



Control Number: 47795



Item Number: 120

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SOAH DOCKET NO. 473-18-2486.WS  
PUC DOCKET NO. 47795

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STATE OFFICE  
PUBLIC UTILITY COMMISSION  
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OF

APPLICATION OF THE CITY  
OF HUTTO TO AMEND A  
SEWER CERTIFICATE OF  
CONVENIENCE AND  
NECESSITY IN WILLIAMSON  
COUNTY

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BEFORE THE STATE OFFICE  
ADMINISTRATIVE HEARINGS

**COMMISSION STAFF'S FINAL RECOMMENDATION**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission) and files this Final Recommendation and would show the following:

**I. BACKGROUND**

On November 21, 2017, City of Hutto (Hutto) filed an application to amend its sewer certificate of convenience and necessity number 20122, in Williamson County, Texas (Application). On February 27, 2018, the proceeding was referred to the State Office of Administrative Hearings (SOAH). On August 23, 2018, the SOAH Administrative Law Judge (SOAH ALJ) issued Order No. 5 and referred the proceeding to SOAH's Alternative Dispute Resolution Team Leader, Judge Howard S. Seitzman. On August 20, 2018, Judge Seitzman held a mediation at which Staff, Hutto, and several individuals who had protested and/or requested a contested case hearing on the Application (collectively, Parties) reached an agreement in principle that would have the effect of leaving only the Staff and Hutto as possible parties to any hearing that might be held on the Application.

On August 24, 2018, Judge Seitzman filed the Mediator's Initial Report on Mediation, reporting that the Parties had reached an agreement in principle, that the Parties were submitting the agreement to their respective principles for approval and execution, and that the mediation would remain open and assigned to the mediator pending the execution of the settlement documents. On September 6, 2018, the Hutto City Council approved the settlement terms agreed to by the Parties. The Mediator's Final Report on Mediation was filed on February 6, 2019.

On December 12, 2019, Staff requested an extension of time to allow Hutto to provide the additional documentation requested by Staff and for Staff to evaluate that documentation before formulating its final recommendation by January 15, 2020. On January 14, 2020, Staff filed a request for extension of time to file its final recommendation by January 31, 2020.

On January 24, 2020, the SOAH ALJ issued Order No. 18, granting Staff's request for an extension and adopting an amended procedural schedule that included a deadline of January 31, 2020, for Staff to file its final recommendation. Therefore, this pleading is timely filed.

## **II. FINAL RECOMMENDATION**

Staff has reviewed the application and supplemental information filed by Hutto and, as is outlined by the attached memorandum of Gregory Charles, Infrastructure Division, recommends that the revised application be approved and Hutto's CCN be amended to include 13,427 acres. Staff recommends the Commission approve the application, issue an order, and provide the attached map and certificate to Hutto. Staff further recommends that Hutto 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 Texas Water Code §§ 13.257 (r)-(s).

## **III. CONCLUSION**

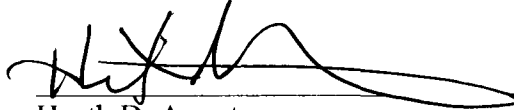
Staff respectfully requests the issuance of an order consistent with the above recommendation.

Dated: January 31, 2020.

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Thomas S. Hunter  
Division Director



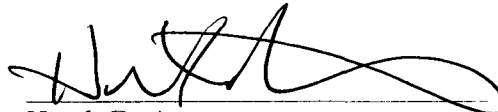
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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on January 14, 2020, in accordance with 16 TAC § 22.74.



Heath D. Armstrong

## PUC Interoffice Memorandum

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**To:** Heath Armstrong, Attorney  
Legal Division

**From:** Greg Charles, Engineer  
Water Utility Engineering

Leila Guerrero, Regulatory Accountant/Auditor  
Financial Analysis Team, Rate Regulation

**Date:** January 31, 2020

**Subject:** **Docket No. 47795:** *Application of the City of Hutto to Amend its Certificate of Convenience and Necessity in Williamson County*

On November 21, 2017, the City of Hutto (Applicant or City) filed with the Public Utility Commission of Texas (Commission) an application to amend its sewer Certificate of Convenience and Necessity (CCN) No. 20122 in Williamson County, Texas pursuant to Texas Water Code Ann. (TWC), §§ 13.242 to 13.250 and the 16 Tex. Admin Code (TAC) §§ 24.225 to 24.237.

The City initially requested to amend its sewer CCN with service area containing approximately 14,306 total acres. On March 8, 2019, the City filed a revised application with the Commission, and is now seeking to amend its sewer CCN with service area of approximately 14,267 acres. After removal of opt-outs from the original requested area, the revised requested area was 13,427 acres.

### **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 currently does not provide wastewater service to the requested area.

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

The need for service is based on various requests for residential, commercial, industrial developments, the Hutto Independent School District, failures of onsite septic systems, and requests to certificate various properties annexed by the City and other properties that the City is planning to annex<sup>1</sup>. The City has development agreements with several landowners, that obligate the City to provide wastewater service. The agreements, under Texas Local Government Code § 43.016 (Agreement), provide that the City will not annex the subject property for a finite number of years unless the landowner decides to develop the property thereby removing the property tax exemption. Item No. 113 within this docket includes an example of the signed Agreement with landowners. Attachment 1 lists all the tracts that have signed Agreements with the City, including the amount of acreage for each one. The City is requesting area within its corporate boundaries of approximately 1,634 acres. Adding the area encompassed by the Agreements (approximately 9,454 acres), results in a total requested area with a need for service of approximately 11,088 acres.

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<sup>1</sup> City of Hutto Response to Staffs' Request for Information Item No. 107, Document ID 1035760, Response No. 2-1, page 3.

*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.*

There are no other retail public utilities servicing the proximate area.

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

The City has two Texas Commission on Environmental Quality (TCEQ) approved wastewater discharge permits, operated by the Brazos River Authority by contract with the City. The Central wastewater treatment plant permitted under WQ0011324-001, is a 1.7 million gallons per day (MGD) facility, and the other is a 2.0 MGD facility permitted under WQ0011324-002, for a total capacity of 3.7 MGD. The total capacity was related to 2.49 MGD due to the strength of the biological oxygen demand of the wastewater<sup>2</sup>. The City currently serves 7,998 connections and plans to add another 2,606 connections from the requested area, for a total of 10,604 connections. Given the total capacity of sewer treatment facilities, the City has adequate capacity (over 11,000 connections) to serve the requested area, assuming an average flow of 225 gallons per day per connection<sup>3</sup> for the combine sewer facilities.

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

There are no other retail public utilities serving the requested area.

*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 TAC § 24.11 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. The following discussion shows that the City meets the required criteria.

### **Financial Test**

The criteria and tests are listed in 16 TAC § 24.11, including leverage tests and an operations test. The following analysis is taken from the City's Comprehensive Annual Financial Report (CAFR) available on the City's website which contain an Independent Auditor's Report including an unqualified auditor's opinion from Whitley Penn, LLP, which stated that the financial statements present fairly the financial position of the City, as of September 30, 2018 in accordance with accounting principles generally accepted in the United States of America.<sup>4</sup> The City also received a Certificate of Achievement for Excellence in Financial Reporting for the 2017 CAFR issued by the Government Finance Officers Association. The audit and the related opinion indicate the transparency of the City, and along with the Certificate, indicate the City's management capabilities.

### **Leverage Test**

The City meets two out of the five leverage tests. The City is required to meet only one. For

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<sup>2</sup> City of Hutto Response to Staffs' Request for Information Item No. 107, Document ID 1035762, City of Hutto Wastewater Master Plan, July 2018, Section 1.3 Analysis of Existing Wastewater System

<sup>3</sup> City of Hutto Response to Staffs' Request for Information Item No. 107, Document ID 1035763, City of Hutto Wastewater Master Plan, July 2018, Section 2.2.3 Flow per Connection Analysis

<sup>4</sup> Comprehensive Annual Financial Report (CAFR) for the Fiscal Year Ended September 30, 2018 (FY2018); see also City of Hutto's website: <https://www.huttotx.gov>.

the fiscal year ended September 30, 2018, the City has cash and cash equivalents of \$25,059,793.<sup>5</sup> The City's long-term debt payments including interests for two years is equivalent to \$10,613,791, or \$5,228,894 plus \$5,384,897.<sup>6</sup> Lastly, the City of Hutto maintained a bond rating of AA- with a stable outlook by Standard & Poor's. Higher bond ratings improve the City's ability to issue debt and secure a lower interest rate for the term of the bonds."<sup>7</sup>

#### Operations Test

The City meets the operations test. The owner or operator must demonstrate sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations. The City's CAFR for Fiscal Year ended September 30, 2018, also includes financial data for FY 2009 – 2018. In response to the Commission Staff's Second Request for Information (RFI), the City provided a "Financial Forecasting Wastewater Pro Forma Model – Revenues and Expenses",<sup>8</sup> for the year 2020 up to 2070. However, Staff reviewed projections only up to ten years. The operations and maintenance costs are projected based on the City's past financial experience and meet the requirements of 16 TAC § 24.11(e)(3). 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 amendment allows the City to provide protected sewer service to the requested areas, which will fulfill the agreements facilitating the development and growth of the City, including many new residential structures, commercial facilities, and industrial businesses.

*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 City's existing customers.

The Applicant meets all 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.

The Applicant consented to the attached map and certificates on April 12, 2019.

Based on the above information, Staff recommends the Commission approve the application, to include the revised requested area of 13,427 acres, issue an order, and provide the attached map, and certificate to the City of Hutto. Staff further recommends that the City 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).

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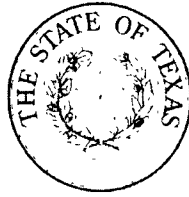
<sup>5</sup> City of Hutto, CAFR FY2018, at 65-66; *see also* Staff's workpapers of Cash Available for Loan

<sup>5</sup> City of Hutto, CAFR FY2018, at 65-66; *see also* Staff's workpapers of Cash Available for Loan Payments and Schedule of Long-Term Debts.

<sup>6</sup> CAFR FY2018, Notes to Basic Financial Statements, Note 6- Long -Term Debt, at pp. 65 –66; *see also* Staff's Schedule of Long-Term Debt Payments.

<sup>7</sup> CAFR FY2018, at Management Discussion and Analysis, p. 30; *see also* Municipal Advisory Council of Texas, at [www.mac.com/City of Hutto](http://www.mac.com/City of Hutto).

<sup>8</sup> City of Hutto's Response to Commission Staff's Second RFI, pp. 157-161 (September 27, 2019).



# **Public Utility Commission of Texas**

**By These Presents Be It Known To All That**

## **City of Hutto**

having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Hutto is entitled to this

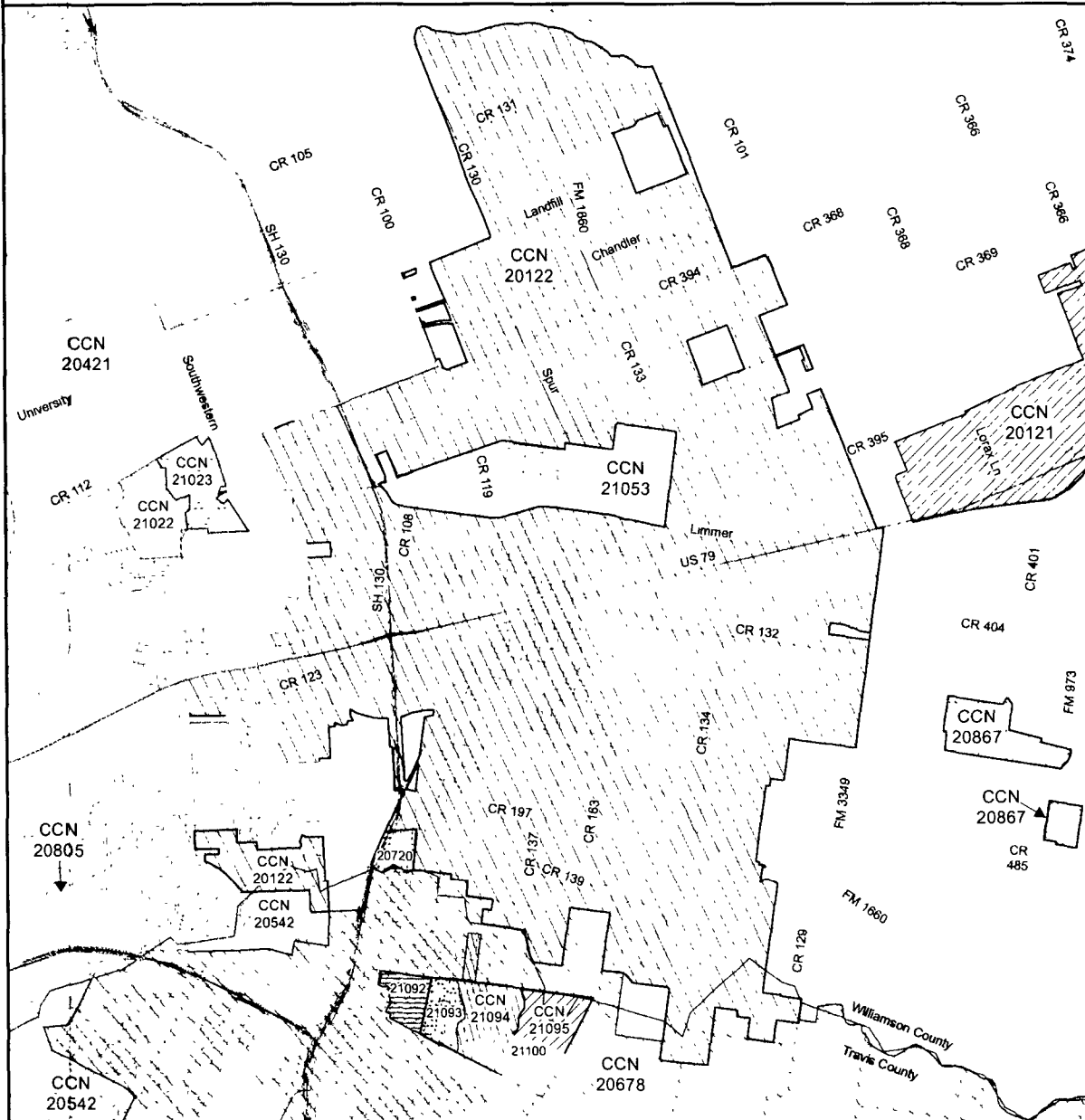
### **Certificate of Convenience and Necessity No. 20122**

to provide continuous and adequate sewer utility service to that service area or those service areas in Williamson and Travis Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 47795 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of Hutto, to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

















Issued at Austin, Texas, this \_\_\_\_\_ day of \_\_\_\_\_ 2019.



City of Hutto  
Sewer CCN No. 20122  
PUC Docket No. 47795  
Amended CCN No. 20122 in Travis and Williamson Counties



**Sewer CCN**

- |   |   |
|---|---|
|  20122 - City of Hutto             |  20421 - City of Round Rock          |
|  21053 - Jonah Water SUD           |  21023 - Paloma Lake MUD 2           |
|  20121 - City of Taylor            |  21022 - Paloma Lake MUD 1           |
|  20867 - Aqua Texas Inc            |  20805 - Round Rock Ranch PUD Co Inc |
|  20678 - City of Pflugerville      |   |
|  21095 - Lakeside WCID 2A          |   |
|  21100 - Lakeside WCID 2D          |   |
|  21094 - Lakeside WCID 2C          |   |
|  21093 - Lakeside WCID 2B          |   |
|  21092 - Lakeside WCID 1           |   |
|  20720 - Kelly Lane Utility Co Inc |   |
|  20542 - SWWC Utilities Inc        |   |

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