



Control Number: 46336



Item Number: 5

Addendum StartPage: 0

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

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PUBLIC UTILITY COMMISSION
OF TEXAS

2016 OCT -3 AM 9
PUBLIC UTILITY COMM.
FILING CLERK

COMMISSION STAFF'S RECOMMENDATION ON ADMINISTRATIVE COMPLETENESS

Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) files its Recommendation on Administrative Completeness. In support of its Recommendation on Administrative Completeness, Staff states the following:

I. Background

The City of Tomball requests water and sewer certificates of convenience and necessity for a service area located in Harris and Montgomery Counties. The City of Tomball states that it currently has a water and a sewer system to serve existing residents in the proposed service area.

On September 6, 2016, the Administrative Law Judge issued Order No. 1, which requires Staff to file its recommendation on the administrative completeness of the City of Tomball's application.

II. Applicable Statutes and Rules

A. Granting a Certificate of Convenience and Necessity

The Texas Water Code details the requirements for granting a certificate of convenience and necessity (CCN). In determining whether to grant a CCN, the Commission "shall ensure that the applicant possesses the financial, managerial, and technical capability to provide continuous and adequate service."¹ The Commission's substantive rules have similar requirements.²

¹ Tex. Water Code § 13.241(a).

² See generally 16 Tex. Admin. Code § 24.102.

B. Administrative Completeness

In order for a CCN application to be processed, the Commission's substantive rules require that the Commission make a determination of administrative completeness.³ A CCN application is not considered filed "until the commission makes a determination of administrative completeness."⁴ "If the commission determines that material deficiencies exist in any pleadings, statement of intent, applications, or other requests for commission action addressed by this chapter, the notice or application may be rejected and the effective date suspended until the deficiencies are corrected."⁵

III. Staff's Recommendation

Staff has reviewed the City of Tomball's application and accompanying mapping data, and Staff recommends that the Commission deem the application not administratively complete.⁶ Staff has identified the following deficiencies in the City of Tomball's application:

- a. The City of Tomball needs to provide a small scale (general location) map showing only the proposed service area(s) with enough detail to be accurately located in the vicinity of the nearest town, city, or county. City limit data should not be included.
- b. The City of Tomball needs to provide a large scale (detailed) map showing only the proposed service area(s) with enough detail to be accurately located in reference to verifiable man-made and/or natural landmarks such as roads, railroads, and rivers. City limit data should not be included.
- c. The City of Tomball needs to provide digital data including only the proposed service area(s) as a single polygon record, in either a drawing (DWG) or shapefile (SHP) format on a data disk (CD) or submit metes and bounds (legal description). The details of the coordinate system or projection used to create the digital data must be included. The total acreage for the proposed digital data must match the acreage listed on the notice. If the acreage is revised, the

³ 16 Tex. Admin. Code § 24.8(a).

⁴ 16 Tex. Admin. Code § 24.8(d).

⁵ 16 Tex. Admin. Code § 24.8(b).

⁶ Staff's recommendation is based on the attached memorandum from Greg Charles of the Water Utilities Division.

notice documents must also be revised.

Staff recommends the City of Tomball be given until October 31, 2016 to amend its application in order to cure the deficiencies identified by Staff. Staff will then review this amended application for administrative completeness by November 14, 2016. In the event that Staff recommends that the Commission find that the City of Tomball's amended application is administratively complete, Staff will propose a procedural schedule.

IV. Conclusion

Staff recommends that the Commission find that the City of Tomball's application is not administratively complete due to certain deficiencies identified by Staff. Staff recommends that the City of Tomball be given an opportunity to cure the deficiencies identified by Staff.

Date: October 3, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director
Legal Division

Stephen Mack
Managing Attorney
Legal Division

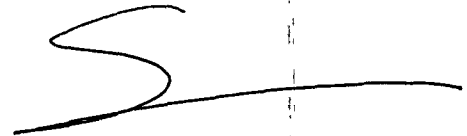


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DOCKET NO. 46336

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record on October 3, 2016, in accordance with 16 TAC § 22.74.



Sam Chang

PUC Interoffice Memorandum

To: Sam Chang, Attorney
Legal Division

Thru: Tammy Benter, Director
Lisa Fuentes, Manager
Heidi Graham, Manager
Water Utilities Division

From: Greg Charles, Staff Engineer
Kristy Nguyen, GIS Specialist
Water Utilities Division

Date: September 22, 2016

Subject: **Docket No. 46366:** *Application of the City of Tomball to Obtain Water and Sewer Certificates of Convenience and Necessity in Harris and Montgomery Counties.*

On September 1, 2016, the City of Tomball filed with the Public Utility Commission of Texas an application to obtain new water and sewer Certificates of Convenience and Necessity (CCN) in Harris and Montgomery Counties. The application is being reviewed pursuant to TWC §§ 13.242-13.250 and 16 Tex. Admin. Code (TAC) §§ 24.101-24.107.

Based on a review of the information in the application, Staff recommends that the application be deemed insufficient for filing and found administratively incomplete.

The digital data and hard copy maps do not display the same proposed service area. Furthermore, the proposed area overlaps with the following entities:

CCN Areas:

- Pinehurst Decker Prairie WSC (CCN No. 11768)
- Aqua Texas Inc (CCN No. 13203 and 21065)
- HOE WSC (CCN No. 12756)
- Albury Manor Utility Company (CCN No. 11507)
- HMW SUD (CCN No. 10342)
- Nerro Supply Investors LLC (CCN No. 10336)
- Quadvest LP (CCN No. 20952)

Districts:

- Hardin Store Road MUD 1
- HMW SUD
- Harris County ID-17
- Harris County MUD 368
- Harris County MUD 416

To resolve the mapping deficiencies the following items are needed:

- 1) A small scale (general location) map showing only the proposed CCN service area(s) with enough detail to be accurately located in the vicinity of the nearest town, city, or county. Please do not include city limit data; and
- 2) A large scale (detailed) map showing only the proposed CCN service area(s) with enough detail to be accurately located in reference to verifiable man-made and/or natural landmarks such as roads, railroads, and rivers. Please do not include city limit data; and
- 3) Digital data including only the proposed CCN service area(s) as a single polygon record, in either a drawing (DWG) or shapefile (SHP) format on a data disk (CD) **OR** submit metes and bounds (legal description). Include the details of the coordinate system or projection used to create the digital data; and
- 4) Ensure that Items 1-3 include the same proposed area.

It is suggested the Applicant use PUC's official CCN digital data to obtain the current water and sewer CCN data to remove the overlaps. Overlaps with district boundaries require the Applicant to provide a letter of consent from each overlapping District listed above, allowing the Applicant to provide retail water and sewer service within the district's boundaries. The Applicant should contact Kristy Nguyen to obtain guidance to resolve the mapping deficiency issues.