



Control Number: 46743



Item Number: 9

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RECEIVED

APPLICATION OF T & W WATER §  
 SERVICE COMPANY TO AMEND A §  
 CERTIFICATE OF CONVENIENCE AND §  
 NECESSITY IN LIBERTY COUNTY §

PUBLIC UTILITY COMMISSION

2017 APR 20 AM 10:34

OF TEXAS

PUBLIC UTILITY COMMISSION  
FILING CLERK.

## COMMISSION STAFF'S RESPONSE TO ORDER NO. 2, RECOMMENDATION ON SUFFICIENCY

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Commission Staff's Response to Order No. 2, Recommendation on Sufficiency. In support thereof, Staff shows the following:

### I. BACKGROUND

On January 9, 2017, T&W Water Service Company filed an application to amend its water certificate of convenience and necessity (CCN) No. 12892 in Liberty County, Texas. The total new service area being requested includes approximately 1,365 acres and no current customers.

On February 8, 2017, Staff recommended that the application was deficient. Order No. 2, issued February 10, 2017, directed T&W to amend its application to address these deficiencies by March 22, 2017. On March 9, 2017 T&W Water Service Company filed supplemental information in response to Order No. 2, and on April 7, 2017 filed a construction approval letter from the Texas Commission on Environmental Quality (TCEQ). Order No. 2 also directed Staff to file comments on the administrative completeness of the application by April 20, 2017. Therefore, this pleading is timely filed.

### II. STAFF'S RECOMMENDATION ON SUFFICIENCY

Staff has reviewed T&W Water Service Company's supplemental information and, as supported by the attached memorandum of Debbie Reyes-Tamayo of the Water Utilities Division, Staff recommends that the application be found administratively complete. Staff further recommends that T&W Water Service Company provide notice as instructed in the attached memorandum, using the draft sample notice forms.

T&W Water Service Company has indicated that it has not yet received plat approval from Liberty County, which is required for final approval of this application. However, what has been provided is sufficient for Staff to recommend that the application be found administratively

complete. If T&W Water Service Company has not submitted proof of plat approval within a reasonable time, Staff will move for this docket to be dismissed without prejudice.

### **III. PROPOSED PROCEDURAL SCHEDULE**

Staff proposes the following procedural schedule:

<b>Event</b>	<b>Date</b>
Deadline for T&W Water Service Company to file with the Commission signed affidavits that the notice was given along with a copy of the notice sent to the affected parties and published in a newspaper of general circulation	June 5, 2017
Deadline for Staff to file a recommendation on sufficiency of notice	June 15, 2017
Deadline to intervene	30 days after notice is issued

### **IV. CONCLUSION**

For the reasons stated above, Staff respectfully requests the entry of an order consistent with the above recommendations.

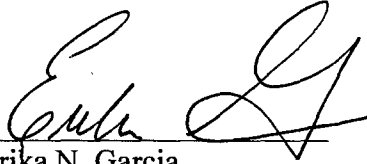
Dated: April 20, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

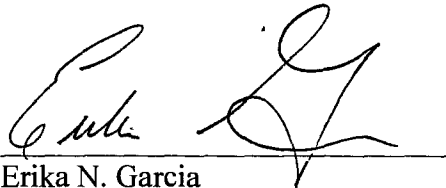
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Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
Erika.garcia@puc.texas.gov

**DOCKET NO. 46743  
CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record April 20, 2017,  
in accordance with 16 TAC § 22.74.



Erika N. Garcia

# *Public Utility Commission of Texas*

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## **Memorandum**

**To:** Erika Garcia, Attorney  
Legal Division

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

**From:** Debbie Reyes Tamayo, Program Specialist  
Water Utilities Division

**Date:** April 7, 2017

**RE:** **Docket No. 46743:** *Application of T & W Water Service Company to Amend a Water Certificate of Convenience and Necessity in Liberty County*

On January 9, 2017, T & W Water Service Company (Applicant) filed an application to amend its water Certificate of Convenience and Necessity (CCN) No. 12892 in Liberty County. The application is being reviewed pursuant to Tex. Water Code §§ 13.242-13.250 (TWC) and 16 Tex. Admin. Code §§ 24.101-24.107 (TAC). The Applicant proposes to serve the Encino Estates Subdivision which includes approximately 1,365 acres and 0 current customers.

A Staff review of the additional information filed on March 9, 2017, found that it is sufficient in the required application and mapping information. Therefore, Staff recommends the application be found administratively complete and sufficient for filing. Staff further recommends the Applicant be ordered to:

- 1) Provide correct notice of the application to the following:
  - a) any districts, utilities and cities within two (2) miles of the proposed service area;
  - b) any city with an extraterritorial jurisdiction which overlaps the proposed service area;
  - c) county judge of each county;
  - d) any groundwater conservation district that is wholly or partly included in the proposed area;
  - e) in addition to those entities listed in the application, the Applicant must also notice the following entities located within a 2-mile buffer of the proposed amended area in accordance with 16 TAC § 24.106(b)(2):
    - Aqua Texas, Inc (CCN No. 13203 and 11157)
    - Woodland Hills Water, LLC (CCN No. 12388)
    - City of Dayton
    - City of Kenefick
    - Chambers-Liberty Counties Navigation District
    - San Jacinto River Authority
    - Trinity River Authority of Texas
    - Liberty County Judge

- 2) Include copy of a map showing the proposed service area with the individual notices to neighboring utilities, 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 by the Applicant from the TCEQ web site located at <http://www14.tceq.texas.gov/iwud/>.
- 3) Publish notice once each week for two (2) consecutive weeks in a newspaper of general circulation in Liberty County.
- 4) File a copy of the actual notice issued, the map issued with the individual mailed notice, tear sheets of the newspaper notice, and the signed affidavits (copies attached) indicating that notice was given.

#### **Technical Review**

The following item is required for Staff's technical review of the application.

- Date of plat approval, as requested in section 4 (New System Information or Utilities Requesting a CCN for the First Time), subsection D of the application form.

***Notice for Publication***

**NOTICE OF APPLICATION TO AMEND A CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) TO PROVIDE WATER UTILITY SERVICE IN LIBERTY COUNTY, TEXAS**

T & W Water Service Company has filed an application with the Public Utility Commission of Texas to amend its Certificate of Convenience and Necessity for CCN No. 12892 for the provision of retail water utility service in Liberty County.

The requested area is located approximately 6.5 miles north of downtown Dayton, Texas, and is generally bounded on the north by a line 1.75 miles north of and parallel to Spur Forest Drive (County Road 6501); on the east by FM 1008; on the south by Spur Forest Drive (County Road 6501); and on the west by a line 2,150 feet east of and parallel to FM 321.

The total requested area includes approximately 1,365 acres and 0 current customers.

A copy of the map showing the requested area is available at: WaterEngineers, Inc., 17230 Huffmeister Road, Suite A Cypress, Texas 77429 (281-373-0500).

You may request a public hearing. A request for a public hearing must be in writing and include: (1) your name, mailing address, and daytime telephone number; (2) the Utility name, docket 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 which would satisfy your concerns and cause you to withdraw your request for a hearing.

Hearing requests, comments or requests to intervene should be filed with 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 request will receive notice if a hearing is scheduled.

If a valid public hearing is requested, the Commission 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 a final decision. An evidentiary hearing is a legal proceeding similar to a civil trial in state district court.

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

Persons who 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

In addition, the landowner must also send a copy of the opt out request to the Utility. Staff may request additional information regarding your request.

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



***Notice to Neighboring Systems, Landowners and Cities***

**NOTICE OF APPLICATION TO AMEND A CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) TO PROVIDE WATER UTILITY SERVICE IN LIBERTY COUNTY, TEXAS**

To: \_\_\_\_\_  
(Neighboring System, Landowner or City)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
(City State Zip)

Date Notice Mailed: \_\_\_\_\_, 2017

T & W Water Service Company has filed an application with the Public Utility Commission of Texas to amend its Certificate of Convenience and Necessity for CCN No. 12892 for the provision of retail water utility service in Liberty County.

The requested area is located approximately 6.5 miles north of downtown Dayton, Texas, and is generally bounded on the north by a line 1.75 miles north of and parallel to Spur Forest Drive (County Road 6501); on the east by FM 1008; on the south by Spur Forest Drive (County Road 6501); and on the west by a line 2,150 feet east of and parallel to FM 321.

The total requested area includes approximately 1,365 acres and 0 current customers.

**See enclosed map showing the requested area.**

You may request a public hearing. A request for a public hearing must be in writing and include: (1) your name, mailing address, and daytime telephone number; (2) the Utility name, docket 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 which would satisfy your concerns and cause you to withdraw your request for a hearing.

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# PUBLIC UTILITY COMMISSION



## AFFIDAVIT OF NOTICE TO NEIGHBORING SYSTEMS, LANDOWNERS AND CITIES DOCKET NO. 46743

STATE OF TEXAS  
COUNTY OF LIBERTY

\_\_\_\_\_ has provided individual notice  
to the following entities and landowners:

DATE OF NOTICE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### OATH

I, \_\_\_\_\_, being duly sworn, file this form as  
\_\_\_\_\_ (indicate relationship to applicant, that is, owner,  
member of 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 for  
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 \_\_\_\_\_, 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 \_\_\_\_\_

# PUBLIC UTILITY COMMISSION



PUBLISHER'S AFFIDAVIT  
DOCKET NO. 46743

STATE OF TEXAS  
COUNTY OF LIBERTY

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 \_\_\_\_\_