

Control Number: 47587



Item Number: 5

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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**

**OF TEXAS**

2017 OCT 8 AM 11:47  
PUBLIC UTILITY COMMISSION  
MUSTANG CLERK

**COMMISSION STAFF’S RECOMMENDATION ON ADMINISTRATIVE  
COMPLETENESS AND PROPOSED NOTICE**

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and in response to Order No. 1, files this Recommendation on Administrative Completeness and Proposed Notice. Staff recommends that the Application be deemed sufficient for further review. In support thereof, Staff shows the following:

**I. BACKGROUND**

On September 6, 2017, the City of Aubrey (Aubrey) filed an application to amend its water Certificate of Convenience and Necessity (CCN) No. 11234 and sewer CCN No. 20491 and to decertify portions of Mustang Special Utility District’s water CCN No. 11856 and sewer CCN No. 20930 in Denton County.

On September 8, 2017, Order No. 1 was issued, establishing a deadline of October 6, 2017, for Staff to file comments on the administrative completeness of the application and proposed notice and propose a procedural schedule. Therefore, this pleading is timely filed.

**II. ADMINISTRATIVE COMPLETENESS**

As detailed in the attached memorandum from Gregory Charles in the Commission’s Water Utility Regulation Division, Staff has reviewed the application and supplemental information filed by Aubrey and recommends that it be found administratively complete and accepted for filing.

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### III. NOTICE

As detailed in the attached memorandum, Staff recommends that Aubrey be directed to use the attached notice forms to publish notice once each week for two consecutive weeks in a newspaper of general circulation in Denton County and to:

- 1) Provide notice of the application to the following:
  - a) cities, districts, and neighboring retail public utilities providing the same utility service whose corporate boundaries or certificated service area are located within two miles from the outer boundary of the requested area;
  - b) the county judge of each county that is wholly or partially included in the requested area; and
  - c) each groundwater conservation district that is wholly or partially included in the requested area; and
  - 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 Denton County.
  
- 2) Provide notice of the application to the following entities:
  - City of Krugerville
  - Denton County Judge
  - Denton County MUD 6
  - Mustang SUD
  - North Texas Groundwater Conservation District
  - The Lakes FWSD of Denton County
  - Upper Trinity Regional Water District
  
- 3) Provide an accurate map delineating the requested service area with each individual notice to neighboring utilities, other affected parties, and landowners. 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/>.
  
- 4) File in the docket an affidavit specifying every person and entity to whom notice was provided and the date that the notice was provided within 30 days of the date of the notice. In addition, file the publisher's affidavit for proof of newspaper publication. It is recommended that the Applicant use the attached notices and affidavits to meet these requirements.

#### IV. PROCEDURAL SCHEDULE

Staff recommends the application be found administratively complete. Staff therefore proposes the following procedural schedule:

Event	Date
Deadline for Aubrey 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	November 20, 2017
Deadline for Staff to file a recommendation on sufficiency of notice	Within 10 days of Aubrey filing proof of completed notice with the Commission
Deadline to intervene	30 days after notice is issued

#### V. CONCLUSION

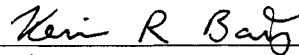
For the reasons detailed above, Staff recommends that the application be found administratively complete, that Aubrey be directed to provide notice as detailed above and in the attached memorandum, and that the procedural schedule proposed above be adopted.

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF  
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Katherine Lengieza Gross  
Managing Attorney

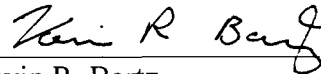


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**DOCKET NO. 47587**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this the 6<sup>th</sup> of October, 2017 in accordance with 16 TAC § 22.74.



Kevin R. Bartz

## PUC Interoffice Memorandum

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**To:** Kevin Bartz, Attorney  
Legal Division

**Thru:** Lisa Fuentes, Manager  
Water Utility Regulation Division

**From:** Greg Charles, Staff Engineer  
Water Utility Regulation Division

**Date:** October 2, 2017

**Subject:** **Docket 47587**, *Application of City of Aubrey to Amend Water and Sewer Certificates of Convenience and Necessity (CCNs) in Denton County.*

On September 6, 2017, the City of Aubrey (City or Applicant) filed with the Public Utility Commission of Texas (Commission) an application to amend water Certificate of Convenience and Necessity (CCN) No. 11234 and sewer CCN No. 20491 in Denton County pursuant to Texas Water Code Ann. (TWC), §§ 13.242 to 13.250 and the 16 Tex. Admin Code (TAC) §§ 24.101 to 24.107. The requested area includes approximately 172 acres and 1 current customer.

A Staff review of the information found that it is sufficient in the required application and mapping information. Therefore, Staff recommends that the application be deemed sufficient for filing and found administratively complete. Staff further recommends the Applicant be ordered to do the following:

- 1) Provide notice of the application to the following:
  - a) cities, districts, and neighboring retail public utilities providing the same utility service whose corporate boundaries or certificated service area are located within two miles from the outer boundary of the requested area;
  - b) the county judge of each county that is wholly or partially included in the requested area; and
  - c) each groundwater conservation district that is wholly or partially included in the requested area; and
  - 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 Denton County.
  
- 2) Provide notice of the application to the following entities:
  - City of Krugerville
  - Denton County Judge
  - Denton County MUD 6
  - Mustang SUD
  - North Texas Groundwater Conservation District
  - The Lakes FWSD of Denton County
  - Upper Trinity Regional Water District

- 3) Provide an accurate map delineating the requested service area with each individual notice to neighboring utilities, other affected parties, and landowners. 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/>.
- 4) File in the docket an affidavit specifying every person and entity to whom notice was provided and the date that the notice was provided within 30 days of the date of the notice. In addition, file the publisher's affidavit for proof of newspaper publication. It is recommended that the Applicant use the attached notices and affidavits to meet these requirements.

*Notice to Neighboring Systems, Cities and Landowners*  
NOTICE OF APPLICATION TO AMEND CERTIFICATES OF CONVENIENCE  
AND NECESSITY (CCN) FOR THE PROVISION OF WATER AND SEWER  
SERVICES IN DENTON COUNTY, TEXAS

To: \_\_\_\_\_  
(Name of neighboring systems, cities and landowners)  
  
\_\_\_\_\_  
(Address)  
  
\_\_\_\_\_  
(City                      State              Zip)

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

The City of Aubrey filed an application with the Public Utility Commission of Texas to amend its Certificate of Convenience and Necessity (CCN) Nos. 11234 and 20930 for the provision of water and sewer service in Denton County.

The requested area is located approximately 1 mile south-southeast of downtown Aubrey, TX, and is generally bounded on the north by Pine Ridge Lane; on the east by a line approx. 1 mile east of US 377; on the south by Woodland Drive; and on the west by US 377.

The total area being requested includes approximately 172 acres and serves 1 current customer.

The requested area overlaps the boundaries of **Mustang SUD**. If **Mustang SUD** does not request a public hearing, the Commission shall determine that **Mustang SUD** is consenting to the City of Aubrey’s request to provide retail water and sewer utility in the requested area.

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

*Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date.*

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 información en español, puede llamar al 1-512-936-7221 or 888-782-8477.

PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE TO NEIGHBORING UTILITIES, LANDOWNERS AND AFFECTED PARTIES

DOCKET NO. 47587

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

has provided individual notice to the following:

	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 \_\_\_\_\_, 2017 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 AMEND CERTIFICATES OF CONVENIENCE AND NECESSITY (CCN) FOR THE PROVISION OF WATER AND SEWER SERVICE IN DENTON COUNTY, TEXAS**

The City of Aubrey filed an application with the Public Utility Commission of Texas to amend its Certificate of Convenience and Necessity (CCN) Nos. 11234 and 20930 for the provision water and sewer service in Denton County.

The requested area is located approximately 1 mile south-southeast of downtown Aubrey, TX, and is generally bounded on the north by Pine Ridge Lane; on the east by a line approx. 1 mile east of US 377; on the south by Woodland Drive; and on the west by US 377.

The total area being requested includes approximately 172 acres and serves 1 current customer.

The requested area overlaps the boundaries of Mustang SUD. If Mustang SUD does not request a public hearing, the Commission shall determine that Mustang SUD is consenting to the City of Aubrey's request to provide retail water and sewer utility in the requested area:

**A copy of the map showing the requested area is available at: City of Aubrey City Hall, 107 S. Main St., Aubrey, TX 76227 (Tel. 940 440 9343).**

*Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date.*

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 información en español, puede llamar al 1-512-936-7221 or 888-782-8477.

PUBLIC UTILITY COMMISSION



PUBLISHER'S AFFIDAVIT  
DOCKET NO. 47587

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 \_\_\_\_\_