



Control Number: 50271



Item Number: 5

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DOCKET NO. 50271

**APPLICATION OF THE CITY OF
MIDLAND TO AMEND ITS
CERTIFICATES OF CONVENIENCE
AND NECESSITY IN MARTIN AND
MIDLAND COUNTIES**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

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

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

I. BACKGROUND

On November 21, 2019, the City of Midland (Applicant) filed an application to amend its water Certificate of Convenience and Necessity (CCN) No. 10221 and sewer CCN No. 20083 in Martin and Midland Counties, Texas pursuant to Texas Water Code Ann. (TWC) §§ 13.242 - 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237.

On December 20, 2019, Order No. 2 was issued, which established a deadline of January 17, 2020 for Staff to file comments on the administrative completeness of the application and proposed notice and proposed notice and to propose a procedural schedule. This pleading is therefore timely filed.

II. ADMINISTRATIVE COMPLETENESS AND NOTICE

As detailed in the attached memorandum from Jolie Mathis, Engineering Specialist of the Commission's Infrastructure Division, Staff has reviewed Applicant's application and recommends that the application be found administrative complete. Staff recommends that Applicant be directed to use the attached notice forms to provide notices as detailed in Ms. Mathis' attached memorandum. Staff further recommends that Applicant be directed to file a copy of the notice issued. Applicant should also submit fully executed affidavit of notice, using the attached draft affidavit as a template.

IV. AGREED PROCEDURAL SCHEDULE

Staff 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	March 3, 2020
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

V. CONCLUSION

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

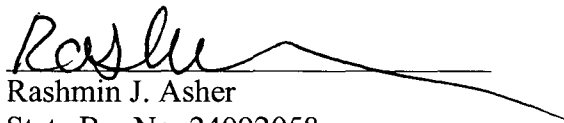
Dated: January 17, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Thomas S. Hunter
Division Director

Rachelle Nicolette Robles
Managing Attorney

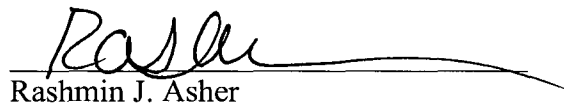


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DOCKET NO. 50271

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on January 17, 2020, in accordance with 16 TAC § 22.74.



Rashmin J. Asher

PUC Interoffice Memorandum

To: Rashmin Asher, Attorney
Legal Division

From: Jolie Mathis, Utility Engineering Specialist
Infrastructure Division

Date: January 17, 2020

Subject: **Docket 50271**, *Application of The City of Midland to Amend its Water and Sewer Certificates of Convenience and Necessity in Martin and Midland Counties*

On November 21, 2019, the City of Midland (Applicant) filed with the Public Utility Commission of Texas (Commission) an application to amend its water Certificate of Convenience and Necessity (CCN) No. 10221 and sewer CCN No. 20083 in Martin and Midland Counties, Texas pursuant to Texas Water Code (TWC) §§ 13.242 to 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237.

Staff has reviewed the information filed by the Applicant and recommends that the application be deemed sufficient for filing and 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;
 - c) Each groundwater conservation district that is wholly or partially included in the requested area;
 - d) Landowners who own a tract of land that is at least 25 acres and is wholly or partly located in the requested 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 requested area is located;
 - e) Any affected customers, and other affected parties in the requested area; and
 - f) Publish notice once each week for two (2) consecutive weeks in a newspaper of general circulation in Martin and Midland Counties.
- 2) Provide correct notice of the application to the following:
 - City of Odessa
 - Downtown Midland Management District
 - Greater Gardendale WSC (CCN No. 13081)
 - Greenwood Terrace MHP, LLC (CCN No. 13003)
 - Martin County Judge
 - Midland County FWSD 1
 - Midland County Judge
 - Midland County Utility District
 - Montfort Corporation (CCN No. 13001)
 - Permian Basin UWCD

- South Midland County Water System (CCN No. 13223)
- 3) Provide an accurate map delineating the requested area with each individual notice to neighboring utilities, other affected parties, landowners and customers. Information related to districts including addresses can be obtained by the Applicant from the TCEQ's web site located at <http://www14.tceq.texas.gov/iwud/>
 - 4) File in the docket a map and copy of notice along with an affidavit specifying every person and entity to whom notice was provided, the date that the notice was provided, and 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.

Technical Review

Proof that the plans and specifications have been submitted to Texas Commission on Environmental Quality (TCEQ) was included in the application filing. The Applicant(s) should supplement the application filing with a copy of the TCEQ's approval letter once it is received. The approval letter must be on file prior to Staff making a final recommendation on the application.

Notice for Publication

NOTICE OF APPLICATION TO AMEND A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE WATER AND SEWER UTILITY SERVICE IN MARTIN AND MIDLAND COUNTIES, TEXAS

The City of Midland has filed an application with the Public Utility Commission of Texas to amend its Certificate of Convenience and Necessity (CCN) No. 10221 and CCN No. 20083 for the provision of retail Water and Sewer utility service in Martin and Midland Counties.

Area 1 (Water and Sewer)

- The requested area is located approximately 4 miles north of downtown Midland, TX, and is generally bounded on the north by SH 349; on the east by Elkins Rd; on the south by TX 250 and I-20 BL; and on the west by Holiday Hill Rd and SH 349.
- The requested area includes approximately 16,853 total acres.

Area 2 (Water and Sewer)

- The requested area is located approximately 2 miles south of downtown Midland, TX, and is generally bounded on the north by I-20; on the east by SH 158; on the south by a line approx. 0.5 miles south of I-20; and on the west by CR 1270.
- The requested area includes approximately 1,018 total acres.

Area 3 (Water and Sewer)

- The requested area is located approximately 9 miles west of downtown Midland, TX, and is generally bounded on the north by SH 191; on the east by a line approx. 1 mile east of SH 349; on the south by I-20 BL; and on the west by SH 349.
- The requested area includes approximately 51 total acres.

Area 4 (Water and Sewer)

- The requested area is located approximately 8 miles west of downtown Midland, TX, and is generally bounded on the north by SH 191; on the east by a line approx. 3 miles east of SH 349; on the south by I-20 BL; and on the west by SH 349.
- The requested area includes approximately 111 total acres.

Area 5 (Water and Sewer)

- The requested area is located approximately 5 miles west of downtown Midland, TX, and is generally bounded on the north by SH 349; on the east by Holiday Hill Rd and TX-250 Loop; on the south by I-20 BL; and on the west by Ector/Midland County Line.
- The requested area includes approximately 6,019 total acres.

Area 6 (Water and Sewer)

- The requested area is located approximately 8 miles west-northwest of downtown Midland, TX, and is generally bounded on the north by SH 349; on the east by N CR 1255; on the south by SH 158; and on the west by N CR 1260.
- The requested area includes approximately 24 total acres.

Area 7 (Sewer only)

- The requested area is located approximately 8 miles west-northwest of downtown Midland,

TX, and is generally bounded on the north by a line approx. 500 ft north of Dunblane Dr; on the east by Trobaugh Blvd; on the south by Briarwood Ave; and on the west by Dumfries Rd.

- The requested area includes approximately 203 total acres.

The total requested water service area is approx. 24,076 acres.

The total requested sewer service area is approx. 24,279 acres.

The requested area overlaps the boundaries of the Permian Basin UWCD. If Permian Basin UWCD does not request a public hearing, the Commission shall determine that the district is consenting to the City of Midland's request to provide retail Water and Sewer utility service in the requested area.

A copy of the map showing the requested area is available at: Midland City Hall

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 1-888-782-8477.

Notice to Neighboring Systems, Landowners, Customers and Cities

NOTICE OF APPLICATION TO AMEND A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE WATER AND SEWER UTILITY SERVICE IN MARTIN AND MIDLAND COUNTIES, TEXAS

To: _____
(Neighboring System, Landowner, Customer or City)

(Address)

(City State Zip)

Date Notice Mailed: _____, 20____

The City of Midland has filed an application with the Public Utility Commission of Texas to amend its Certificate of Convenience and Necessity (CCN) No. 10221 and CCN No. 20083 for the provision of retail Water and Sewer utility service in Martin and Midland Counties.

Area 1 (Water and Sewer)

- The requested area is located approximately 4 miles north of downtown Midland, TX, and is generally bounded on the north by SH 349; on the east by Elkins Rd; on the south by TX 250 and I-20 BL; and on the west by Holiday Hill Rd and SH 349.
- The requested area includes approximately 16,853 total acres.

Area 2 (Water and Sewer)

- The requested area is located approximately 2 miles south of downtown Midland, TX, and is generally bounded on the north by I-20; on the east by SH 158; on the south by a line approx. 0.5 miles south of I-20; and on the west by CR 1270.
- The requested area includes approximately 1,018 total acres.

Area 3 (Water and Sewer)

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- The requested area includes approximately 24 total acres.

Area 7 (Sewer only)

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- The requested area includes approximately 203 total acres.

The total requested water service area includes approx. 24,076 acres and 46,622 current customers. The total requested sewer service area includes approx. 24,279 acres and 40,282 current customers.

The requested area overlaps the boundaries of the Permian Basin UWCD. If Permian Basin UWCD does not request a public hearing, the Commission shall determine that the district is consenting to the City of Midland's request to provide retail Water and Sewer utility service in 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.

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PUBLIC UTILITY COMMISSION OF TEXAS



AFFIDAVIT OF NOTICE TO CURRENT CUSTOMERS, LANDOWNERS, NEIGHBORING UTILITIES AND AFFECTED PARTIES DOCKET NO. 50271

STATE OF TEXAS

COUNTY OF _____

_____ has provided individual
notice to the following entities, landowners and customers:

DATE OF NOTICE

OATH

I, _____, being duly sworn, file this form as
_____ (indicate relationship to applicant, that is,
owner, member of 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 for 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 _____, 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 _____

PUBLIC UTILITY COMMISSION OF TEXAS



PUBLISHER'S AFFIDAVIT
DOCKET NO. 50271

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 _____