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DOCKET NO. 50324

**APPLICATION OF COUNTY LINE §
SPECIAL UTILITY DISTRICT TO §
OBTAIN A SEWER CERTIFICATE OF §
CONVENIENCE AND NECESSITY IN §
HAYS AND CALDWELL COUNTY §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

COMMISSION STAFF'S SUPPLEMENTAL FINAL RECOMMENDATION

I. BACKGROUND

On December 6, 2019, County Line Special Utility District (County Line) filed an application for a sewer certificate of convenience and necessity (CCN) in Hays and Caldwell counties under Texas Water Code §§ 13.242–.250 and 16 Texas Administrative Code (TAC) §§ 24.225–.237. The requested area consisted of approximately 17,942 acres, 2 existing connections, and 24,100 future connections. On August 28, 2021, the Staff (Staff) of the Public Utility Commission of Texas (Commission) filed its final recommendation recommending the requested area be reduced from 17,492 acres to 7,890 acres. On June 18 and 23, 2021, County Line filed supplemental information and mapping documentation (Supplemental Application) reducing its requested area to 8,148 acres.

On June 23, 2020, the administrative law judge (ALJ) issued Order No. 12, requiring Staff to file a supplemental final recommendation, if necessary, by July 1, 2021. Therefore, this pleading is timely filed.

II. SUPPLEMENTAL FINAL RECOMMENDATION

Staff has reviewed the Supplemental Application and, as supported by the attached memorandum of Roshan Pokhrel of the Commission's Infrastructure Division, recommends that County Line meets the applicable financial, managerial, and technical requirements of TWC §§ 13.242 to 13.250 and the 16 TAC §§ 24.225 to 24.237, and therefore, is capable of providing continuous and adequate service to the reduced 8,148-acre area. Staff's review also indicates that approval of the Supplemental Application is necessary for the service, accommodation, convenience, and safety of the public.

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V. CONCLUSION

For the reasons stated above, Staff respectfully requests the entry of an order consistent with the foregoing recommendation that County Line's Supplemental Application be approved. The parties will file a joint proposed notice of approval consistent with the procedural schedule adopted in Order No. 12.

Dated: July 1, 2021

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

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DOCKET NO. 50324
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 July 1, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Phillip Lehmann
Phillip Lehmann

Public Utility Commission of Texas

Memorandum

TO: Phillip Lehmann, Attorney
Legal Division

FROM: Roshan Pokhrel, Engineering Specialist
Infrastructure Division

DATE: July 1, 2021

RE: **Docket No. 50324**, *Application of County Line Special Utility District to Obtain a Sewer Certificate of Convenience and Necessity in Hays and Caldwell County*

1. Application

On December 6, 2019, County Line Special Utility District (Applicant or County Line SUD) filed an application to obtain a sewer Certificate of Convenience and Necessity (CCN) in Hays and Caldwell County, under Texas Water Code (TWC) §§ 13.242 to 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237. On June 18, 2021, County Line SUD filed amended mapping documentation by reducing the requested area from 17,942 acres to 8,148 acres.

The requested area includes approximately 8,148 acres. The Applicant has received several requests for service. Service request letters from landowners and developers total approximately 8,148 acres. Moreover, the City of Uhland and the City of Niederwald have provided consent to the Applicant to overlap their municipal boundaries to serve their existing and future customers. Approximately 360 acres with 300 existing customers in the Uhland area that currently utilize septic system will be connected to the Applicant's centralized wastewater system. The Applicant filed an updated detailed map¹ that shows all requests for service, landowners' easements, and existing City of Uhland residents.

County Line SUD purchases sewer treatment from Plum Creek Utility Company, LLC (Plum Creek) to meet 100% of customer demand. Plum Creek's sewer treatment plant and the associated water quality discharge permit have enough capacity to meet the current demand. The sewer treatment plant will be expanded as needed to meet future demands. An additional water quality discharge permit for Plum Creek is currently being processed by the Texas Commission on Environmental Quality (TCEQ).

¹ Supplemental Information of the Proposed Sewer CCN Boundary (Aug. 19, 2020).

2. Notice

The comment period ended on May 4, 2020, and no protests or opt-out requests were received.

3. Factors Considered

TWC §§ 13.241 and 13.246, and 16 TAC §§ 24.11(e) and 24.227 require the Commission to consider certain factors when granting or amending a water or sewer CCN. Therefore, the following factors were considered.

3.1. *Consideration of the adequacy of service currently provided to the requested area and system compliance (TWC § 13.246(c)(1); 16 TAC § 24.227(a) and (e)(1)).*

The Applicant is already serving a few customers in the requested area. The Applicant purchases sewer capacity from Plum Creek. Plum Creek has a water quality discharge permit registered with the Texas Commission on Environmental Quality (TCEQ).

3.2. *Consideration of the need for additional service in the requested area (TWC § 13.246(c)(2); 16 TAC § 24.227(e)(2)).*

There is need for additional service to serve potential future customers. The Applicant filed documentation showing requests for service. The requests for service cover all the requested 8,148 acres.

3.3. *Consideration of the effect of granting an amendment on the recipient of the certificate or amendment, on the landowners in the area, and on any other retail public utility of the same kind already servicing the proximate area (TWC §§ 13.241(b) and 13.246(c)(3), 16 TAC § 24.227(e)(3)).*

County Line SUD will be the certificated entity for the requested area and will be required to provide adequate and continuous service to the requested area. The landowners will benefit because they will not have to construct individual septic tanks. No effect is expected on other utilities as the requested area is uncertificated with no facilities available. All retail public utilities in the proximate area(s) were provided notice of the CCN amendment requested in this application and did not request to intervene.

3.4. *Consideration of the managerial and technical ability of the applicant to provide adequate service (TWC § 13.246(c)(4); 16 TAC § 24.227(a) and (e)(4)).*

The Applicant purchases sewer capacity to meet 100% of customer demand from Plum Creek. Plum Creek has an existing water quality discharge permit registered with the TCEQ under WQ-0015635001. The sewer treatment provider does not have any violations listed in the TCEQ database.

3.5. *The applicants' demonstration that regionalization or consolidation with another retail public utility is not economically feasible when construction of a physically separate water or sewer system is required to provide service to the requested area. (TWC § 13.241(d); 16 TAC § 24.227(b)).*

The Applicant purchases sewer capacity to meet 100% of the demand from Plum Creek.

3.6. *Consideration of the feasibility of obtaining service from an adjacent retail public utility (TWC § 13.246(c)(5); 16 TAC § 24.227(e)(5)).*

There are no other sewer service providers in the adjacent area that can serve the requested area and the Applicant has received requests for service.

3.7. *Consideration of the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service (TWC § 13.246(c)(6); 16 TAC §§ 24.227(a) and (e)(6), 24.11(e)).*

Fred Bednarski, III, Financial Analyst in the Rate Regulation Division, provided the following:

An owner or operator of a retail public utility must have the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and requested utility service areas, as established by 16 TAC § 24.11. County Line SUD must demonstrate that it meets one of the five leverage tests under 16 TAC § 24.11(e)(2) as well as the operations test under 16 TAC § 24.11(e)(3).

Leverage test

The analysis is based on financial statements ending December 31, 2019. These financial statements contain an unqualified auditor's opinion from Williams, Crow, Mask, LLP stating that the financial statements present fairly, in all material respects, the financial position of the County Line as of December 31, 2019.

Based upon the review of County Line SUD's 2019 financial statements, Mr. Bednarski calculates debt service equal to 3.01. The debt service coverage ratio is net operating income of \$2,117,770 excluding depreciation expense divided by annual debt service of \$704,150. Because the ratio is greater than 1.25, County Line SUD meets the leverage test specified in 16 TAC § 24.11(e)(2)(B).

Operations test

An owner or operator must demonstrate sufficient available cash to cover projected cash shortages for operations and maintenance expense during the first five years of operations, as required by 16 TAC § 24.11(e)(3).

County Line SUD's 2019 financial statements include net income of \$1,523,801 and \$1,896,604 in cash and cash equivalents that indicate County Line SUD will have sufficient cash to cover projected shortages. Capital improvements needed to provide continuous and adequate service to the requested area and will be provided by Plum Creek Utility, LLC to the Uhland Ranch Subdivision, Caldwell Valley Subdivision, the Uhland school as well as transportation buildings, and Las Estancias 2 subdivision. Additionally, County Line SUD will collect impact fees as well as obtain grants and loans for the new planned developments based on County Line SUD's capital improvement plan. Sufficient cash and net operating income available to cover possible future shortages provide an indication of financial stability and financial and managerial capability. Therefore, County Line SUD meets the operations test specified in 16 TAC § 24.11(e)(3).

3.8. *Requirement of the applicant to provide a bond or other financial assurance in a form and amount specified by the Commission to ensure that continuous and adequate utility service is provided (TWC §§ 13.246(d); 16 TAC § 24.227(f)).*

Because the Applicant meets the financial tests, no additional financial assurance is recommended.

3.9. *Consideration of the environmental integrity and the effect on the land to be included in the certificated area (TWC § 13.246(c)(7) and (9); and 16 TAC § 24.227(e)(7) and (9)).*

There will be positive environmental impact as sewer service through a centralized wastewater collection system will eliminate the need for individual septic systems on each property. The Applicant has mentioned that the wastewater will be treated to a much higher standard and ultimately be reused for irrigation and other non-potable water needs.

3.10. *Consideration of the probable improvement in service or lowering of cost to consumers (TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)).*

The service will be better with the use of a centralized wastewater collection system and elimination of separate septic systems.

4. Recommendation

Based on the mapping review by Gary Horton, Infrastructure Division, the financial and managerial review by Fred Bednarski III, Rate Regulation Division, and my technical and managerial review, I recommend that County Line SUD meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations, and is capable of providing continuous and adequate service. I further recommend that approving a requested area of 8,148 acres and issuing sewer CCN No. 21119 is necessary for the service, accommodation, convenience and safety of the public.

The final map and certificate are being produced and will be sent for review and consent by July 8.