



Filing Receipt

Received - 2021-11-15 10:25:39 AM

Control Number - 52132

ItemNumber - 17

DOCKET NO. 52132

APPLICATION OF LUMBERTON	§	PUBLIC UTILITY COMMISSION
MUNICIPAL UTILITY DISTRICT TO	§	
AMEND ITS CERTIFICATES OF	§	OF TEXAS
CONVENIENCE AND NECESSITY IN	§	
HARDIN COUNTY	§	

COMMISSION STAFF’S SUPPLEMENTAL RECOMMENDATION ON SUFFICIENCY OF NOTICE AND PROPOSED PROCEDURAL SCHEDULE

On May 17, 2021, Lumberton Municipal Utility District (Lumberton MUD) filed an application to amend its water Certificate of Convenience and Necessity (CCN) No. 10929 in Hardin County. On June 2, 2021, Lumberton MUD filed an amended application.¹ On July 21, 2021, Lumberton MUD filed supplemental information and requested to amend its sewer CCN No. 20367. On July 22, 2021, Lumberton MUD filed supplemental mapping information. On October 5, 2021, October 13, 2021, and November 4, 2021, Lumberton MUD filed its proof of notice.

On October 18, 2021, the administrative law judge (ALJ) filed Order No. 4, establishing a deadline of November 15, 2021 for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a supplemental recommendation on the sufficiency of notice and to propose a procedural schedule. Therefore, this pleading is timely filed.

I. SUFFICIENCY OF NOTICE

Lumberton MUD filed an Affidavit of Notice to Current Customers, Landowners, Neighboring Utilities, and Affected Parties on November 5, 2021, indicating that notice was sent on September 23, 2021 and October 22, 2021. Lumberton MUD also included a list of the individuals and entities to whom notice was provided on October 22, 2021 and copies of those notices, each of which included a map that was deemed sufficient during administrative review. Further, Lumberton MUD also included copies of amended notices that were sent on October 27, 2021 to affected landowners, to amend the notices sent on September 23, 2021 with a copy of the sufficient map. Lastly, Lumberton MUD filed the affidavit within 30 days of providing the notices and amended notices. Staff has reviewed the proof of individual notice and recommends that

¹ Order No. 1 required Lumberton MUD to file a revised application because they initially used the form to amend an electric CCN’s service area boundary.

Lumberton MUD provided individual notice in accordance with Staff's recommendations on proposed notice filed on August 25, 2021. As such, Staff recommends that individual notice be found sufficient under 16 Texas Administrative Code (TAC) § 24.235(b).

As for published notice, Staff previously recommended that Lumberton MUD publish notice of the application once each week for two consecutive weeks in a newspaper of general circulation in Hardin County, in accordance with 16 TAC § 24.235(c), which requires that notice be published in the same county where the CCN amendment is being requested. On October 5, 2021 and October 13, 2021, respectively, Lumberton MUD filed the newspaper tear sheets and an Affidavit of Publication to prove that it published notice in a newspaper of general circulation in Jefferson County through the *Beaumont Enterprise* on September 25, 2021 and October 2, 2021. As such, the affidavit was filed within 30 days of the last publication date, but notice was not published in the required county. On November 5, 2021, Lumberton MUD requested a good cause exception to the requirement that notice be published in Hardin County. To support its request, Lumberton MUD included a resolution, adopted on August 16, 2021, in which Lumberton MUD designated the *Beaumont Enterprise* as its newspaper of general circulation. Lumberton MUD also argued that the *Beaumont Enterprise* is the largest newspaper in the area and that numerous Hardin County residents receive the newspaper. Staff has reviewed the proof of published notice and Lumberton MUD's arguments for a good a cause exception and is not opposed to Lumberton MUD's request. As such, Staff recommends that published notice be found sufficient under 16 TAC § 24.235(c) and that Lumberton MUD's good cause exception be granted with respect to the requirement that notice be published in Hardin County, the county in which the CCN amendment is being requested.

II. PROPOSED PROCEDURAL SCHEDULE

In accordance with Staff's recommendation that notice be found sufficient and that Lumberton MUD's request for a good cause exception on published notice be granted, Staff proposes the following procedural schedule:

Event	Date
Notice Completed	October 27, 2021
Deadline for Intervention	November 26, 2021
Deadline for Staff to file final maps, certificates, and tariffs (if applicable) to Lumberton MUD for review and consent	December 15, 2021
Deadline for Lumberton MUD to file signed consent forms with the Commission	December 29, 2021
If no hearing is requested, deadline for Staff to file a final recommendation on the application	January 12, 2021
If no hearing is requested, deadline for parties to file joint proposed findings of fact, conclusions of law, and ordering paragraphs	January 19, 2021

III. CONCLUSION

For the reasons detailed above, Staff recommends that notice be found sufficient, that Lumberton MUD’s request for a good cause exception on published notice be granted, and that the proposed procedural schedule be adopted. Staff respectfully requests the entry of an order consistent with these recommendations.

Dated: November 15, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

Rustin Tawater
Managing Attorney

/s/ Scott Miles
Scott Miles
State Bar No. 24098103
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7228
(512) 936-7268 (facsimile)
Scott.Miles@puc.texas.gov

DOCKET NO. 52132

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

/s/ Scott Miles
Scott Miles