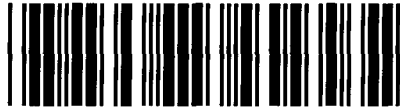


Control Number: 46336



Item Number: 8

Addendum StartPage: 0

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

RECEIVED
2016 NOV 14 AM 10:26
PUBLIC UTILITY COMMISSION
FILING CLERK

COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION

Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) files its Supplemental Recommendation. In support of its Supplemental Recommendation, 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 October 5, 2016, the Administrative Law Judge issued Order No. 2, which deemed the City of Tomball's application not administratively complete. Order No. 2 also gave the City of Tomball the opportunity to cure the deficiencies in its 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

B. Administrative Completeness

In order for a CCN application to be processed, the Commission's substantive rules require

¹ Tex. Water Code § 13.241(a).

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

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 Supplemental Recommendation

Staff has reviewed the additional mapping information submitted by the City of Tomball, and Staff recommends that the Commission deem City of Tomball’s application to be administratively complete.⁶ With regard to notice, Staff recommends that the City of Tomball provide notice to the following:⁷

- a. Any districts, utilities and cities within two (2) miles of the proposed service area;
- b. Any city with an extraterritorial jurisdiction that overlaps the proposed service area;
- c. The county judge of each county in the proposed service area; and
- d. Any groundwater conservation district that is wholly or partly included in the proposed service area.

The City of Tomball should include with the notice of its application a copy of a map that shows the proposed service area(s) with enough detail to accurately locate the proposed service area(s) in reference to verifiable man-made and/or natural landmarks such as roads, railroads, and rivers.

In addition to the entities listed above, attached to this Supplemental Recommendation is a list of specific entities that must receive notice of the City of Tomball’s application.

Staff also recommends that the City of Tomball publish notice of its application once each week for two consecutive weeks in newspapers of general circulation in Harris and Montgomery

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 from the Water Utilities Division.

⁷ The form notices and affidavits are attached to Mr. Charles’ memorandum.

Counties, Texas.

V. Procedural Schedule

To assist in the processing of the City of Tomball's application, Staff requests that the Commission adopt the following procedural schedule:

Event	Deadline
Deadline for the City of Tomball to file affidavits regarding the provision and publication of notice	December 19, 2016
Deadline for Staff to file a supplemental procedural schedule	December 28, 2016
Intervention deadline and deadline for intervenors to file comments or request a hearing	30 days after the mailing or publication of notice, whichever occurs later

IV. Conclusion

Staff recommends that the Commission deem the City of Tomball's application administratively complete and adopt the proposed procedural schedule detailed above.

Date: November 14, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director
Legal Division

Stephen Mack
Managing Attorney
Legal Division



Sam Chang
State Bar No. 24078333
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7261
(512) 936-7268 (facsimile)

DOCKET NO. 46336

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record on November 14, 2016, in accordance with 16 TAC § 22.74.



Sam Chang

PUC Interoffice Memorandum

To: Sam Chang, Attorney
Legal Division

Through: Tammy Benter, Director
Lisa Fuentes, Manager
Water Utilities Division

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

Date: November 7, 2016

Subject: **Docket No. 46336:** *Application of the City of Tomball to obtain Water and Sewer Certificates of Convenience and Necessity (CCN) in Montgomery and Harris Counties*

On September 1, 2016, the City of Tomball (Applicant) filed with the Public Utility Commission of Texas (Commission) an application to obtain a water and sewer CCN in Montgomery and Harris Counties, Texas pursuant to Texas Water Code Ann. (TWC), §§ 13.242 to 13.250 and the 16 Tex. Admin Code (TAC) §§ 24.101 to 24.107:

A Staff review of supplemental filings on November 4, 2016, found that the information is sufficient for filing and recommends the application be deemed administratively complete. Staff further recommends the following:

- 1) The Applicant be ordered to provide notice of the application to the following:
 - a) any districts, utilities, and cities within five (5) miles of the proposed area;
 - b) the county judge of each county and each groundwater conservation district that is wholly or partly included in the proposed area to be certified;
 - c) each city with an extraterritorial jurisdiction (ETJ) that is wholly or partly included in the proposed area to be certified;
 - d) landowners who own a tract of land that is at least 25 acres and is wholly or partly located in the proposed area to be certified. The landowner information may be obtained from the county appraisal district tax rolls for the county or counties in which the proposed CCN is located; and
 - e) publish notice once each week for two (2) consecutive weeks in a newspaper of general circulation in Montgomery and Harris Counties.
- 2) The applicant should also provide correct notice of the application to the following entities:
 - Pinchurst Decker Prairie WSC (CCN No. 11768)
 - Telge Pines POA Inc (CCN No. N0058)
 - Utilities Investment Co Inc (CCN No. 13242)
 - Arch Utility (CCN No. 13218)
 - Aqua Texas Inc (CCN No. 13203 & 11157 & 21065)
 - Pinewood Community LP (CCN No. 13158 & 21030)
 - South Central Water Company (CCN No. 13061 & 20964)
 - Cypress Garden Mobile Home Sub (CCN No. 12999)
 - Monarch Utilities I LP (CCN No. 12983 & 20899)
 - Pine Knob Estates Water (CCN No. 12948)

- Inline Development Corporation (CCN No. 12946 & 20879)
- Woodmark Water LC (CCN No. 12940)
- Lincoln Square Water System (CCN No. 12938)
- T&W Water Service (CCN No. 12892)
- Pitcairn WSC (CCN No. 12876)
- Johnston Water utility LLC (CCN No. 12788)
- HOE WSC (CCN No. 12756)
- Orchard Crossing (CCN No. 12671)
- Winterhaven HOA (CCN No. 12548)
- Cy Forest WSC (CCN No. 12507)
- Cypresswood Estates (CCN No. 12498)
- Waynewood Place Civic Club Inc (CCN No. 12466)
- Windwood Water System Inc (CCN No. 12466)
- J&S Water Co LLC (CCN No. 12085 & 20658)
- Rosehill Ranchettes Water System (CCN No. 11955)
- Harris County MUD 286 (CCN No. 11937 & 11863 & 20637)
- Pinehurst Decker Prairie WSC (CCN No. 11768)
- SC Utilities (CCN No. 11749 & 20586)
- Timbercrest Partners LLC (CCN No. 11744 & 20583)
- Quadvest LP (CCN No. 11612 & 20952)
- Albury Manor Utility Company (CCN No. 11507)
- Harris County MUD 24 (CCN No. 11101 & 20439)
- Tall Pines Utility Inc (CCN No. 11003)
- Champs (CCN No. 10972)
- HMW SUD (CCN No. 10342)
- Nerro Supply Investors LLC (CCN No. 10336)
- Champs Water (CCN No. 20385)
- Woodland Oaks Utility Co Inc (CCN No. 20880)
- Twan Development LLC (CCN No. 21069)
- Bilma PUD
- Bridgestone MUD
- Charterwood MUD
- Coastal Water Authority
- CY Fair Community Improvement District
- Cypress Klein Utility District
- Cypress Creek Utility District
- Cypress Forest PUD
- Cypress Hill MUD 1
- Dowdell PUD
- Encanto Real Utility District
- Faulkey Gully MUD
- Grant Road PUD
- Gulf Coast Waste Disposal Authority
- Hardin Store Road MUD 1
- Harris-Montgomery Counties MUD 386
- Harris County FCD
- Harris County ID 17
- Harris County MUD 1
- Harris County MUD 18

- Harris County MUD 24
- Harris County MUD 273
- Harris County MUD 280
- Harris County MUD 281
- Harris County MUD 282
- Harris County MUD 286
- Harris County MUD 360
- Harris County MUD 364
- Harris County MUD 365
- Harris County MUD 367
- Harris County MUD 368
- Harris County MUD 383
- Harris County MUD 387
- Harris County MUD 388
- Harris County MUD 389
- Harris County MUD 391
- Harris County MUD 401
- Harris County MUD 416
- Harris County MUD 441
- Harris County MUD 468
- Harris County MUD 480
- Harris County MUD 530
- Harris County MUD 531
- Harris County WCID 114
- Harris County WCID 119
- Kleinwood MUD
- Lake Forest Utility District
- Louetta North PUD
- Malcomson Road UD
- Montgomery County MUD 123
- Montgomery County MUD 136
- Montgomery County MUD 137
- Montgomery County MUD 46
- Montgomery County MUD 60
- North Harris County Regional Water Authority
- Northampton MUD
- Northpointe WCID
- Northwest Harris County MUD 10
- Northwest Harris County MUD 15
- Northwest Harris County MUD 19
- Northwest Harris County MUD 30
- Northwest Harris County MUD 32
- Northwest Harris County MUD 5
- Oakmont Public Utility District
- Port of Houston Authority
- San Jacinto River Authority
- Spring Creek Forest PUD
- Westwood Magnolia Parkway Improvement District
- Wood Trace MUD 1

- Wood Trace MUD 2
- Wood Trace MUD 3
- City of Houston
- City of Stagecoach
- Harris-Galveston Coastal Subsidence District
- Lone Star GCD
- Harris County
- Montgomery County

- 3) The Applicant include copy of a map showing the proposed service area with the individual notices to neighboring utilities, and other affected parties and each landowner. It is the Applicant's burden to provide an accurate map delineating the proposed area with each individual notice. Information related to districts including addresses can be obtained from the TCEQ's web site located at <http://www14.tceq.texas.gov/iwud/>.
- 4) The Applicant return within 30 days of the Commission order, a copy of the actual notice sent, the map that was sent with the individual notice, and the attached signed affidavit that the notice was given. It is recommended that the Applicant use the attached notice and affidavits to meet these requirements.

Notice to Neighboring Systems, Cities and Landowners

NOTICE OF APPLICATION TO OBTAIN CERTIFICATES OF CONVENIENCE AND NECESSITY (CCN) FOR THE PROVISION OF WATER AND SEWER SERVICE IN MONTGOMERY AND HARRIS COUNTIES, TEXAS

To: _____
(Name of neighboring systems, cities and landowners)

Date Notice Mailed: ____, 2016

(Address)

(City State Zip)

The City of Tomball has submitted an application with the Public Utility Commission of Texas to obtain CCNs to provide water and sewer service in Montgomery and Harris Counties.

The proposed utility area is located within approximately 0 miles from downtown **Tomball, Texas**, and is generally bounded on the north by **Hardin Store Road**; on the east by **0.75 miles east of Hufsmith Kohrville Road**; on the south by **Boudreaux Road**; and on the west by **2 miles west of SH 249**.

The total area being requested includes approximately 11,830 acres for water, 12,320 acres for sewer, and serves 12,000 current customers.

See enclosed map of the proposed service area.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should write the:

Public Utility Commission of Texas
Central Records
1701 N. Congress, P. O. Box 13326
Austin, TX 78711-3326

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the Commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the Commission will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If you are a landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the proposed service area, you may request to be excluded from the proposed service area (or "opt out") by providing written notice to the Commission within (30) days from the date that notice was provided by the applicant. All requests to opt out of the requested service area must include a large scale map and a metes and bounds description of the tract of land.

Persons who meet the requirements to opt out, and wish to request this option should file the required documents with the:

Public Utility Commission of Texas
Central Records
1701 N. Congress, P. O. Box 13326
Austin, TX 78711-3326

A copy of the request to opt out of the proposed area must also be sent to the applicant. Staff may request additional information regarding your request.

Si desea informacion en Espanol, puede llamar al 1-512-936-7221

PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE TO NEIGHBORING UTILITIES, CUSTOMERS AND AFFECTED PARTIES
DOCKET NO. 46336

STATE OF TEXAS

COUNTY OF _____

has provided individual notice to the following entities:

DATE

OATH

I, _____, being duly sworn, file this form as
_____ (indicate relationship to applicant, that is owner,
member or partnership, title of officer of corporation; or other authorized representative of applicant);
that in such capacity, I am qualified and authorized to file and verify such form, am personally familiar
with the notices given with this application, and have complied with all notice requirements in the
application and application acceptance letter; and that all such statements made and matters set forth
therein are true and correct.

Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant, or
its' attorney, a properly verified Power of Attorney must be enclosed.

Subscribed and sworn to before me this _____ day of _____, 2016 to certify which
witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____

NOTICE FOR PUBLICATION

NOTICE OF APPLICATION TO OBTAIN CERTIFICATES OF CONVENIENCE AND NECESSITY (CCN) FOR THE PROVISION OF WATER AND SEWER SERVICE IN HARRIS COUNTY, TEXAS

The City of Tomball has submitted an application with the Public Utility Commission of Texas to obtain CCNs to provide water and sewer service in Montgomery and Harris Counties.

The proposed utility area is located within approximately 0 miles from downtown **Tomball, Texas**, and is generally bounded on the north by **Hardin Store Road**; on the east by **0.75 miles east of Hufsmith Kohrville Road**; on the south by **Boudreaux Road**; and on the west by **2 miles west of SH 249**.

The total area being requested includes approximately 11,830 acres for water, 12,320 acres for sewer, and serves 12,000 current customers.

A copy of the map may be viewed at: Tomball City Hall, 401 Market Street, Tomball, TX, 77375, 281-351-5484.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should write the:

Public Utility Commission of Texas
Central Records
1701 N. Congress, P. O. Box 13326
Austin, TX 78711-3326

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the Commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the Commission will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If you are a landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the proposed service area, you may request to be excluded from the proposed service area (or "opt out") by providing written notice to the Commission within (30) days from the date that notice was provided by the applicant. All requests to opt out of the requested service area must include a large scale map and a metes and bounds description of the tract of land.

Persons who meet the requirements to opt out, and wish to request this option should file the required documents with the:

Public Utility Commission of Texas
Central Records
1701 N. Congress, P. O. Box 13326
Austin, TX 78711-3326

A copy of the request to opt out of the proposed area must also be sent to the applicant. Staff may request additional information regarding your request.

Si desea informacion en Espanol, puede llamar al 1-512-936-7221

PUBLIC UTILITY COMMISSION



PUBLISHER'S AFFIDAVIT
DOCKET NO. _____

STATE OF TEXAS
COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared

who being by me duly sworn, deposes and that (s)he is the

_____ of the _____
(TITLE) (NAME OF NEWSPAPER)

that said newspaper is regularly published in _____
(COUNTY/COUNTIES)

and generally circulated in _____, Texas;
(COUNTY/COUNTIES)

and that the attached notice was published in said newspaper on the following dates, to wit:

(DATES)

(SIGNATURE OF NEWSPAPER REPRESENTATIVE)

Subscribed and sworn to before me this _____ day of _____, 20____
to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____