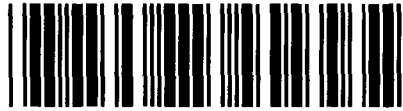




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DOCKET NO. 48746

**APPLICATION OF THE CITY OF
MARSHALL TO AMEND ITS WATER
CERTIFICATE OF CONVENIENCE
AND NECESSITY IN HARRISON
COUNTY**

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PUBLIC UTILITY COMMISSION

OF TEXAS
PUBLIC UTILITY COMMISSION
CLERK

COMMISSION STAFF'S RECOMMENDATION ON SUFFICIENCY OF NOTICE

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this response to Order No. 2, Staff's Recommendation on Sufficiency of Notice. Staff recommends that the notice be deemed deficient. In support thereof, Staff shows the following:

I. BACKGROUND

On October 9, 2018, the City of Marshall (Applicant) filed an application to amend water certificate of convenience and necessity (CCN) number 11064 in Harrison County. Applicant proposes to amend its CCN to include its current customer base and extend its services outside its city limits. The requested service area consists of approximately 15,127 acres and 1,124 current customers.

On November 14, 2018, the Administrative Law Judge (ALJ) issued Order No. 2, establishing a deadline of January 4, 2019 for Applicant to file signed affidavits that notice was given, along with a copy of the notice sent to affected parties and published in a newspaper of general circulation. Order No. 2 also required Staff to file a recommendation on the sufficiency of notice 10 days after the filing by Applicant. Applicant filed proof of notice on December 21, 2018, however, receipt by Staff assigned to this case was delayed in part due to a power outage experienced at the Commission's office on December 21, 2018. Staff apologizes for any inconvenience caused by this late filing.

II. NOTICE

Notice requirements for CCN applications are governed by Tex. Water Code § 13.246 and 16 TAC § 24.235. Staff has reviewed the Applicant's proof of notice and recommends that it be found insufficient.

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On December 21, 2018, Applicant submitted an Affidavit of Notice to Current Customers, Neighboring Utilities and Affected Parties. This affidavit does not indicate the date on which notice was mailed. Furthermore, Applicant's proof of mailed notice does not include a copy of the notice mailed, nor a copy of the map attached to the mailed notice showing the requested area.

Staff's Recommendation on Administrative Completeness, Notice, and Proposed Procedural Schedule, filed on November 8, 2018, provided Applicant with a list of entities to whom Applicant must provide notice. Staff compared that list to the affidavit and list filed by Applicant. Neither Applicant's affidavit nor list indicate that notice was issued to all 1,124 current customers. The list provided by Applicant includes 119 names, including all but one of the entities specified in the memorandum attached to Staff's recommendation.

Applicant also filed proof of published notice and a Publisher's Affidavit, which stated that notice was given in a newspaper regularly published and generally circulated in Harrison County. Applicant published notice on November 27, 2018 and December 4, 2018. Staff found no deficiencies with respect to the published notice and Publisher's Affidavit filed by Applicant.

Based on the above deficiencies identified by Staff regarding Applicant's proof of mailed notice, Staff recommends that notice be found insufficient.

III. PROPOSED PROCEDURAL SCHEDULE

Staff recommends that notice be found insufficient. Staff therefore proposes the following procedural schedule:

Event	Date
Deadline for Applicant 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	February 21, 2019
Deadline for Staff to file a recommendation on sufficiency of notice	Within 10 days of Applicant filing proof of completed notice with the Commission
Deadline to intervene	30 days after notice is issued

IV. CONCLUSION

For the reasons detailed above, Staff respectfully recommends that the notice be found insufficient and that the procedural schedule proposed above be adopted.

Dated: January 8, 2019

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Stephen Mack
Managing Attorney

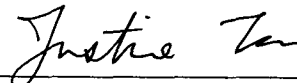


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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on January 8, 2019, in accordance with 16 TAC § 22.74.



Justine Isabelle Caedo Tan