commission Staff recommended that the application be found administratively incomplete and proposed a deadline to cure the identified deficiencies.
5. On October 5, 2016, Order No. 2 was issued, finding the application incomplete and deficient and establishing deadlines for Tomball to cure the deficiencies and for Commission Staff to file a supplemental recommendation.

49

6. On November 4, 2016, Tomball supplemented the application to include mapping and digital data.
7. On November 14, 2016, Commission Staff filed a supplemental recommendation that the application, as supplemented, be found administratively complete, that Tomball provide notice, and proposed a procedural schedule for continued processing.
8. On November 17, 2016, Order No. 3 was issued, deeming the application administratively complete, requiring Tomball to provide notice, and establishing a procedural schedule.
9. On January 6, 2017, Undine Texas, LLC (Undine) and Quadvest, L.P. (Quadvest) separately filed motions to intervene and requests for hearing.
10. On January 17, 2017, Order No. 5 was issued, granting the motions to intervene of Undine and Quadvest.
11. On January 23, 2017, Commission Staff recommended that the City of Tomball's notice be found sufficient and that this proceeding be referred to the State Office of Administrative Hearings (SOAH) for further processing.
12. On January 25, 2017, Order No. 6 was issued, finding Tomball's notice of the application sufficient.
13. On February 1, 2017, the DeNina Family Partnership, Ltd. filed an opt-out request for approximately 71.7034 acres it owns in Harris County.
14. On February 6, 2017, the Commission referred this proceeding to the State Office of Administrative Hearings (SOAH).
15. On February 15, 2017, SOAH issued Order No. 1, describing the case, addressing jurisdiction, noticing a prehearing conference, and establishing other general procedures.
16. On March 9, 2017, the Commission issued a preliminary order, which provided a list of issues to be addressed in this case.
17. On March 15, 2017, SOAH issued Order No. 2, memorializing the prehearing conference, adopting a procedural schedule, and noticing a hearing on the merits.
18. On May 26, 2017, Undine withdrew the protest to Tomball's application.

19. On June 1, 2017, Tomball, Undine, Quadvest, and Commission Staff filed a joint motion for remand based upon a resolution of the issues in dispute.
20. On June 6, 2017, Tomball filed revised water and sewer boundary maps, excluding the property as requested by the DeNina Family Partnership and per the parties' agreement regarding all of the requested certificated service area in Montgomery County.
21. On June 6, 2017, SOAH Order No. 3 was issued, granting the parties' joint motion to remand, remanding the proceeding to the Commission, and dismissing the SOAH docket.
22. On June 8, 2017, Commission Staff proposed a procedural schedule for further processing.
23. On June 9, 2017, Order No. 7 was issued, adopting Commission Staff's proposed procedural schedule.
24. On July 21, 2017, Tomball filed a consent form to the map and certificates as prepared by Commission Staff.
25. On August 17, 2017, Commission Staff recommended approval of Tomball's application, as supplemented.
26. The final maps and certificates referenced in finding of fact 24 are attached to this Order.

Notice

27. The Commission caused notice of Tomball's application to be published in the *Texas Register* on September 16, 2016.
28. On November 29, 2016, Tomball mailed notice of the application to neighboring systems, landowners, cities, and affected parties.
29. On December 7 and 14, 2016, notice of Tomball's application was published in the *Tomball Potpourri*.
30. On January 10, 2017, Tomball filed affidavits attesting to mailed notice, including copies of individual notices, and publisher's affidavit.

Evidentiary Record

31. On August 23, 2017, Commission Staff and Tomball filed, among other things, a joint motion to admit evidence into the record.

32. On August 30, 2017, Order No. 8 was issued, granting the joint motion and admitting evidence into the record of this proceeding.

Informal Disposition

33. More than 15 days have passed since completion of the notice provided in this docket.
34. Tomball and Commission Staff are the only remaining parties to this proceeding.
35. No issues of fact or law remain disputed by any party; therefore, no hearing is necessary.

II. Conclusions of Law

1. Tomball is a retail public utility as defined in Texas Water Code § 13.002(19)¹ and 16 Texas Administrative Code § 24.3(59) (TAC).
2. The Commission has jurisdiction over these matters under TWC §§ 13.041, 13.241, 13.244, and 13.246.
3. Tomball provided public notice of the application 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. Under § 13.257(r) and 16 TAC § 24.106(e), Tomball is required to record a certified copy of the approved certificates and maps, along with a boundary description of the service areas in the real property records of each county in which the service area or portion of the service area is located and submit to the Commission evidence of the recording.

¹ Tex. Water Code Ann. § 13.002(19) (West 2008 and Supp. 2016) (TWC).

8. The requirements for informal disposition under 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 orders:

1. Tomball's application, as supplemented, is approved.
2. Tomball is granted water certificate of convenience and necessity 13257 and sewer certificate of convenience and necessity 21103.
3. Tomball shall serve every customer and qualified service applicant within its service areas and such service shall be continuous and adequate.
4. Tomball shall comply with the recording requirements in TWC § 13.257(r) for the areas in Harris and Montgomery Counties affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Order.
5. 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 the 11th day of October 2017.

PUBLIC UTILITY COMMISSION OF TEXAS


DEANN T. WALKER, CHAIRMAN


KENNETH W. ANDERSON, JR., COMMISSIONER


BRANDY MARTY MARQUEZ, COMMISSIONER



Public Utility Commission of Texas

By These Presents Be It Known To All That

The City of Tomball

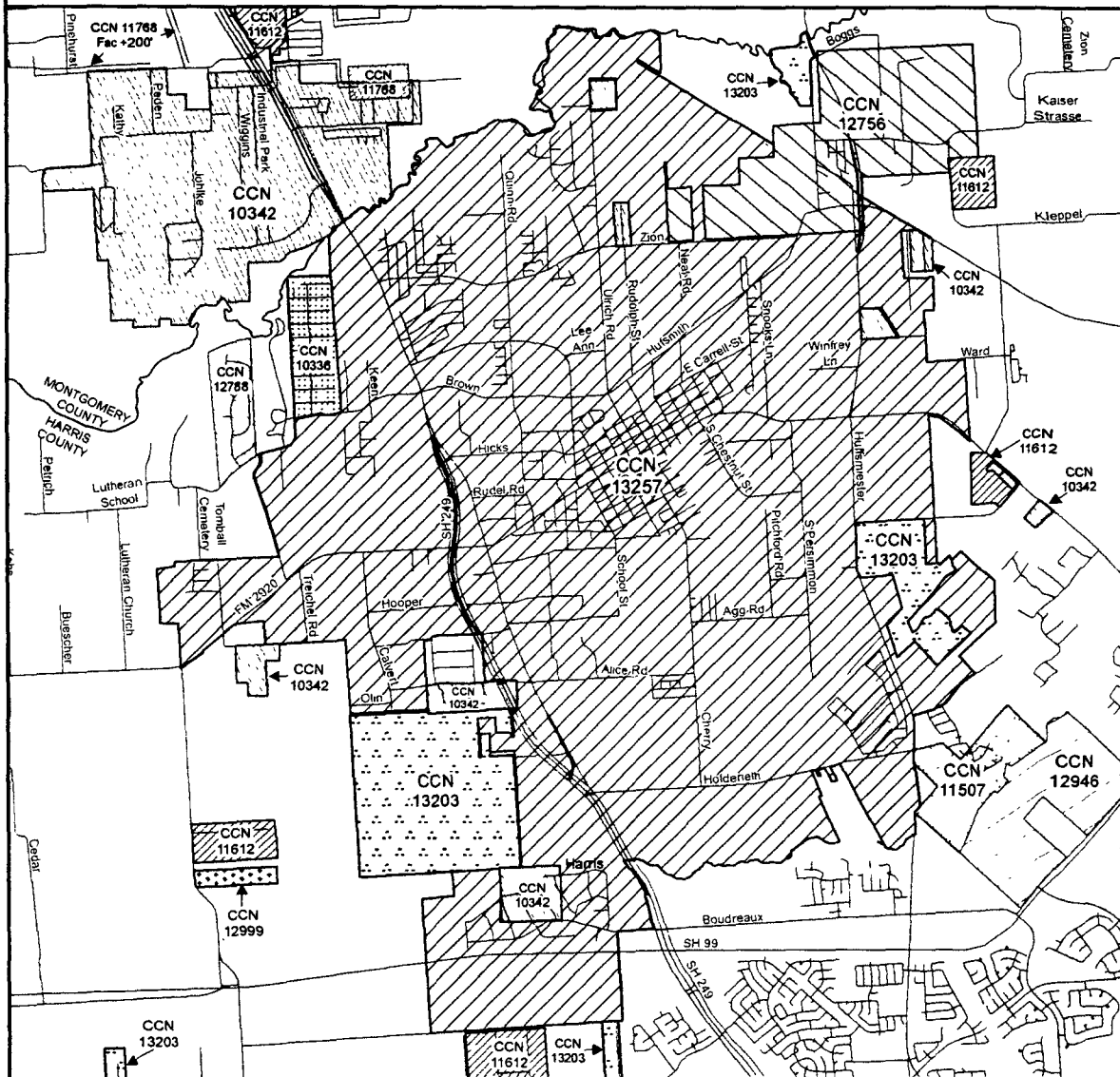
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Tomball is entitled to this

Certificate of Convenience and Necessity No. 13257

to provide continuous and adequate water utility service to that service area or those service areas in Harris and Montgomery Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 46336 are on file at the Commission offices in Austin, Texas; and are matters 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 Tomball, 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, this 17th day of October 2017.

City of Tomball
Water CCN No. 13257
PUC Docket No. 46336
Obtained New CCN in Harris and Montgomery Counties



0 2,250 4,500
Feet



Water CCN

- | | |
|--------------------------------------|----------------------------------------|
| 13257 - City of Tomball | 11612 - Quadvest LP |
| 10342 - HMW SUD | 12788 - Johnston Water Utility LLC |
| 12756 - HOE WSC | 12946 - Inline Development Corporation |
| 10336 - Nerro Supply Investors LLC | 12999 - Cypress Garden Mobile Home Sub |
| 13203 - Aqua Texas Inc | 11768 - Pinehurst Decker Prairie WSC |
| 11507 - Albury Manor Utility Company | |

Water Facility CCN

- 11768 - Pinehurst Decker Prairie WSC
- Facilities +200'





Public Utility Commission of Texas

By These Presents Be It Known To All That

The City of Tomball

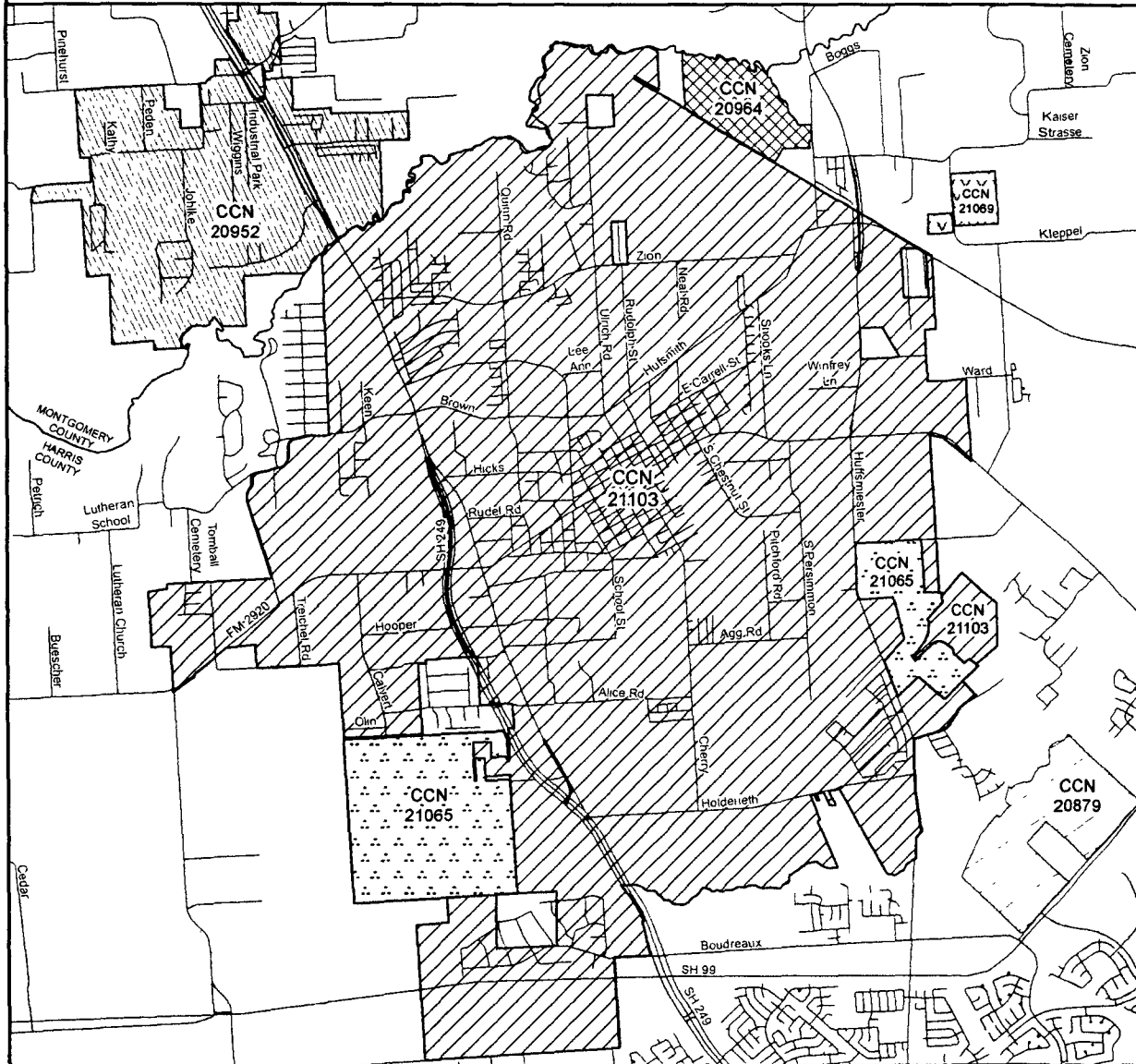
having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Tomball is entitled to this

Certificate of Convenience and Necessity No. 21103

to provide continuous and adequate sewer utility service to that service area or those service areas in Harris and Montgomery Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 46336 are on file at the Commission offices in Austin, Texas; and are matters 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 Tomball, 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, this 11th day of October 2017.

City of Tomball
Sewer CCN No. 21103
PUC Docket No. 46336
Obtained New CCN in Harris and Montgomery Counties



Sewer CCN

-  21103 - City of Tomball
-  20964 - South Central Water Company
-  20952 - Quadvest LP
-  21069 - Twan Development LLC
-  21065 - Aqua Texas Inc
-  20879 - Inline Development Corporation



Public Utility Commission of Texas
1701 N. Congress Ave
Austin, TX 78701

0 2,250 4,500
Feet



Map by Komal Patel
Date created July 18, 2017
Project Path n:\finalmapping\46336CityofTomballSewer.mxd