



DOCKET NO. 48714

**APPLICATION OF THE CITY OF
EDINBURG TO AMEND A
CERTIFICATE OF CONVENIENCE
AND NECESSITY UNDER TEXAS
WATER CODE § 13.255 AND
DECERTIFY A PORTION OF
NORTH ALAMO WATER SUPPLY
CORPORATION’S SERVICE AREA
IN HIDALGO COUNTY**

§
§
§
§
§
§
§
§
§

**PUBLIC UTILITY COMMISSION
OF TEXAS**

**COMMISSION STAFF’S EIGHTH RECOMMENDATION ON ADMINISTRATIVE
COMPLETENESS OF APPLICATION AND PROPOSED PROCEDURAL SCHEDULE**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and in response to Order No. 14, files this Eighth Recommendation on Administrative Completeness of Application and proposed Procedural Schedule. Staff recommends that the application be deemed deficient and that the applicant be ordered to address the identified deficiencies. In support thereof, Staff shows the following:

I. BACKGROUND

On September 27, 2018, the City of Edinburg (Edinburg) filed an application to amend water Certificate of Convenience and Necessity (CCN) No. 12106 to incorporate areas it currently serves and to decertify a portion of North Alamo Water Supply Corporation’s (NAWSC) water service area in Hidalgo County. The requested service area consists of 218.71 acres. Supplemental information was filed on March 26, 2019, September 3, 2019, October 25, 2019, January 28, 2020, and March 18, 2020.

On May 12, 2020, Order No. 14 was issued establishing a deadline of May 26, 2020 for Staff to file a supplemental recommendation on sufficiency of the application. Therefore, this pleading is timely filed.

II. ADMINISTRATIVE COMPLETENESS

As detailed in the attached memorandum of Patricia Garcia in the Commission’s Infrastructure Division, Staff recommends that Edinburg’s application continues to be administratively incomplete. Specifically, Staff does not believe that an application under TWC § 13.255 is the appropriate means for obtaining approval of the transaction described in the Buyout

Agreement filed on January 28, 2020. This provision of the TWC is applicable only “[i]n the event that an area is incorporated or annexed by a municipality,” and the incorporated or annexed area is already served by a retail public utility pursuant to a CCN.¹ Staff has been unable to locate any information filed in the docket indicating that Edinburg has annexed the service area it seeks to acquire from NAWSC. In addition, Staff has been unable to locate any information indicating that Edinburg notified NAWSC of its intent to serve the requested area as required by 16 TAC § 24.259(c).

What is clear is that Edinburg and NAWSC have entered into an agreement for the sale and transfer of a portion of NAWSC’s water service area and the associated facilities to Edinburg. A transaction that involves the sale, acquisition, lease, or rental of a water or sewer system owned by an entity that is required by law to possess a CCN is a transaction that requires approval under TWC § 13.301 and 16 TAC § 24.239.² As a water supply corporation, NAWSC is required to possess a CCN.³ Therefore, Staff recommends that Edinburg be ordered to cure the deficiencies identified in Ms. Garcia’s attached memorandum by June 25, 2020, and that Staff be given a deadline of July 27, 2020, to file a supplemental recommendation on the administrative completeness of the application. If Edinburg has not annexed or incorporated the requested area, then Staff recommends that Edinburg and NAWSC jointly file an application for a sale, transfer or merger.

III. COMMENTS ON PROCEDURAL SCHEDULE

In accordance with Staff’s deficiency recommendation, Staff does not propose a procedural schedule for further processing of this docket at this time. Staff intends to propose a procedural schedule alongside a subsequent recommendation for application sufficiency.

IV. CONCLUSION

¹ TWC § 13.255.

² TWC § 13.301.

³ 16 TAC § 24.225(a).

For the reasons discussed above, Staff respectfully recommends that the application be found administratively incomplete at this time and that Edinburg be ordered to file a supplement addressing the identified deficiencies in the application by June 25, 2020 or to jointly file an application for a sale, transfer, or merger with NAWSC.

Dated: May 26, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

Eleanor D'Ambrosio
Managing Attorney

/s/ John Harrison

John Harrison
State Bar No. 24097806
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7277
(512) 936-7268 (facsimile)
John.Harrison@puc.texas.gov

DOCKET NO. 48714

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on May 26, 2020 in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ John Harrison
John Harrison

PUC Interoffice Memorandum

To: John Harrison
Legal Division

From: Patricia Garcia, Engineering Specialist
Infrastructure Division

Date: May 26, 2020

Subject: **Docket No. 48714**, *Application of City of Edinburg to Amend a Certificate of Convenience and Necessity under Texas Water Code § 13.255 and Decertify a Portion of North Alamo Water Supply Corporation's Service Area in Hidalgo County*

On September 27, 2018, the City of Edinburg (Edinburg) filed an application to amend Certificates of Convenience and Necessity (CCN) in Hidalgo County, Texas, pursuant to Texas Water Code (TWC) § 13.255 and 16 Texas Administrative Code (TAC) § 24.259. Specifically, Edinburg seeks approval to decertify a portion of North Alamo Water Supply Corporation's (North Alamo) water CCN No. 10553 and amend to the Edinburg's CCN No. 12106.

Based on Staff's review of the above referenced application, Staff recommends that the application be found deficient and not accepted for filing at this time.

Staff is unable to determine if the requested areas have been annexed into Edinburg or if Edinburg has provided notice to North Alamo of its intention to serve the requested areas as required by Commission rules. Therefore, Staff recommends that Edinburg provide proof of annexation of the requested areas and proof of notice to North Alamo. If this documentation is not available Staff recommends that Edinburg and North Alamo file an STM application for the transfer of the requested areas and related facilities.