



Control Number: 47587



Item Number: 12

Addendum StartPage: 0

DOCKET NO. 47587

11 15 2018
2018 JAN 9 PM 1:59
PUBLIC UTILITY COMMISSION
OF TEXAS
FILING CLERK

**APPLICATION OF CITY OF AUBREY §
TO AMEND ITS WATER AND SEWER §
CERTIFICATES OF CONVENIENCE §
AND NECESSITY AND TO DECERTIFY §
A PORTION OF MUSTANG SPECIAL §
UTILITY DISTRICT SERVICE AREA §
(AUBREY CREEK ESTATES) §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

COMMISSION STAFF'S FINAL RECOMMENDATION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Final Recommendation. In support thereof, Staff shows the following:

I. BACKGROUND

On September 6, 2017, the City of Aubrey (Applicant) filed with the Public Utility Commission of Texas (Commission) an application to amend its water and sewer Certificates of Convenience and Necessity (CCN) and to decertify a portion of Mustang Special Utility District's (SUD) service area in Denton County, Texas. On November 9, 2017, Order No. 3 was issued, setting January 9, 2018 as the deadline for Staff to file its final recommendation, if no hearing was requested. This pleading is therefore timely filed.

II. FINAL RECOMMENDATION

Staff recommends that the application be granted, as supported by the attached memorandum from Greg Charles, Engineering Specialist in the Water Utilities Division. Specifically, Staff recommends that the City of Aubrey meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations, is capable of providing continuous and adequate service, and has the financial, technical, and managerial capability to provide continuous and adequate service. If the application is granted, Staff also recommends that the Applicant file a copy of each CCN map along with a written description of the CCN service area in the county clerks' office pursuant to Texas Water Code § 13.257 (r) and (s).

12

III. CONCLUSION

For the reasons specified above, Staff respectfully recommends that Aubrey's application be approved. Parties will file joint proposed findings of fact and conclusions of law on or before January 18, 2018.

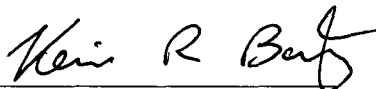
Dated: January 9, 2018

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Katherine Lengieza Gross
Managing Attorney



Kevin R. Bartz
State Bar No. 24101488
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7275
(512) 936-7268 (facsimile)
Kevin.Bartz@puc.texas.gov

DOCKET NO. 47587

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record January 9, 2018, in accordance with 16 TAC § 22.74.



Kevin R. Bartz

PUC Interoffice Memorandum

To: Kevin Bartz, Attorney
Legal Division

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

From: Greg Charles, Engineering Specialist
Water Utilities Regulation Division

Date: January 9, 2018

Subject: **Docket No. 47587:** *Application of the City of Aubrey to Amend Water and Sewer Certificates of Convenience and Necessity and to Decertify a Portion of Mustang Special Utility District's Service Area (Aubrey Creek Estates)*

On September 6, 2017, the City of Aubrey (Applicant) filed with the Public Utility Commission of Texas (Commission) an application to amend its water and sewer Certificates of Convenience and Necessity (CCN) and to decertify a portion of Mustang Special Utility District's (SUD) service area in Denton County, Texas. The application is being reviewed under Texas Water Code §§ 13.242-13.250 (West 2008) (TWC) and 16 Tex. Admin. Code §§ 24.101- 24.107 (TAC).

Background

The Applicant is seeking to amend its water and sewer CCNs for the service area containing approximately 172 total acres, and currently serves 1 current customer.

Notice

The deadline for intervention was November 17, 2017. No requests for hearing or intervention were received by the Commission.

Criteria Considered

TWC § 13.246(c) requires the Commission to consider nine criteria when granting or amending a CCN. Therefore, the following criteria were considered:

TWC §13.246(c)(1) requires the commission to consider the adequacy of service currently provided to the requested area.

The Applicant is currently providing service to one customer in the requested area.

TWC §13.246(c)(2) requires the commission to consider the need for service in the requested area.

Allison Engineering Group, on behalf of MQ Development Partners, owner of a 68 acres tract of land, requested water and sewer services from the Applicant. A September 23, 2015 letter to the Allison Engineering Group with the terms and conditions of the agreement to provide service to the area was included with the application. In addition, an agreement between Mustang SUD and the Applicant, to transfer approximately 102 acres of certificated area to the Applicant, was included with the application.

TWC §13.246(c)(3) requires the commission to consider the effect of granting an amendment on the recipient and on any other retail public utility servicing the proximate area.

As stated above, since the requested area will be adjacent to the Applicant's existing water and sewer lines and facilities, the Applicant will be able to serve the requested area more cost effectively.

TWC §13.246(c)(4) requires the commission to consider the ability of the applicant to provide adequate service.

The Applicant has a Texas Commission on Environmental Quality (TCEQ) approved 1.053 million gallons per day (MGD) Public Water Drinking System, PWS #0610001, and a TCEQ approved 0.55 MGD Wastewater Discharge Permit No. WQ0013647-001. Given the capacity of both water supply and sewer treatment facilities, the Applicant has adequate capacity to serve the requested area, assuming the TCEQ criteria of 360 gallons per day per connection for water supply and 300 gallons per day per connection for sewer treatment.

TWC §13.246(c)(5) requires the commission to consider the feasibility of obtaining service from an adjacent retail public utility.

The agreement with Mustang SUD, the other retail public utility, provides for both Mustang SUD and the Applicant to economically and efficiently allocate service area between both service providers.

TWC § 13.246(c)(6) requires the commission to consider the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service and the financial stability of the applicant. 16 Texas Admin. Code § 24.11 (TAC) establishes criteria to demonstrate that an owner or operator of a retail public utility has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and proposed utility service area. 16 TAC § 24.11(e) lists the financial tests.

The following discussion shows that the Applicant meets the required criteria.

- 1) 16 TAC § 24.11(e)(2) refers to the leverage test. Staff notes that the Applicant meets one out of five leverage tests as required.

The Applicant has an AA credit rating from Standard and Poor's Financial Services LLC effective April 12, 2016 which meets the leverage test.

- 2) 16 TAC § 24.11(e)(3) refers to the operations test. This states that the owner or operator must demonstrate that sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations.

The Applicant meets the operations test. The Applicant has not submitted projections in its application; however, based on the City of Aubrey's 2016 CAFR Fund Statement of Revenues, Expenses, and Changes in Fund Net Position, the City of Aubrey had \$923,727 in operating income. Additionally the City of Aubrey provided a five year capital improvement plan and bond approval letter from the Texas Attorney General's Office indicating plans and funds are available to serve the requested area. Thus, there are no shortages to cover.

TWC §§ 13.246(7) and (9) require the commission to consider the environmental integrity and the effect on the land to be included in the certificate.

The environmental integrity and the effect on the land will be for the Applicant to provide water and sewer services to the requested area as it develops, and avoid the use of septic systems.

TWC § 13.246(8) requires the commission to consider the probable improvement in service or lowering of cost to consumers.

It is expected that the services to the requested area will be comparable to the services provided to the existing customers by the Applicant.

The Applicant meets all of the statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules and regulations, and is capable of providing continuous and adequate service, approving this application to amend the CCN is necessary for the service, accommodation, convenience and safety of the public.

Mustang SUD and the Applicant both consented to the attached map and certificates on December 23, 2017 and December 29, 2017, respectively.

Based on the above information, Staff recommends the Commission approve the application, issue an order and provide the attached map, and certificates to the City of Aubrey and Mustang SUD. Staff further recommends that the Applicant file certified copies of the CCN map along with a written description of the CCN service area in the county clerk's office pursuant to TWC §§ 13.257 (r)-(s).