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Received - 2021-09-10 02:38:53 PM
Control Number - 51870
ItemNumber - 125

DOCKET NO. 51870

APPLICATION OF FOREST GLEN	§	BEFORE THE
UTILITY COMPANY TO AMEND A	§	
SEWER CERTIFICATE OF	§	PUBLIC UTILITY COMMISSION
CONVENIENCE AND NECESSITY IN	§	
MEDINA COUNTY	§	OF TEXAS

**JOINT MOTION TO ADMIT EVIDENCE AND
PROPOSED NOTICE OF APPROVAL**

TO THE HONORABLE COMMISSION:

COMES NOW, the Staff of the Public Utility Commission of Texas (Commission Staff) and Forest Glen Utility Company (Forest Glen) (collectively, the Parties) and files this Joint Motion to Admit Evidence and Proposed Notice of Approval and, in support thereof, would respectfully show the following.

I. BACKGROUND

On March 4, 2021, Forest Glen filed an application to amend sewer certificate of convenience and necessity (“CCN”) No. 21070 in Medina County. The requested area to be added to the CCN consists of approximately 185 acres and contains zero customers. Forest Glen has received a request for service from a landowner. Order No. 8, issued August 17, 2021, directed the Parties to file a joint proposed findings of fact and conclusions of law by September 20, 2021. Therefore, this pleading is timely filed.

II. MOTION TO ADMIT EVIDENCE

The Parties request the entry of the following items into the record of this proceeding: (a) Forest Glen’s application filed on March 4, 2021 (AIS Item No. 1); (b) Forest Glen’s revised digital mapping information filed on June 8, 2021 (AIS Item No. 112); (c) letter from Forest Glen’s General Manager correcting responses in the application filed July 8, 2021 (AIS Item No. 118); (d) Forest Glen’s proof of notice filed on May 6, 2021 (AIS Item No. 68); (e) Forest Glen’s Response to Commission Staff’s First Request for Information filed on May 4, 2021 (AIS Item No. 12); (f) Forest Glen’s Supplemental Responses to Commission Staff’s First Request for Information filed on May 17, 2021 and June 2, 2021 (AIS Item Nos. 100 and 106); (g) Forest

Glen's consent to tariff form filed on August 25, 2021 (AIS Item No. 122); and, (o) Commission Staff's Final Recommendation and attachments, filed on August 27, 2021 (AIS Item Nos. 123 and 124).

III. JOINT PROPOSED NOTICE OF APPROVAL

The Parties have agreed on the attached Proposed Notice of Approval, which would grant Forest Glen's application to amend sewer CCN No. 21070. The Parties request that the Commission adopt the findings of fact, conclusions of law, and ordering paragraphs from the Notice of Approval.

IV. CONCLUSION

The Parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the attached Proposed Notice of Approval be adopted.

Dated: September 10, 2021

Respectfully Submitted,


PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

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**ATTORNEYS FOR FOREST GLEN UTILITY
COMPANY**

DOCKET NO. 51870

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 September 10, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Kevin R. Bartz
Kevin R. Bartz

DOCKET NO. 51870

APPLICATION OF WINDY HILL	§	BEFORE THE
UTILITY CO. LLC TO AMEND A	§	
SEWER CERTIFICATE OF	§	PUBLIC UTILITY COMMISSION
CONVENIENCE AND NECESSITY IN	§	
HAYS COUNTY	§	OF TEXAS

PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of Forest Glen Utility Company (“Forest Glen”) to amend its sewer certificate of convenience and necessity (CCN) number 21070 to add approximately 185 acres in its sewer service area in Medina County. The application is approved, and the requested area is added to sewer CCN number 21070.

I. Findings of Fact

The Commission makes the following findings of fact:

Applicant

1. Forest Glen is a Texas corporation and investor-owned utility that is registered with the Texas Secretary of State under file number 0030347100.
2. Forest Glen operates, maintains, and controls facilities that provide sewer service under CCN number 21070 in Medina County.

Application

3. On March 4, 2021, Forest Glen filed an application to amend its sewer CCN number 21101 in Medina County.
4. The application requested the addition of 185 acres to Forest Glen’s service area, which is located approximately 5.2 miles northeast of downtown Castroville, Texas and is generally bounded on the north by Farm-to-Market Road 1957 (“Potranco Road”); on the east by the intersection of Farm-to-Market Road 1957 and County Road 388; on the south by a line 1.3 miles south of and parallel to Farm-to-Market Road 1957; and on the west by Barden Parkway.
5. Forest Glen supplemented the application on June 8, 2021 and July 8, 2021.
6. In Order No. 2 filed on April 6, 2021, the administrative law judge (ALJ) found the application administratively complete.

Notice

7. On May 6, 2021, Forest Glen filed the affidavit of Mia Natalino, P.E., Forest Glen's authorized representative, attesting that notice was mailed to neighboring utilities, county authorities, municipalities, and affected parties on April 15, 2021.
8. On May 6, 2021, Forest Glen filed the affidavit of Mia Natalino attesting to publication of notice in the *Hondo Anvil Herald*, a newspaper of general circulation in Medina County, on April 22 and April 29, 2021.
9. In Order No. 5 filed on June 14, 2021, the ALJ found the notice sufficient.

Map and Certificate

10. On July 27, 2021, Commission Staff emailed its proposed map and certificate to Forest Glen.
11. On August 25, 2021, Forest Glen filed its consent to the proposed map and certificate.
12. On August 30, 2021, Commission Staff filed the proposed map and certificate as an attachment to its final recommendation.

Evidentiary Record

13. On September 10, 2021, the parties filed an agreed motion to admit evidence and proposed notice of approval.
14. In Order No. 9 issued on _____, 2021, the ALJ Admitted the following into evidence: (a) Forest Glen's application filed on March 4, 2021; (b) Forest Glen's revised digital mapping information filed on June 8, 2021; (c) letter from Forest Glen's General Manager correcting responses in the application filed July 8, 2021; (d) Forest Glen's proof of notice filed on May 6, 2021; (e) Forest Glen's Response to Commission Staff's First Request for Information filed on May 4, 2021; (f) Forest Glen's Supplemental Responses to Commission Staff's First Request for Information filed on May 17, 2021 and June 2, 2021; (g) Forest Glen's consent to tariff form filed on August 25, 2021; and, (o) Commission Staff's Final Recommendation and attachments, filed on August 27, 2021.

Adequacy of Existing Service—TWC § 13.246(c)(1), 16 TAC § 24.227(d)(1)

15. There are zero existing connections in the requested area currently served by Forest Glen's wastewater treatment plant.

Need for Additional Service—TWC § 13.246(c)(2), 16 TAC § 24.227(d)(2)

16. Forest Glen has received requests for service from current landowners within the requested area.
17. The expansion of the CCN area will facilitate the provision of sewer service to 388 new connections on 185 additional acres in Potranco Oaks, Potranco Garden, and a future residential development associated with the Potranco Ranch Subdivision.

Effect of Granting the Amendment—TWC § 13.246(c)(3), 16 TAC § 24.227(d)(3)

18. There are no other retail public utilities serving the requested area.
19. No other retail public utility is located within 1 mile of the development.
20. The City of Castroville is 6 miles from the development and lacks the capacity to serve.
21. The San Antonio Water System has facilities in Bexar County 1.35 miles from the site but will not serve in Medina County and has previously declined requests for service when Forest Glen requested initial authorization.

Ability to Serve: Managerial and Technical—TWC §§ 13.241(a), 13.246(c)(4); 16 TAC § 24.227(a), (d)(4)

22. Forest Glen has authority to discharge treated domestic effluent under Texas Pollutant Discharge Elimination System Permit No. WQ0015030001 issued by the Texas Commission on Environmental Quality (TCEQ) with a final capacity of 0.24 million gallons per day.
23. Forest Glen's sewer system is operated and maintained by two individuals who hold a Class B and C Operator's Licenses issued by the TCEQ.
24. No additional construction is necessary for Forest Glen to serve the requested area.
25. The Commission's complaint records show no complaints against Forest Glen for the past three years.
26. Forest Glen has the managerial and technical capability to provide continuous and adequate service to the requested area.

Service from Other Utilities—TWC § 13.246(c)(5); 16 TAC § 24.227(d)(5)

27. Forest Glen is currently serving customers in the requested area, has facilities in the requested area to serve any future customers, and has sufficient capacity.
28. It is not feasible to obtain service from an adjacent retail public utility.

Regionalization or Consolidation—TWC § 13.241(d), 16 TAC § 24.227(b)

29. Forest Glen will provide service to the adjacent property with an existing sewer treatment plant authorized by a TPDES permit issued by the TCEQ and recently amended to accommodate future growth.
30. Forest Glen does not need to construct a physically separate sewer system to serve the requested area.
31. The concerns of regionalization or consolidation do not apply.

Ability to Serve: Financial Ability and Stability—TWC §§ 13.241(a), 13.246(c)(6), 16 TAC §§ 24.11(e), 24.227(a), (d)(6)

32. Forest Glen has a debt service coverage ratio of less than 1.0, which meets two of the five leverage tests.
33. Forest Glen's financial projections show there will be no cash shortages to cover, and has the leverage capability to raise funds for any required capital improvements.
34. Forest Glen has the financial ability and financial stability to pay for the facilities necessary to provide continuous and adequate service to the requested area.

Financial Assurance—TWC § 13.246(d), 16 TAC § 24.227(e)

35. There is no need to require Forest Glen to provide a bond or other financial assurance to ensure continuous and adequate service.

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

36. Developing the requested area for residential use will have minimal effect on the land.
37. Amending Forest Glen's CCN with the requested area will protect the environmental integrity of the land by eliminating the need for the construction of additional onsite wastewater treatment facilities in the requested area.

Improvement in Service and Lowering of Cost—TWC § 13.246(c)(8); 16 TAC § 4.227(d)(8)

38. Forest Glen will continue to provide sewer service to existing customers in the area with no change to the cost to customers.

Informal Disposition

- 39. More than 15 days have passed since the completion of notice provided in this docket.
- 40. The parties that protested the application and filed motions to intervene have withdrawn their opposition.
- 41. Forest Glen and Commission Staff are the only parties to this proceeding.
- 42. All hearing requests have been withdrawn or denied and no hearing is needed.
- 43. Commission Staff recommended that the application be approved.
- 44. 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 §§13.241, 13.244, and 13.246.
- 2. Forest Glen is a retail public utility as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
- 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. Forest Glen possesses the financial, managerial, and technical capability to provide continuous and adequate service to the requested service area and its current service area in Medina County as required by TWC § 13.241(a) and 16 TAC § 24.227.
- 6. The amendment to CCN number 21070 is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(c).
- 7. It is not necessary for Forest Glen to provide a bond or other financial assurance under TWC 13.246(d) and 16 TAC § 24.227(f).

¹ Tex. Gov't Code § 2001.

8. Forest Glen must record a certified copy of the approved map for the certificate amendment, along with a boundary description of the service area, in the real property records of Medina County within 30 days of receiving this Notice of Approval and submit to the Commission evidence of the recording in accordance with TWC §§ 13.257(r) and (s).
9. 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. The Commission amends Forest Glen's sewer CCN number 21070 as described in this Notice of Approval and shown on the attached map.
2. The Commission grants the certificate attached to this Notice of Approval.
3. Forest Glen must serve every customer and applicant for service within the approved area under CCN number 21070 who requests sewer service and meets the terms of Forest Glen's sewer service, and such service must be continuous and adequate.
4. Forest Glen must comply with the recording requirements in TWC §§ 13.257(r) and (s) for the areas in Medina County affected by this application.
5. Forest Glen must file in this docket proof of the recording required in ordering paragraph four no later than 45 days after the date this Notice of Approval is signed.
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 the _____ day of _____ 2021.

ADMINISTRATIVE LAW JUDGE