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DOCKET NO. 51801

**APPLICATION OF THE CITY OF § PUBLIC UTILITY COMMISSION
SCHERTZ TO AMEND ITS SEWER §
CERTIFICATE OF CONVENIENCE § OF TEXAS
AND NECESSITY IN COMAL COUNTY §**

COMMISSION STAFF’S FINAL RECOMMENDATION

On February 8, 2021, the City of Schertz (Schertz) filed an application to amend its sewer Certificate of Convenience and Necessity (CCN) No. 20271 in Comal County, Texas under Texas Water Code (TWC) §§ 13.242-13.250 and 16 Texas Administrative Code (TAC) §§ 24.225-24.237.

On September 15, 2021, the administrative law judge (ALJ) filed Order No. 7, ordering the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a final recommendation on the application by November 5, 2021. Therefore, this pleading is timely filed.

I. FINAL RECOMMENDATION

Staff has reviewed the application and supplemental information and as supported by the attached memoranda of Patricia Garcia, Infrastructure Division, and Fred Bednarski, Rate Regulation Division, recommends approval of the application. Staff’s review indicates that Schertz meets the applicable technical, managerial, and financial requirements of Chapter 13 of the Texas Water Code and Title 16, Chapter 24 of the Texas Administrative Code and, therefore, is capable of providing continuous and adequate service. Additionally, Staff’s review suggests that approval of the application is necessary for the service, accommodation, convenience, and safety of the public.

II. CONCLUSION

For the reasons discussed above, Staff respectfully requests that Schertz’s application be approved.

Dated: November 5, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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/s/ Robert Dakota Parish
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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 on November 5, 2021 in accordance with the Order Suspending Rules filed in Project No. 50664.

/s/ Robert Dakota Parish
Robert Dakota Parish

Public Utility Commission of Texas

Memorandum

TO: Robert Parish, Attorney
Legal Division

FROM: Patricia Garcia, Senior Engineering Specialist
Infrastructure Division

DATE: November 5, 2021

RE: Docket No. 51801 – *Application of the City of Schertz to Amend its Sewer Certificate of Convenience and Necessity in Comal County*

1. Application

On February 8, 2021, the City of Schertz (Schertz) filed with the Public Utility Commission of Texas (Commission) an application to amend its sewer CCN No. 20271 in Comal County, Texas under Texas Water Code (TWC) §§ 13.242 through 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 through 24.237. The requested area includes approximately 150 acres, comprised of 150 acres of uncertificated area.

The application proposes the addition of approximately 150 acres to CCN No. 20271.

2. Notice

The deadline to intervene was July 28, 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.

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)).*

There is a need for service as the area is being developed and will need sewer service. Additionally, based on information provided in response to Staff's second request for information (RFI) the area has been annexed into the city limits.

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)).*

Schertz 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 currently have water service available from the City of Selma. The approval of this application will give the landowners 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)).*

Schertz purchases sewer service from Cibolo Creek Municipal Authority (Cibolo Creek). Cibolo Creek has a Texas Commission on Environmental Quality (TCEQ) approved wastewater treatment plant registered as Odo J Riedel Regional Water Reclamation Plant, Wastewater Discharge Permit No. WQ-00112690001. Cibolo Creek does not have any violations listed in the TCEQ database. Schertz will need to install collection lines to provide sewer service, but no additional construction will be required to serve the requested area. The Commission's complaint records, which go back to 2014, show 5 complaints against Schertz. The complaints were regarding city billing, which is not overseen by the Commission, therefore each of these customers was sent a non-jurisdictional complaint letter and referred back to Schertz.

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 requested area is inside Schertz's city limits. Therefore, concerns of regionalization or consolidation do not apply.

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)).*

Schertz indicated that the requested area is in development and inside the city limits. Therefore, it is not feasible to obtain service from an adjacent retail public utility.

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)).*

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

- 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)).*

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

- 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)).*

The environmental integrity of the land will be minimally affected as collection lines are installed to provide sewer service to the requested area.

- 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)).*

Future residents of the planned development will have sewer service available.

4. Recommendation

Based on the mapping review by Gary Horton, Infrastructure Division, and my technical and managerial review, I recommend that Schertz 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 this application to amend a sewer CCN No. 20271 is necessary for the service, accommodation, convenience and safety of the public.

Schertz consented to the attached map and certificate on October 18, 2021.

Public Utility Commission of Texas

Memorandum

TO: Robert Parish, Attorney
Legal Division

FROM: Fred Bednarski III, Financial Analyst
Rate Regulation Division

DATE: November 5, 2021

RE: Docket No. 51801 - *Application of the City of Schertz to Amend its Sewer Certificate of Convenience and Necessity in Comal County*

On February 8, 2021, the City of Schertz (Schertz) filed an application to add approximately 150 acres to its certificate of convenience and necessity (CCN) No. 20271 to provide sewer service in Comal County.

I recommend that Schertz demonstrates the financial and managerial capability needed to provide continuous and adequate service to the area subject to this application. My conclusions are based on information provided by Schertz before the date of this memorandum and may not reflect any changes in Schertz's status after this review.

Ability to serve: financial ability and stability (Texas Water Code (TWC) §§ 13.241(a) and 13.246(c)(6))

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 Texas Administrative Code (TAC) § 24.11. Schertz 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

My analysis is based on financial statements ending September 30, 2019. Schertz's 2019 financial statements report long-term debt of \$21,604,103 and equity of \$114,757,721. The debt-to-equity ratio is 0.19. Because the ratio is less than 1.0, Schertz meets the leverage test specified in 16 TAC § 24.11(e)(2)(A).

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).

Schertz's financial statements include \$4,972,125 in net income and a cash and cash equivalents balance of \$2,061,479 that indicate Schertz will have sufficient cash to cover projected shortages.

Schertz has installed sewer mains adjacent to the requested area to serve the property. Any additional capital improvements needed to provide continuous and adequate service to the requested area will be paid for by the developer or property owner. Sufficient cash and net operating income available to cover possible future shortages provide an indication of financial stability and financial and managerial capability. Therefore, Schertz meets the operations test specified in 16 TAC § 24.11(e)(3).

Financial assurance (TWC § 13.246(d))

Because Schertz meets the financial tests, I do not recommend that the Commission require additional financial assurance.