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DOCKET NO. 50324

APPLICATION OF COUNTY LINE § BEFORE THE
SPECIAL UTILITY DISTRICT TO §
OBTAIN A SEWER CERTIFICATE OF § PUBLIC UTILITY COMMISSION
CONVENIENCE AND NECESSITY IN §
HAYS AND CALDWELL COUNTY § OF TEXAS

JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

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) §§ 24.255–.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 reducing its requested area to 8,148 acres. On July 1, 2021, Staff filed its supplemental final recommendation recommending the requested 8,148 acres be approved. On July 12, 2021, County Line filed its Notice of Consent to the maps and certificates provided by Staff on July 8, 2021.

On June 23, 2021, the Administrative Law Judge (ALJ) issued Order No. 12, establishing a deadline of July 15, 2021, for Staff and County Line (collectively, the Parties) to file a joint proposed notice of approval, including findings of fact, conclusions of law, and ordering paragraphs. Therefore, this pleading is timely filed.

I. JOINT MOTION TO ADMIT EVIDENCE

The Parties request the entry of the following items into the record of this proceeding:

1. County Line’s application filed on December 6, 2019 (Interchange Item No. 1);

2. County Line's supplements to the application filed on December 18, 2019, February 6, 2020, April 6, 2020, July 15, 2020, August 19, 2020, September 2, 2020, November 3, 2020, June 18, 2021, and June 23, 2021 (Interchange Item Nos. 3, 6, 9, 12, 15, 18, 19, 32, and 34);
3. Staff's Supplemental Recommendation on Administrative Completeness, filed on March 5, 2020 (Interchange Item No. 7);
4. County Line's proof of notice filed on April 6, 2020 (Interchange Item No. 9);
5. Staff's Recommendation on Sufficiency of Notice filed on April 15, 2020 (Interchange Item No. 10);
6. Staff's Supplemental Final Recommendation filed on July 1, 2021 (Interchange Item No. 36);
7. County Line's Notice of Consent filed on July 12, 2021 (Interchange Item No. 37); and
8. The attached map and certificate.

II. PROPOSED NOTICE OF APPROVAL

The Parties respectfully request that the Commission adopt the findings of fact, conclusions of law, and ordering paragraphs contained in the attached proposed notice of approval.

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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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 15, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Phillip Lehmann
Phillip Lehmann

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OBTAIN A SEWER CERTIFICATE OF	§	PUBLIC UTILITY COMMISSION
CONVENIENCE AND NECESSITY IN	§	
HAYS AND CALDWELL COUNTY	§	OF TEXAS

PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of County Line Special Utility District (County Line), to obtain a new sewer certificate of convenience and necessity (CCN) in Hays and Caldwell Counties. The petition, as amended, seeks to create a new sewer CCN that includes approximately 8,148 acres of service area. The Commission approves the application and grants a new sewer CCN number 21119 to County Line, as requested in the amended petition.

I. Findings of Fact

Applicant

1. County Line is a special utility district operating in Hays and Caldwell Counties, Texas.
2. County Line operates, maintains, and controls facilities that provide sewer service in Hays and Caldwell Counties.

Application

3. On December 6, 2019, County Line filed an application to create a new sewer CCN for a proposed geographic area in Hays and Caldwell Counties.
4. County Line supplemented its application on December 18, 2019, February 6, 2020, April 6, 2020, July 15, 2020, August 19, 2020, September 2, 2020, November 3, 2020, June 18, 2021, and June 23, 2021.

5. The application, as supplemented, requests a service area that would be comprised of 8,148 acres. There are 300 homes and businesses in the Uhland area that currently utilize septic systems. They will be connected to County Line's centralized wastewater system.
6. The requested area is located approximately 0 miles from the City of Uhland, Texas, and is generally bounded on the north by Goforth Road and Heidenreich Lane; on the east by Rohde Road and FM 2001; on the south by Misty Lane and Jolly Road; and on the west by FM 1966.
7. In Order No. 3, filed on March 18, 2020, the administrative law judge (ALJ) found the application administratively complete.

Notice

8. On April 6, 2020, County Line filed the affidavit of Allison M. Nieto, Project Engineer for County Line, attesting that notice was mailed to affected entities, landowners, and customers on March 24, 2020.
9. On April 6, 2020, County Line filed a publisher's affidavit attesting to publication of notice in the Hays Free Press, a publication of general circulation in Hays County, on March 25, 2020, and April 1, 2020.
10. On April 6, 2020, County Line filed a publisher's affidavit attesting to publication of notice in the Lockhart Post Register, a publication of general circulation in Caldwell County, on March 26, 2020, and April 2, 2020.
11. In Order No. 4 filed on April 27, 2020, the ALJ found the notice sufficient.

Certificate and Maps

12. On July 8, 2021, Commission Staff emailed the final map and CCN certificate to County Line, contemplating a service area of approximately 8,148 acres.

13. On July 12, 2021, County Line filed its consent to the Commission Staff's proposed map and certificate.
14. On July 15, 2021, Commission Staff filed the proposed map and certificate as attachments to its joint motion to admit evidence.

Evidentiary Record

15. On July 15, 2021, Commission Staff filed a joint motion to admit evidence.
16. In Order No. 13, filed on _____, 2021, the ALJ admitted the following into evidence: (a) County Line's application filed on December 6, 2019; (b) County Line's supplements to the application filed on December 18, 2019, February 6, 2020, April 6, 2020, July 15, 2020, August 19, 2020, September 2, 2020, November 3, 2020, June 18, 2021, and June 23, 2021; (c) Commission Staff's supplemental recommendation on administrative completeness filed on March 5, 2020; (d) County Line's proof of notice filed on April 6, 2020; (e) Commission Staff's recommendation on sufficiency of notice filed on April 15, 2020; (f) Commission Staff's supplemental final recommendation filed on July 1, 2021; (g) County Line's notice of consent filed on July 12, 2021; and the attached map and certificate.

Adequacy of Existing Service – Texas Water Code (TWC) § 13.246(c)(1); 16 Texas Administrative Code § 24.227(a) and (e)(1)

17. County Line is already serving customers in the requested area.
18. County Line purchases sewer capacity from Plum Creek Utility Company, LLC (Plum Creek).
19. Plum Creek has a water quality discharge permit registered with the Texas Commission on Environmental Quality (TCEQ).

Need for Service – TWC § 13.246(c)(2); 16 TAC § 24.227(e)(2)

20. There are 300 homes and businesses in the Uhland area that currently utilize septic systems. They will be connected to County Line's centralized wastewater system.
21. There is need for additional wastewater service to serve future customers in the proposed service area.
22. County Line filed documentation demonstrating the need for wastewater service in the requested 8,148-acre service area.

Effect of Approving the Application and Granting the Certificate – TWC §§ 13.241(b) and 13.246(c)(3); 16 TAC § 24.227(e)(3)

23. County Line will be the sole certificated entity for the requested area and will be obligated to provide continuous and adequate wastewater service to the requested area.
24. The landowners will benefit from a centralized wastewater collection system as they will not have to construct individual septic tanks.
25. No effect is expected on other utilities as the requested area is uncertificated with no wastewater facilities owned by other utilities.
26. All retail public utilities in the proximate area(s) were provided notice of the CCN amendment in this application and did not request to intervene.

Ability to Serve: Technical and Managerial – TWC § 13.241(c)(4); 16 TAC § 24.227(a) and (e)(4)

27. County Line's purchases sewer capacity to meet 100% of customer demand from Plum Creek.
28. Plum Creek has an existing water quality discharge permit registered with the TCEQ under WQ-0015635001.
29. County Line has the managerial and technical capability to provide continuous and adequate retail wastewater service to the requested area.

Regionalization or Consolidation – TWC § 13.241(d); 16 TAC § 24.227(b)

30. County Line purchases sewer capacity to meet 100% of customer demand from Plum Creek.

Feasibility of Obtaining Service from an Adjacent Retail Public Utility – TWC § 13.246(c)(5); 16 TAC § 24.227(e)(5)

31. There are no other retail sewer service providers in the adjacent area that can serve the requested area.
32. County Line has received requests for service.

Ability to Serve: Financial Ability and Stability § TWC § 13.246(c)(6); 16 TAC §§ 24.227(a) and (e)(6), 24.11(e)

33. County Line has a debt service ratio greater than 1.25, which meets the one of the five leverage tests.
34. County Line demonstrated it has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations after approval of the CCN amendment; satisfying the operations test.
35. County Line demonstrated the financial ability and stability to pay for the facilities necessary to provide continuous and adequate service to the requested area.
36. Plum Creek will provide capital improvements needed to provide continuous and adequate service to the requested area.

Financial Assurance – TWC § 13.246(d); 16 TAC § 24.227(f)

37. There is no need to require County Line to provide a bond or other financial assurance to ensure continuous and adequate service.

Environmental Integrity and Effect on the Land – TWC § 13.246(c)(7) and (9); 16 TAC § 24.227(e)(7) and (9)

38. There will be a positive environmental impact as sewer service through a centralized wastewater collection system will eliminate the need for individual septic systems on each property.

Improvement in Service or Lowering Cost to Consumers – TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)

39. Wastewater service will improve with the use of a centralized wastewater collection system and elimination of separate septic systems.

Informal Disposition

40. More than 15 days have passed since the completion of the notice provided in this docket.
41. No person filed a protest or motion to intervene.
42. County Line and Commission Staff are the only parties to this proceeding.
43. No party requested a hearing and no hearing is needed.
44. Commission Staff recommended that the application be approved.
45. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over this proceeding under TWC §§ 13.041, 13.241, 13.244, and 13.246.
2. County Line is a retail public utility as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
3. Notice of the application complies with TWC § 13.246 and 16 TAC § 24.235.

4. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,¹ the TWC, and Commission rules.
5. The application meets the requirements set forth TWC §13.244 and 16 TAC § 24.227.
6. After consideration of the factors in TWC § 13.246(c) and 16 TAC § 24.227(e), County Line has demonstrated adequate financial, managerial, and technical capability to provide continuous and adequate service to the requested area as required by TWC § 13.241 and 16 TAC § 24.227.
7. It is not necessary for County Line to provide a bond or other financial assurance under TWC § 13.246(d).
8. County Line has demonstrated that amending sewer CCN number 21119 is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(d).
9. Under TWC § 13.257(r) and (s), County Line must record a certified copy of the approved map and certificate, along with a boundary description of the service area, in the real property records of Hays and Caldwell Counties within 30 days of this Order and must submit evidence of the recording to the Commission.
10. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

¹ Tex. Gov't Code §§ 2001.001-.903.

1. The Commission creates and grants sewer CCN number 21119 to County Line, as described in this Notice of Approval and shown on the attached map.
2. The Commission approves the certificate attached to this Notice of Approval.
3. The Commission approves the map attached to this Notice of Approval.
4. County Line must serve every customer and applicant for service within the approved area under CCN number 21119 who requests sewer service and meets the terms of County Line's sewer service policies, and such service must be continuous and adequate.
5. County Line must comply with the recording requirements in TWC §13.257(r) and (s) for the areas of Hays and Caldwell Counties affected by this application and file in this docket proof of the recording no later than 30 days after the date of this notice of approval.
6. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas on the ____ day of _____, 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE