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DOCKET NO. 51657

APPLICATION OF THE CITY OF	§	PUBLIC UTILITY COMMISSION
ANNA TO AMEND ITS CERTIFICATE	§	
OF CONVENIENCE AND NECESSITY	§	OF TEXAS
IN COLLIN COUNTY	§	

**COMMISSION STAFF'S RESPONSE TO ORDER NO. 20, RECOMMENDATION ON
SUFFICIENCY OF NOTICE, AND MOTION TO ADMIT EVIDENCE**

On December 28, 2020, the City of Anna (Anna) filed an application to amend its sewer certificate of convenience and necessity number 20898 in Collin County, Texas. The requested service area consists of 105 acres with no current customers.

On May 2, 2024, the administrative law judge (ALJ) filed Order No. 20, requiring the Staff (Staff) of the Public Utility Commission of Texas (Commission) and Anna to provide the requested clarifications, corrections, additional filings, and request admission of these filings into evidence in this proceeding, if appropriate by May 9, 2024. Therefore, this pleading is timely filed.

I. RESPONSE TO ORDER NO. 20

Staff has reviewed Ms. Jolie Mathis' memo attached to Commission Staff's final recommendation filed on January 5, 2024. Staff has attached a corrected memo to correct sections 3.4 and 3.7.

II. RECOMMENDATION ON SUFFICIENCY OF NOTICE

Staff has reviewed Anna's supplemental proof of notice and recommends that it is sufficient. The proof of notice includes the affidavit of Todd Strouse the representative for the Applicant, and attests that notice was provided to John Rattan, the landowner for the requested area on May 8, 2024. Attached to the affidavit was a copy of the notice and map that was sent to John Rattan.

III. MOTION TO ADMIT EVIDENCE

Staff respectfully requests that the ALJ admit the following into evidence:

- (a) Commission Staff's Final Recommendation filed on January 5, 2024;
- (b) Anna's proof of notice to John Rattan filed on May 8, 2024;
- (c) Commission Staff's Response to Order No. 20, Recommendation on Sufficiency of Notice, and Motion to Admit Evidence filed on May 9, 2024; and
- (d) The attached corrected final recommendation memo.

IV. CONCLUSION

For the reasons detailed above, Staff recommends an order consistent with the foregoing.

Date: May 9, 2024

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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/s/ Arnett D. Caviel
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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document will be provided to all parties of record via electronic mail on May 9, 2024, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Arnett D. Caviel
Arnett D. Caviel

Public Utility Commission of Texas

Memorandum

TO: Arnett Caviel, Attorney
Legal Division

FROM: Jolie Mathis, Utility Engineering Specialist
Infrastructure Division

DATE: May 9, 2024

RE: Docket No. 51657 – *Application of the City of Anna to Amend its Certificate of Convenience and Necessity in Collin County*

1. Application

The City of Anna (Anna) filed with the Public Utility Commission of Texas (Commission) an application to amend its sewer certificate of convenience and necessity (CCN) No. 20898 in Collin County, Texas under Texas Water Code (TWC) §§ 13.242 to 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237.

Based on the mapping review by Gary Horton, Infrastructure Division:

- Anna is seeking to amend a sewer CCN for the service area containing 0 current customers and approximately 105 acres, comprised of 105 acres of uncertificated area.
- The application proposes the addition of approximately 105 acres to CCN No. 20898.

2. Notice

Affidavits were provided affirming that notices were submitted to customers, cities, districts, neighboring retail public utilities, the county judge, groundwater conservation districts, and that there is one landowner in the requested area. The landowner requested service from Anna. A map indicating the location of the landowner's three properties was also provided.¹

The deadline to intervene was July 21, 2021, there were no motions to intervene, protests, or opt-out requests received.

3. Factors Considered

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

¹ Response to Staff 1-2 (Mar. 24, 2021).

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)).*

There are no customers in the requested area.

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

Anna received a request for sewer service from the property owner of the entire requested area. There is currently no sewer service in the requested area.

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)).*

Anna 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 in the area will have a sewer provider available when they need to request sewer service.

There will be no effect on any retail public utility servicing the proximate area. All retail public utilities in the proximate area 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)).*

TCEQ rule, 30 TAC § 30.331(b), Wastewater Operators and Operations Companies, requires the operators of a domestic wastewater treatment facility to have a valid license issued by the TCEQ executive director. Anna will have qualified TCEQ licensed operators licensed in wastewater treatment to run the acquired systems.

Anna will have licensed operators to run the system operations. Class B, C, and D operators will be responsible for the system.

Anna has two Texas Commission on Environmental Quality (TCEQ) approved public wastewater treatment plants (WWTP) registered as Slayer Creek WWTP, Wastewater Discharge Permit No. WQ0011283001 and Collin County Adventure Camp WWTP Wastewater Discharge Permit No. WQ0014486001. Anna does not have any violations listed in the TCEQ database. In addition, the Commission's complaint records, which go back five years, show no complaints against Anna.

Anna has submitted a TCEQ approval letter for the Texas Pollutant Discharge Elimination System (TPDES) permit No. WQ0016043001 – Hurricane Creek Regional Wastewater Treatment Plant which will provide service to the requested area.

- 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)).*

TCEQ has approved Anna's TPDES permit No. WQ0016043001 – Hurricane Creek Regional Wastewater Treatment Plant to serve future customers and will have sufficient capacity to serve the area. Regionalization or consolidation with another retail public utility is not economically feasible.

- 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)).*

The requested area will receive service through from Anna's approved TPDES permit No. WQ0016043001 – Hurricane Creek Regional Wastewater Treatment Plant.

- 3.7. *An application for a certificate of public convenience and necessity or for an amendment to a certificate must contain: a capital improvements plan, including a budget and estimated timeline for construction of all facilities necessary to provide full service to the entire proposed service area (TWC § 13.244(d)(3)).*

Anna is building a new sewer treatment plant to provide service to the requested area. Anna provided a budget, an estimated timeline for construction, and a keyed map showing where facilities will be located. Estimated costs to build a new sewer system is expected to exceed \$100,000, therefore the need for firm capital commitment under 16 TAC § 24.11(e)(5) is required.

The Rate Regulation Division will be addressing the need for firm capital commitment criterion in a separate memo.

- 3.8. *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)).*

The Rate Regulation Division will be addressing this criterion in a separate memo.

- 3.9. *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)).*

The Rate Regulation Division will be addressing this criterion in a separate memo.

- 3.10. *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)).*

Adding the proposed area to the sewer CCN is not expected to have any adverse effect on the environmental integrity of the land.

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

There are no customers or sewer service available in the requested area, however, the landowner has requested sewer service.

4. Recommendation

Based on the mapping review by Gary Horton, Infrastructure Division, the financial and managerial review by Fred Bednarski, Rate Regulation Division, and my technical and managerial review, I recommend that Anna meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations, is capable of providing continuous and adequate service. I further recommend that approving this application to amend a sewer CCN No. 20898 is necessary for the service, accommodation, convenience and safety of the public.