



Control Number: 51199



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PUC DOCKET NO. 51199



PETITION OF TRINITY BAY §
CONSERVATION DISTRICT AND GULF §
COAST AUTHORITY FOR APPROVAL §
OF SERVICE AREA CONTRACT §
UNDER TEXAS WATER CODE § 13.248 §
AND TO AMEND CERTIFICATES OF §
CONVENIENCE AND NECESSITY IN §
CHAMBERS COUNTY §

BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

JOINT PROPOSED NOTICE OF APPROVAL AND MOTION TO ADMIT EVIDENCE

COMES NOW, the Trinity Bay Conservation District (“TBCD”) and Gulf Coast Authority (“GCA”) (collectively, Petitioners), together with the Staff (Commission Staff) of the Public Utility Commission of Texas (Commission) (collectively, the Parties), and file this Joint Proposed Notice of Approval and Motion to Admit Evidence. In support thereof, the Parties respectfully show as follows:

I. BACKGROUND

1. On July 9, 2020, GCA and TBCD entered into an Agreement Designating Retail Sewer Service Territory (service area contract) whereby they agreed to transfer a portion of the GCA’s CCN located at or near Hankamer, Texas that is east of the Trinity River within the eastern portion of Chambers County (“requested area”).
2. On August 20, 2020, GCA and TBCD filed a petition with the Commission for approval a service area contract and to amend their sewer certificates of convenience and necessity (CCN) in Chambers County under Texas Water Code (TWC) § 13.248 and 16 Texas Administrative Code (TAC) § 24.253. GCA holds CCN No. 20465 and TBCD holds CCN No. 20399.
3. The Petitioners seek approval to alter the boundaries of their respective CCNs and transfer the requested area comprised of approximately 65,875 acres, that is undeveloped by the

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GCA to the TBCD who: a) operates a wastewater facility; and b) provides sewer services to approximately four hundred (400) households and/or businesses in this requested area.

4. On September 23, 2020, the Administrative Law Judge (“ALJ”) issued Order No. 2 in this proceeding, requiring the Parties to file joint proposed findings of fact, conclusions of law, and ordering paragraphs by November 19, 2020. This pleading is therefore timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

The Parties move to admit the following evidence into the record of this proceeding:

1. The petition and all attachments, filed on August 20, 2020 (Interchange Item No. 1);
2. The Petitioners’ supplemental information, filed on September 15, 2020 (Interchange Item No. 3);
3. Commission Staff’s recommendation on administrative completeness, notice, and proposed procedural schedule, filed on September 21, 2020 (Interchange Item No. 4);
4. The Petitioners’ executed consent forms concurring with Commission Staff’s proposed final map and certificates, filed on November 9, 2020 (Interchange Item Nos. 8 and 9) and
5. Commission Staff’s recommendation on final disposition of the petition, filed on December 3, 2020 (Interchange Item No. 10).

III. PROPOSED NOTICE OF APPROVAL

The Parties move for adoption of the attached Joint Proposed Notice of Approval attached hereto as Attachment No. 1, which would grant the petition to approve the service area contract and amend CCN Nos. 20465 and 20399 in Chambers County, Texas. The undersigned has provided a copy of this filing to Commission Staff and to GCA and both have indicated their

support for this filing, as written, as well as approval of the petition and the service area contract.

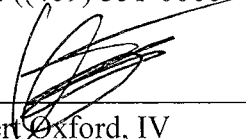
V. CONCLUSION

The Parties respectfully request that the Commission grant this Motion to Admit Evidence and adopt the Joint Proposed Notice of Approval.

Respectfully Submitted,

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By: 
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ATTORNEY FOR TRINITY BAY
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CERTIFICATE OF SERVICE

I certify that a copy of this document was served via email on Dec. 9th, 2020, in accordance with the requirements of 16 Tex. Admin. Code § 22.74, Order No. 1 in Docket No. 51999.

ATTACHMENT 1
JOINT PROPOSED NOTICE OF APPROVAL

PUC DOCKET NO. 51199

**PETITION OF TRINITY BAY
CONSERVATION DISTRICT AND GULF
COAST AUTHORITY FOR APPROVAL
OF SERVICE AREA CONTRACT
UNDER TEXAS WATER CODE § 13.248
AND TO AMEND CERTIFICATES OF
CONVENIENCE AND NECESSITY IN
CHAMBERS COUNTY**

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**BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS**

NOTICE OF APPROVAL

This Notice of Approval addresses the petition of the Trinity Bay Conservation District (“TBCD”) and the Gulf Coast Authority (“GCA”) (collectively, the petitioners) for approval of a service area contract and to amend their sewer certificates of convenience and necessity (CCN) in Chambers County. The petition seeks to transfer approximately 65,875 acres from the service area held under GCA’s sewer CCN number 20465 and undeveloped by the GCA, located at, or near Hankamer, Texas, east of the Trinity River in Chambers County (“requested area”) to the TBCD, CCN number 20366, who operates a wastewater treatment facility and provides sewer service to four hundred (400) residents and businesses in the area. The Commission approves the service area contract and amends sewer CCN numbers 20465 and 20366 accordingly.

I. Findings of Fact

The Commission adopts the following findings of fact and conclusions of law:

Petitioners

1. GCA is a conservation and reclamation district created pursuant to Chapter 409, Acts of the 61st Legislature of Texas, Regular Session, 1969, as amended (originally codified as Article 7621-d-2, Vernon’s Texas Civil Statutes).
2. GCA provides sewer utility service in Chambers County, Harris County, and Galveston County under CCN number 20465.
3. TBCD is a conservation and reclamations district created pursuant to Chapter 282, Acts of

the 51st Legislature of Texas, Regular session, 1949 (Article 8280-135, Vernon's Texas Civil Statutes).

4. TBCD provides retail sewer utility service in the eastern portions of Chambers County (i.e., east of the Trinity River) under CCN number 20399.

Petition

5. On July 9, 2020, the petitioners entered into an agreement to transfer the requested area near Hankamer, Texas, east of the Trinity River in Chambers County, subject to the GCA's sewer CCN number 20465 to TBCD sewer CCN number 20399 (the service area contract).
6. The requested area that is the subject of the service area contract and this transfer request is currently undeveloped by the GCA. Specifically, the GCA does not currently provide sewer service to any landowner or resident within the requested area or own or operate any wastewater treatment facilities to provide sewer service within the requested area.
7. TBCD operates a wastewater treatment facility and provides sewer service to nearly four hundred residents and/or businesses in the requested area. No existing customers' services will change because of this transfer nor will there be a change in sewer rates for existing customers because of this CCN transfer. Furthermore, the service area contract does not transfer assets or facilities between the petitioners.
8. On August 20, 2020, the petitioners filed a petition for approval of a service area contract and to amend their sewer CCNs to reflect the transfer of the requested area.
9. The petitioners seek Commission approval of a service area contract that would allow TBCD to continue to provide sewer utility services to residents and business within the requested area.
10. On September 15, 2020, the petitioners supplemented the petition by filing Exhibit 3-Digital mapping data of the requested area.

11. In Order No. 2 issued on September 23, 2020, the administrative law judge (ALJ) deemed the petition administratively complete.

Certificates and Maps

12. On November 5, 2020, Commission Staff emailed its proposed final map and certificates to the petitioners.
13. On November 9, 2020, the petitioners filed their consent to the proposed final map and respective certificates.
14. On December 3, 2020, Commission Staff filed the proposed final map and certificates as attachments to its final recommendation.

Notice

15. The TBCD's Board of Directors considered and approved the service area contract at an open meeting on June 19, 2020.
16. The President of the Board of Directors, acting with delegated authority, considered and approved the service area contract on July 9, 2020.
17. GCA's Board of Directors considered and approved the service area contract at an open meeting held on July 9, 2020.
18. GCA's General Manager, acting with delegated authority, considered and approved the service area contract on that same day, July 9, 2020.
19. The petition included a copy of the agenda and minutes from the relevant TBCD and GCA open meetings and supporting affidavits from both petitioners.
20. In Order No. 2 filed on September 23, 2020, the ALJ found the notice sufficient.

Evidentiary Record

21. On _____, 2020, the parties filed a joint proposed notice of approval and

motion to admit evidence.

22. In Order No. _____ issued on _____, 2020, the ALJ admitted the following evidence into the record of the proceeding: (a) the petition and all attachments, filed on August 20, 2020; (b) the petitioners' supplemental information, Exhibit 3-Digital mapping data of relevant CCN area, filed on September 15, 2020; (c) Commission Staff's recommendation on administrative completeness, notice, and proposed procedural schedule, filed on September 21, 2020; (d) the petitioners' executed consent forms concurring with Commission Staff's final map and certificates, filed on November 9, 2020; and (e) Commission Staff's recommendation on final disposition of the petition, filed on December 3, 2020.

Informal Disposition

23. More than 15 days have passed since the completion of the notice provided in this docket.
24. No person filed a protest or motion to intervene.
25. Commission Staff, TBCD, and GCA are the only parties to this proceeding.
26. No party requested a hearing and no hearing is necessary.
27. Commission Staff recommended approval of the petition, as supplemented.
28. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over the petition under TWC §§ 13.041 and 13.248.
2. Trinity Bay Conservation District and Gulf Coast Authority are retail public utilities as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. Under TWC § 13.248, contracts between retail public utilities designating area to be served

by those retail public utilities, when approved by the Commission, are valid and enforceable.

4. The petition meets the requirements of 16 TAC § 24.253.
5. Notice of the petition complies with 16 TAC § 24.253(c).
6. The Commission processed the petition in accordance with the requirements of the Administrative Procedure Act,¹ the TWC, and Commission rules.
7. Under TWC § 13.257(r) and (s), the TBCD and GCA are each required to, within 30 days of receiving this Notice of Approval, record a certified copy of its revised certificate and map, along with a boundary description of the service area, in the real property records of each county in which the service area or a portion of the service area is located, and, within 45 days of receiving this Notice of Approval, submit to the Commission evidence of the recording.
8. The requirements for informal disposition under 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. The Commission approves the service area contract between TBCD District and the GCA.
2. The Commission amends GCA sewer CCN number 20465 and TBCD sewer CCN number 20399 as described in this Notice of Approval and shown in the map attached to this Notice of Approval.
3. The Commission approves the map and certificates attached to this Notice of Approval.

¹ Tex. Gov't Code §§ 2001.001-.093.

4. GCA and TBCD must serve every customer and qualified service applicant for service within their respective certificated areas who requests sewer service, and such service shall be continuous and adequate.
5. GCA and TBCD must each, within 31 days of receiving this Notice of Approval, comply with the recording requirements under TWC § 13.257(r) and (s) for the areas in Chambers County affected by the petition and, within 45 days of receiving this Notice of Approval, file evidence of the recording in this docket.
6. The Commission denies all other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas the _____ day of _____, 2020.

**PUBLIC UTILITY COMMISSION OF
TEXAS**

ADMINISTRATIVE LAW JUDGE