



## Filing Receipt

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**DOCKET NO. 52132**

<b>APPLICATION OF LUMBERTON</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>MUNICIPAL UTILITY DISTRICT TO</b>	<b>§</b>	
<b>AMEND ITS CERTIFICATE OF</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CONVENIENCE AND NECESSITY IN</b>	<b>§</b>	
<b>HARDIN COUNTY</b>	<b>§</b>	

**COMMISSION STAFF’S SUPPLEMENTAL RECOMMENDATION ON ADMINISTRATIVE COMPLETENESS AND 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.<sup>1</sup> On July 21, 2021, Lumberton MUD filed supplemental information and requested to amend its sewer CCN No. 20367 as well. On July 22, 2021, Lumberton MUD filed supplemental mapping information.

On July 2, 2021, the administrative law judge (ALJ) filed Order No. 2 establishing a deadline of August 25, 2021 for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a supplemental recommendation regarding the administrative completeness of the application and proposed notice and to propose a procedural schedule for the further processing of this docket. Therefore, this pleading is timely filed.

**I. ADMINISTRATIVE COMPLETENESS**

Staff has reviewed the amended application and supplemental information and, as detailed in the attached memoranda from Jolie Mathis, Infrastructure Division, and Fred Bednarski, Rate Regulation Division, recommends that the application is administratively complete. Staff’s recommendation on administrative completeness is not a comment on the merits of the application.

**I. NOTICE**

As detailed in the attached memorandum of Ms. Mathis, Staff recommends that Lumberton MUD proceed with providing public notice of its application. Specifically, Staff recommends that Lumberton MUD used the attached form titled *Notice to Neighboring Systems, Landowners,*

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<sup>1</sup> 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.

*Customers, and Cities* to provide individual notice to all landowners, neighboring utilities, political subdivisions, and other persons listed in Ms. Mathis’ memorandum. Along with each individual notice, Staff recommends that Lumberton MUD provide an accurate map delineating the requested service area. Staff further recommends that Lumberton MUD use the attached form titled *Notice for Publication* to publish notice of the application once each week for two consecutive weeks in a newspaper of general circulation in Hardin County.

Once notice has been provided, Staff recommends that Lumberton MUD file proof of notice, as detailed in Ms. Mathis’ attached memorandum, specifying the name and address of every person and entity to whom notice was provided, the date that it was provided, and a copy of the map provided with the notice, as well as a copy of the newspaper tear sheets demonstrating publication. Finally, Staff recommends that Lumberton MUD file proof of notice using the attached forms titled *Affidavit of Notice to Current Customers, Landowners, Neighboring Utilities, and Affected Parties* and *Publisher's Affidavit*.

## II. PROCEDURAL SCHEDULE

Staff recommends the application be found administratively complete. Staff therefore proposes the following procedural schedule:

Event	Date
Deadline for Lumberton MUD to file with the Commission signed affidavits that notice was given, along with a copy of the notice and map sent to the affected parties and published in a newspaper of general circulation	October 5, 2021
Deadline for Staff to file a recommendation on sufficiency of notice	October 15, 2021
Deadline to intervene	30 days after notice is issued

## III. CONCLUSION

For the reasons detailed above, Staff recommends that the application be found administratively complete, that Lumberton MUD be directed to provide notice as described in Ms. Mathis’ attached memorandum, and that the proposed procedural schedule be adopted. Staff respectfully requests the entry of an order consistent with these recommendations.

Dated: August 25, 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 August 25, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Scott Miles  
Scott Miles

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Scott Miles, Attorney  
Legal Division

**FROM:** Jolie Mathis, Utility Engineering Specialist  
Infrastructure Division

**DATE:** August 25, 2021

**RE:** Docket No. 52132 – *Application of Lumberton Municipal Utility District to Amend its Certificate of Convenience and Necessity in Hardin County*

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On May 17, 2021, Lumberton Municipal Utility District (Lumberton MUD) filed with the Public Utility Commission of Texas (Commission) an application to amend its water Certificate of Convenience and Necessity (CCN) No. 10929 in Hardin County, Texas under Texas Water Code (TWC) §§ 13.242 to 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237. On June 2, 2021, Lumberton MUD filed an amended application.<sup>1</sup> On July 21, 2021, Lumberton MUD filed supplemental information and requested an amendment to its sewer CCN No. 20367 as well. The requested area includes 11 current customers and approximately 89 acres of uncertificated area. The application proposes the addition of approximately 89 acres to Lumberton MUD (CCN Nos. 10929 and 20367).

Based on the mapping review by Tracy Montes, Infrastructure Division, the revised maps and digital data submitted on July 22, 2021 are sufficient. Based on my technical and managerial review of the additional information filed by Lumberton MUD on July 21, 2021, I recommend that the application be deemed administratively complete. I further recommend that Lumberton MUD be ordered to do the following:

- 1) Provide notice of the application by first-class mail to the following:
  - a. Cities, districts, and neighboring retail public utilities providing the same utility service whose corporate boundaries or certificated service area are located within two miles from the outer boundary of the requested area:
    - *City of Lumberton*
    - *Water Necessities Inc (CCN No. 12243)*
    - *Lower Neches Valley Authority*

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<sup>1</sup> 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.

- b. The county judge of each county that is wholly or partially included in the requested area:
  - *Hardin County Judge.*
- c. Each groundwater conservation district that is wholly or partially included in the requested area:
  - *Southeast Texas Groundwater Conservation District List*
- d. Each landowner of a tract of land that is at least 25 acres and is wholly or partly located in the requested area. Notice must be mailed to the owner of the tract of land according to the most current tax appraisal rolls of the applicable central appraisal district at the time the application was filed.
- e. Any affected customers, and other affected parties in the requested area.

Addresses can be obtained by Lumberton MUD from the Water Utility Database at <http://www.puc.texas.gov/watersearch>. District information and addresses can be obtained from the Texas Commission on Environmental Quality's (TCEQ) web site located at <http://www14.tceq.texas.gov/iwud/>.

- 2) Publish notice once each week for two consecutive weeks in a newspaper having general circulation in the county where the requested area is located. Proof in the form of a publisher's affidavit must be filed within 30 days of the publication date. The affidavit must state with specificity each county in which the newspaper is of general circulation. Within 30 days of the date the notice was mailed, Lumberton MUD must file an affidavit specifying the notice that was provided to every person and entity to whom notice was provided and the date the notice was mailed.
- 3) Provide notice using the attached notice forms.
- 4) Provide a copy of the map(s) deemed sufficient during administrative review delineating the requested area with each individual notice to neighboring utilities, other affected parties, landowners and customers.
- 5) File in the docket a copy of notice and the map(s) deemed sufficient during administrative review along with the signed affidavit specifying every person and entity to whom notice was provided, the date that the notice was provided, and the publisher's affidavit and tear sheets for proof of newspaper publication.

Staff may determine that additional information is needed to make a final recommendation in this docket. If additional information is needed, Staff may send requests for information (RFI) to Lumberton MUD. Lumberton MUD will have 20 days from the receipt of the RFI to respond.

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Scott Miles, Attorney  
Legal Division

**FROM:** Fred Bednarski III, Financial Analyst  
Rate Regulation Division

**DATE:** August 25, 2021

**RE:** Docket No. 52132 – *Application of Lumberton Municipal Utility District to Amend Its Certificate of Convenience and Necessity in Hardin County*

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On May 17, 2021, Lumberton Municipal Utility District (Lumberton MUD) filed with the Public Utility Commission of Texas (Commission) an application to amend its water Certificate of Convenience and Necessity (CCN) No. 10929 in Hardin County, Texas under Texas Water Code (TWC) §§ 13.242 to 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237. On June 2, 2021, Lumberton MUD filed an amended application.<sup>1</sup> On July 21, 2021, Lumberton MUD filed supplemental information and requested an amendment to its sewer CCN No. 20367 as well.

I reviewed the answers provided to questions 30 and 31 of the application. I did not identify any deficiencies in those answers for purposes of determining whether the application is administratively complete. Therefore, I recommend that the Commission deem the application administratively complete from a financial perspective.

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<sup>1</sup> 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.

***Notice for Publication***

**NOTICE OF APPLICATION OF LUMBERTON MUNICIPAL UTILITY DISTRICT TO  
AMEND ITS CERTIFICATES OF CONVENIENCE AND NECESSITY TO PROVIDE  
WATER AND SEWER UTILITY SERVICES IN HARDIN COUNTY, TEXAS**

Lumberton Municipal Utility District has filed an application with the Public Utility Commission of Texas to amend its Certificates of Convenience and Necessity (CCN) Nos. 10929 and 20367 for the provision of retail water and sewer utility services in Hardin County, Texas.

The requested area overlaps the district boundaries of the Lower Neches Valley Authority. If Lower Neches Valley Authority does not request a public hearing, the Commission shall determine that the district is consenting to the Lumberton Municipal Utility District's request to provide retail water and sewer utility services in the requested area.

The requested area includes 11 current customers, is located approximately 2.3 miles northwest of downtown Lumberton, Texas, and is generally bounded on the north by intersection of U.S. Highway 69 and Beaumont Drive; on the east by Bryan Lane; on the south by intersection of U.S. Highway 69 and Hampshire Lane; and on the west by Ellis Drive.

The requested area includes approximately 89 acres of uncertificated area. The application proposes the addition of approximately 89 acres to Lumberton MUD (CCN Nos. 10929 and 20367).

**A copy of the map showing the requested area is available at: 625 FM 421 Lumberton Texas 77657**

*Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date. The letter must include the person's name, address, email address and fax number if applicable.*

If a valid public hearing is requested, the Commission will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for a final decision. An evidentiary hearing is a legal proceeding similar to a civil trial in state district court.

A landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the requested area, may file a written request with the Commission to be excluded from the requested area ("opt out") within (30) days from the date that notice was provided by the Utility. All opt out requests must include a large-scale map, a metes and bounds description of the landowner's tract of land, landowner's name, address, email address and fax number, if applicable.



Persons who wish to request this option should file the required documents with the:  
Public Utility Commission of Texas  
Central Records  
1701 N. Congress, P. O. Box 13326  
Austin, TX 78711-3326

In addition, the landowner must also send a copy of the opt out request to the Utility. Staff may request additional information regarding your request.

Si desea información en español, puede llamar al 1-888-782-8477.

**Notice to Neighboring Systems, Landowners, Customers, and Cities**

**NOTICE OF APPLICATION OF LUMBERTON MUNICIPAL UTILITY DISTRICT TO AMEND ITS CERTIFICATES OF CONVENIENCE AND NECESSITY TO PROVIDE WATER AND SEWER UTILITY SERVICES IN HARDIN COUNTY, TEXAS**

To: \_\_\_\_\_ Date Notice Mailed: \_\_\_\_\_, 20\_\_\_\_  
(Neighboring System, Landowner, Customer or City)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
(City State Zip)

Lumberton Municipal Utility District has filed an application with the Public Utility Commission of Texas to amend its Certificates of Convenience and Necessity (CCN) Nos. 10929 and 20367 for the provision of retail water and sewer utility services in Hardin County, Texas.

The requested area overlaps the district boundaries of the Lower Neches Valley Authority. If Lower Neches Valley Authority does not request a public hearing, the Commission shall determine that the district is consenting to the Lumberton Municipal Utility District’s request to provide retail water and sewer utility services in the requested area.

The requested area includes 11 current customers, is located approximately 2.3 miles northwest of downtown Lumberton, Texas, and is generally bounded on the north by intersection of U.S. Highway 69 and Beaumont Drive; on the east by Bryan Lane; on the south by intersection of U.S. Highway 69 and Hampshire Lane; and on the west by Ellis Drive.

The requested area includes approximately 89 acres of uncertificated area. The application proposes the addition of approximately 89 acres to Lumberton MUD (CCN Nos. 10929 and 20367).

**See enclosed map showing the requested area.**

*Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date. The letter must include the person’s name, address, email address and fax number if applicable.*

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Austin, TX 78711-3326

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Si desea información en español, puede llamar al 1-888-782-8477.

# PUBLIC UTILITY COMMISSION OF TEXAS



## AFFIDAVIT OF NOTICE TO CURRENT CUSTOMERS, LANDOWNERS, NEIGHBORING UTILITIES, AND AFFECTED PARTIES

DOCKET NO. 52132

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ has provided individual notice to the following entities, landowners and customers:

DATE OF NOTICE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OATH

I, \_\_\_\_\_, being duly sworn, file this form as \_\_\_\_\_ (indicate relationship to applicant, that is, owner, member of partnership, title of officer of corporation, or other authorized representative of applicant); that in such capacity, I am qualified and authorized to file and verify such form, am personally familiar with the notices given with this application, and have complied with all notice requirements in the application and application acceptance letter; and that all such statements made and matters set for therein are true and correct.

\_\_\_\_\_  
Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant, or its attorney, a properly verified Power of Attorney must be enclosed.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public

Commission Expires \_\_\_\_\_

# PUBLIC UTILITY COMMISSION OF TEXAS



PUBLISHER'S AFFIDAVIT  
DOCKET NO. 52132

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_,

who being by me duly sworn, deposes and that (s)he is the

\_\_\_\_\_ of the \_\_\_\_\_  
(TITLE) (NAME OF NEWSPAPER)

that said newspaper is regularly published in \_\_\_\_\_  
(COUNTY/COUNTIES)

and generally circulated in \_\_\_\_\_, Texas;  
(COUNTY/COUNTIES)

and that the attached notice was published in said newspaper on the following dates, to wit:

\_\_\_\_\_  
(DATES)

\_\_\_\_\_  
(SIGNATURE OF NEWSPAPER REPRESENTATIVE)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_,  
to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public

Commission Expires \_\_\_\_\_