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DOCKET NO. 52492

**APPLICATION OF SWWC UTILITIES, § PUBLIC UTILITY COMMISSION
INC. DBA HORNSBY BEND UTILITY §
COMPANY, INC. TO AMEND ITS § OF TEXAS
CERTIFICATES OF CONVENIENCE §
AND NECESSITY IN TRAVIS COUNTY §**

**COMMISSION STAFF’S RECOMMENDATION ON SUFFICIENCY OF NOTICE &
PROPOSED PROCEDURAL SCHEDULE**

On September 1, 2021, SWWC Utilities, Inc. dba Hornsby Bend Utility Company, Inc. (SWWC Utilities) filed an application to amend its certificates of convenience and necessity (CCN) in Travis County. SWWC Utilities holds water CCN No. 11978 and sewer CCN No. 20650. The requested water service area consists of 323 acres and zero existing connections, the requested sewer service area consists of 332 acres and zero existing connections, and one proposed connection. On September 2, 2021, September 14, 2021, September 30, 2021, and October 1, 2021, SWWC Utilities filed supplemental information.

On November 30, 2021, the administrative law judge (ALJ) filed Order No. 3, requiring Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a request for a hearing or a recommendation on final disposition by February 4, 2022. Therefore, this pleading is timely filed.

I. FINAL RECOMMENDATION

Staff has reviewed the application and, as detailed in the attached memoranda of Patricia Garcia of the Commission's Infrastructure Division and Fred Bednarski of the Commission's Rate Regulation Division, recommends that it be approved. Staff's review indicates that SWWC Utilities 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 is therefore capable of providing continuous and adequate service. Additionally, Staff recommends that approval of the application is necessary for the service, accommodation, convenience, and safety of the public.

On or before February 16, 2022, the parties will jointly file proposed findings of fact and conclusions of law.

II. CONCLUSION

For the reasons discussed above, Staff respectfully recommends approval of the application.

Dated: February 4, 2022

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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/s/ Arnett D. Caviel
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**DOCKET NO. 52492
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 February 4, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Arnett D. Caviel
Arnett D. Caviel

Public Utility Commission of Texas

Memorandum

TO: Arnett Caviel, Attorney
Legal Division

FROM: Patricia Garcia, Senior Engineering Specialist
Infrastructure Division

DATE: February 4, 2022

RE: Docket No. 52492 – *Application of SWWC Utilities, Inc. dba Hornsby Bend Utility Company, Inc. to Amend its Certificates of Convenience and Necessity in Travis County*

1. Application

On September 1, 2021, SWWC Utilities, Inc. dba Hornsby Bend Utility Company, Inc. (SWWC Utilities) filed an application with the Public Utility Commission of Texas (Commission) to amend its water Certificate of Convenience and Necessity (CCN) No. 11978 and sewer CCN No. 20650 in Travis County, Texas under Texas Water Code (TWC) §§ 13.242 to 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237.

There is one landowner in the requested area who previously requested the area be decertified from SWWC Utilities in a streamlined expedited release. The area that was previously decertified in Docket No. 51166 was approximately 1,322.36 acres from water CCN No. 11978 and approximately 1,331.62 acres from sewer CCN No. 20650. SWWC Utilities provided a request for service from the landowner.

The requested water area includes 0 customer connections and approximately 323 acres, comprised of 323 acres of uncertificated area.

The requested sewer area includes 0 customer connections and approximately 332 acres, comprised of 332 acres of uncertificated area.

The application indicates that the total acreage being requested is approximately 346 acres for the water service area and 332 for the sewer service area. Based on the mapping review by Gary Horton, of the Infrastructure Division, it was determined the requested area is proposing the addition of approximately 323 acres to water CCN No. 11978 and the addition of approximately 332 acres to sewer CCN No. 20650.

2. Notice

The deadline to intervene was December 2, 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 landowner has requested service from SWWC Utilities.

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)).*

SWWC Utilities will be the certificated entity for the requested area and will be required to provide adequate and continuous service to the requested area.

The landowner in the area will have a water and sewer provider available when they need to request water and 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)).*

SWWC Utilities has a Texas Commission on Environmental Quality (TCEQ) approved public water system (PWS) registered as Austins Colony, PWS ID: 2270255, and an approved wastewater treatment plant (WWTP) registered as Austins Colony WWTP, Wastewater Discharge Permit No. WQ0013138001. SWWC Utilities does not have any violations listed in the TCEQ database for either of the systems. No additional construction is necessary for SWWC Utilities to serve the requested area. In addition, the Commission's complaint records, which go back to 2014, show 51 complaints against SWWC Utilities that have been resolved.

- 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 landowner requested service from SWWC Utilities. The area was previously certificated to SWWC Utilities but decertified as part of a streamlined expedited release in Docket No. 51166. Approximately 1,322.36 acres were decertified from water CCN No. 11978 and approximately 1,331.62 acres from sewer CCN No. 20650. The area requested in the current docket includes approximately 323 acres for water and approximately 332 acres for sewer. No additional construction is necessary for SWWC Utilities to serve the requested area.

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)).***

SWWC Utilities received a request for service for the requested area from the landowner and has sufficient capacity to serve the area. 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 not be affected as no additional construction is needed to provide 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)).***

SWWC Utilities will provide water and sewer service to the landowner.

4. Recommendation

Based on the mapping review by Mr. Horton and my technical and managerial review, I recommend that SWWC Utilities 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 water CCN No. 11978 and sewer CCN No. 20650 is necessary for the service, accommodation, convenience and safety of the public.

SWWC Utilities consented to the attached map, tariff, and certificate on January 25, 2022.

Public Utility Commission of Texas

Memorandum

TO: Arnett Carviel, Attorney
Legal Division

FROM: Fred Bednarski III, Financial Analyst
Rate Regulation Division

DATE: February 4, 2022

RE: Docket No. 52492 - *Application of SWWC Utilities, Inc. dba Hornsby Bend Utility Company, Inc. to Amend Its Certificates of Convenience and Necessity in Travis County*

On September 1, 2021, SWWC Utilities, Inc. dba Hornsby Bend Utility Company, Inc. (SWWC Utilities) filed an application to add approximately 323 acres to its Certificate of Convenience and Necessity (CCN) No. 11978 to provide water service and 332 acres to its CCN No. 20650 to provide sewer service.

I recommend that SWWC Utilities 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 SWWC Utilities before the date of this memorandum and may not reflect any changes in SWWC Utilities' 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. SWWC Utilities 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 SWWC Utilities' financial statements ending December 31, 2020. SWWC Utilities' financial statements, provided in confidential Attachment FB-1, report a debt-to-equity ratio of 0.0001. Because the ratio is less than 1.0, SWWC Utilities 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).

SSWC Utilities' financial statements, as provided in confidential Attachment FB-1, include operating income and cash flow information that indicate SSWC Utilities will have sufficient cash to cover projected shortages. No capital improvements are needed to provide continuous and adequate service to the requested area. Sufficient cash and net operating income available to cover possible future shortages provide an indication of financial stability and financial and managerial capability. Therefore, SSWC Utilities meets the operations test specified in 16 TAC § 24.11(e)(3).

Financial assurance (TWC § 13.246(d))

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