



Control Number: 49566



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FILED

APPLICATION OF THE CITY OF § PUBLIC UTILITY COMMISSION
ELMENDORF FOR A SEWER §
CERTIFICATE OF CONVENIENCE § OF TEXAS
AND NECESSITY IN BEXAR COUNTY §

**COMMISSION STAFF'S SECOND RECOMMENDATION ON ADMINISTRATIVE
COMPLETENESS AND PROPOSED NOTICE**

COMES NOW the Commission Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and in response to Order No. 2 files this, Commission Staff's Second Recommendation on Administrative Completeness and Proposed Notice. Staff recommends that the application be deemed insufficient for further review and that the applicant be ordered to address the identified deficiencies. In support thereof, Staff shows the following:

I. BACKGROUND

On May 23, 2019, the City of Elmendorf (Elmendorf) filed an application for a sewer certificate of convenience and necessity in Bexar County. The requested service area consists of 978 acres and currently has no customers.

On June 24, 2019, the Administrative Law Judge issued Order No. 2, setting a deadline of September 4, 2019, for Staff to file supplemental comments on the administrative completeness of the application, the sufficiency of the proposed notice, and to propose a procedural schedule. This pleading is therefore timely filed.

II. ADMINISTRATIVE COMPLETENESS

As detailed in the attached memorandum from Debbie Reyes and Elisabeth English in the Commission's Water Utility Regulation Division, Staff has reviewed the application and recommends that it be found administratively incomplete. Specifically, Elmendorf has not provided sufficient proof of its ability to provide retail utility service. Staff recommends that Elmendorf submit additional information as outlined in the attached memorandum. Staff notes that Elmendorf should not issue notice until the application is found administratively complete.

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III. COMMENTS ON PROCEDURAL SCHEDULE

Staff recommends that Elmendorf be ordered to cure the deficiencies identified in the attached memorandum by October 8, 2019, and that Staff be given a deadline of November 8, 2019, to file a supplemental recommendation on the administrative completeness of the application.

IV. CONCLUSION

For the reasons stated above, Staff respectfully recommends that the application be found administratively incomplete at this time and that Elmendorf be ordered to file a supplement addressing the identified deficiencies in the application by October 8, 2019.

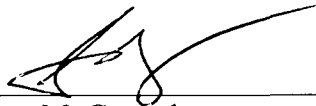
Dated: August 29, 2019

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Margaret Uhlig Pemberton
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 August 29, 2019, in accordance with 16 TAC § 22.74.

A handwritten signature in black ink, appearing to be 'S. Gonzalez', written over a horizontal line.

Steven M. Gonzalez

PUC Interoffice Memorandum

To: Steven Gonzalez, Attorney
Legal Division

Thru: Heidi Graham, Manager
Water Utility Regulation Division

From: Debbie Reyes, Program Specialist
Elisabeth English, Engineering Specialist
Water Utility Regulation Division

Date: August 28, 2019

Re: **Docket No. 49566:** *Application of City of Elmendorf to Obtain a Sewer Certificate of Convenience and Necessity in Bexar County*

On May 23, 2019, City of Elmendorf (Elmendorf) filed an application to obtain a sewer Certificate of Convenience and Necessity in Bexar County. The application is being reviewed pursuant to Texas Water Code Ann. (TWC) §§ 13.242 to 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237.

Elmendorf is seeking to obtain a sewer CCN for approximately 979 acres. The entirety of the requested area is the Hickory Ridge development that will have approximately 3,996 residential lots, commercial tracts, and an elementary school. The Hickory Ridge developer, DR Horton, has requested both water and sewer utility service from Elmendorf who is currently only able to provide water utility service. Residents of Elmendorf utilize on-site septic systems rather than a centralized wastewater system. Elmendorf is negotiating a development agreement with DR Horton to pay for the construction of the sewer infrastructure and plant necessary to serve the requested area, in addition to the acquisition of the San Antonio River Authority (SARA) 181 wastewater treatment plant. Elmendorf intends to provide sewer service to the first phase of the development, approximately 300 residential lots, via SARA's existing wastewater treatment plant.

Staff recommends that the application remain deficient due to the ongoing negotiations with DR Horton and SARA. An applicant for a sewer CCN must provide proof of its ability to provide retail utility service either via a contract with a wholesale provider or via a wastewater permit, or by providing proof that a wastewater permit application for the additional facility has been filed with the Texas Commission on Environmental Quality (TCEQ). Staff recommends that Elmendorf supplement its application with the following:

1. Proof that a wastewater permit application has been filed with the TCEQ;
2. The purchase agreement for the SARA wastewater plant;
3. The developer agreement with DR Horton for the requested area; and
4. A budget and estimated timeline for construction of all facilities to provide full service to the requested area keyed to the "Hickory Ridge / Take Exhibit & Lot Distribution" map provided in response to Order No. 2.