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DOCKET NO. 47587

**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

2017 SEP 19 12:51
PUBLIC UTILITY COMMISSION
FILING CLERK

JOINT PROPOSED NOTICE OF APPROVAL AND MOTION TO ADMIT EVIDENCE

COMES NOW, the Staff of the Public Utility Commission ("Staff"), representing the public interest, together with The City of Aubrey ("City" or "Applicant"), and files this Joint Proposed Notice of Approval and Motion to Admit Evidence.

I. BACKGROUND

On September 6, 2017, the City filed with the Public Utility Commission of Texas ("Commission") an Application ("Application") to amend its water Certificate of Convenience and Necessity ("CCN") No. 11234 and sewer CCN No. 20491 in Denton County, and to decertify a portion of Mustang Special Utility District's ("SUD") water CCN No. 11856 and sewer CCN No. 20930 in Denton County, Texas pursuant to Tex. Water Code Chapter 13 and 16 Tex. Admin. Code §§ 24.101 - 24.107. The Application was received by the Commission on September 6, 2017. On October 6, 2017, the Application was deemed sufficient for filing. The Applicant provided affidavits of notice on October 25, 2017.

II. JOINT MOTION TO ADMIT EVIDENCE

The Parties move to admit the following evidence into the record of this proceeding:

- (a) The City's September 6, 2017 Application (Commission automated interchange system [AIS] Item No. 1, filed September 6, 2017);
- (b) Publisher's affidavit dated October 18, 2017, and affidavit of notice to neighboring systems, landowners, and cities dated October 25, 2017 (AIS Item No. 7, filed October 25, 2017); and
- (c) Commission Staff's recommendation regarding final disposition and attachments thereto

(AIS Item No. 12, filed January 9, 2018).

III. PROPOSED NOTICE OF APPROVAL

The attached Joint Proposed Notice of Approval would grant the City's Application to amend its water and sewer CCN Nos. 11234 and 20491 in Denton County and decertify a portion of Mustang SUD's water and sewer CCN Nos. 11856 and 20930 in Denton County.

IV. CONCLUSION

The parties respectfully request that the Commission grant the attached Joint Proposed Notice of Approval.

Date: January 18, 2017

Respectfully submitted,



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ATTORNEY FOR CITY OF AUBREY

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document will be served on all parties of record on January 18, 2018, in accordance with 16 Tex. Admin. Code § 22.74.

A handwritten signature in black ink, appearing to read "Stephen C. Dickman", is written over a horizontal line.

Stephen C. Dickman

DOCKET NO. 47587

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

JOINT PROPOSED NOTICE OF APPROVAL

This Joint Notice of Approval addresses the application ("Application") of the City of Aubrey ("City" or "Applicant") for approval of an amendment to its water certificate of convenience and necessity ("CCN") No. 11234 and sewer CCN No. 20491 in Denton County, and to decertify a portion of Mustang Special Utility District's ("SUD") water CCN No. 11856 and sewer CCN No. 20930 in Denton County. Through its Application, the Applicant seeks to obtain single certification of a single tract of land under its water and sewer CCNs pursuant to an agreement with Mustang SUD. The total area of land which is the subject of the Application consists of approximately 172 acres, has one current water customer, and no infrastructure. The Public Utility Commission Staff ("Staff") recommended approval of this application. The application is approved.

The Commission adopts the following findings of fact and conclusions of law:

I. FINDINGS OF FACT

1. On September 6, 2017, the City filed an Application with the Public Utility Commission of Texas ("Commission") to amend its water CCN No. 11234 and sewer CCN No. 20491, and to decertify a portion of Mustang Special Utility District's ("SUD") water CCN No. 11856 and sewer CCN No. 20930, in Denton County, Texas.
2. The total proposed service area requested in this Application consists of approximately 172 acres, one current water customer, and no infrastructure.
3. The Application was received by the Commission on September 6, 2017.
4. On September 8, 2017, the ALJ issued Order No. 1, requiring comments on administrative completeness and proposed notice by Staff.
5. The Application was deemed sufficient for filing on October 6, 2017.

6. On October 9, 2017, the ALJ issued Order No. 2, requiring the City to provide notice consistent with Staff's recommendation and requiring Staff to file a recommendation on sufficiency of notice.
7. Notice was provided by publication in the *Denton Record Chronicle* on October 11, 2017 and October 18, 2017. A publisher's affidavit dated October 18, 2017 and signed by Bill Patterson, the Publisher of the *Denton Record Chronicle*, attests to this notice.
8. The City mailed notice of the Application to neighboring systems, landowners, and cities, and to neighboring utilities that affected parties on October 11, 2017. An affidavit that these landowners and other entities received notice was dated October 25, 2017, and was filed with the Commission on October 25, 2017.
9. On November 9, 2017, the ALJ issued Order No. 3, requiring Staff to provide final maps, certificates, and tariffs (if applicable) to the applicant for review and consent; setting deadlines for the applicant to file signed consent forms with the Commission; setting a deadline for Staff to file a final recommendation on the application; and setting a deadline for parties to file joint proposed findings of fact and conclusions of law.
10. There were no protests or hearing requests filed in response to the public notices.
11. On December 23, 2017 Mustang SUD submitted a signed consent form evidencing its consent to the proposed map and certificate. On December 29, 2017, the City submitted a signed consent form evidencing its consent to the proposed map and certificate.
12. On January 9, 2018 Staff recommended that the Application be approved.
13. The City's September 6, 2017 Application (Commission automated interchange system [AIS] Item No. 1, filed September 6, 2017); (b) a publisher's affidavit dated October 18, 2017 and affidavit of notice to neighboring systems, landowners, and cities dated October 25, 2017 (AIS Item No. 7, filed October 25, 2017); and (c) Commission Staff's recommendation regarding final disposition and attachments thereto (AIS Item No. 12, filed January 9, 2018) have been admitted into evidence.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction and authority over this docket pursuant to the Tex.

Water Code ("TWC") §§ 13.041, 13.241, 13.242, 13.244, 13.246, and 16 Tex. Admin. Code §§ 24.101- 24.107 ("TAC").

2. The City is a retail public utility as defined in TWC § 13.002(19) and 16 TAC § 24.3(41).
3. The City has provided public notice of the Application in compliance with TWC § 13.246 and 16 TAC § 24.106.
4. The application was processed in accordance with the requirements of TWC § 13.244 and 16 TAC §§ 24.102 and 24.105.
5. After considering the relevant factors in TWC § 13.246(c), the City has demonstrated it should be granted single certification of the requested area identified in the Application, and that Mustang SUD should be decertified from the requested area identified in the Application.
6. The City has demonstrated that the Application meets the requirements set forth in TWC §§ 13.241, 13.242, 13.244, and 13.246, and 16 TAC §§ 24.101 and 24.102 to be granted an amendment to its CCN.
7. The City demonstrated that an amendment to its CCN Nos. 11234 and 20491 for single certification of the requested area, and an amendment to Mustang SUD's CCN Nos. 11856 and 20930 to decertify such area, is necessary for the service, accommodation, convenience, or safety of the public, as required under TWC § 13.246(b) and 16 TAC § 24.102(c).
8. Under TWC § 13.257(r) and 16 TAC § 24.106(t), the City is required to record a certified copy of the approved CCNs and maps, along with a boundary description of the service area, in the real property records of each county in which the service area or a portion of the service area is located, and submit to the Commission evidence of the recording.
9. The requirements for informal disposition pursuant to 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 order:

1. The City of Aubrey's Application is approved.
2. The City's water CCN No. 11234 and sewer CCN No. 20491 are hereby amended to reflect the single certification of the approximate 172-acre subject tract of land in Denton County, and the removal of such land from Mustang SUD's water CCN No. 11856 and sewer CCN No. 20930.
3. The City shall comply with the recording requirements in TWC § 13.257(r) for the area in Denton County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.
4. 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 on the ___ day of _____ 2018.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE

