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PUC DOCKET NO. 52646

PETITION OF THE CITY OF NEW	§	PUBLIC UTILITY COMMISSION
BOSTON AND CENTRAL BOWIE	§	
COUNTY WATER SUPPLY	§	OF TEXAS
CORPORATION FOR APPROVAL	§	
OF SERVICE AREA CONTRACT	§	
UNDER TEXAS WATER CODE	§	
§ 13.248 AND TO AMEND	§	
CERTIFICATES OF CONVENIENCE	§	
AND NECESSITY IN BOWIE	§	
COUNTY	§	

**JOINT MOTION TO ADMIT EVIDENCE AND
JOINT PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDERING PARAGRAPHS**

TO THE PUBLIC UTILITY COMMISSION OF TEXAS:

The City of New Boston, Texas (“City”) and Central Bowie County Water Supply Corporation (“Central Bowie County WSC”) (collectively, “Applicants”), along with the Public Utility Commission of Texas (“Commission”) Staff (“Commission Staff”) (the City, Central Bowie County WSC, and Commission Staff are collectively the “Parties”) file this Joint Motion to Admit Evidence and Joint Proposed Findings of Fact, Conclusions of Law, and Ordering Paragraphs, and would respectively show the following:

I. BACKGROUND

On September 27, 2021, the Applicants filed a petition for approval of a service area agreement under Texas Water Code (“TWC”) §13.248, and to amend their respective certificates of convenience and necessity in Bowie County (the “Application”). Staff filed its Comments Regarding Administrative Completeness and Proposed Procedural Schedule on June 28, 2022, in which Staff made a recommendation that the Application, as amended on December 3, 2021, and supplemented on December 17, 2021, February 17, 2022, and May 6, 2022, was administratively complete. On June 30, 2022, the Administrative Law Judge (“ALJ”) entered Order No. 9, Finding the Application Administratively Complete and Notice Sufficient, and Establishing Procedural Schedule. The procedural schedule adopted by Order No. 9 established September 28, 2022 as the deadline for the parties to file joint proposed findings of fact and conclusions of law. Therefore, this pleading is timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

The Parties request entry of the following items into the evidentiary record.

1. The Application, filed on September 27, 2021, as amended on December 3, 2021, and supplemented on December 17, 2021, February 17, 2022, and May 6, 2022. ¹
2. Staff's Comments Regarding Administrative Completeness and Proposed Procedural Schedule filed on June 28, 2022 ("Comments"), together with the Staff's Memorandum deeming the Application administratively complete and notice sufficient (attached to its Comments). ²
3. The City's executed consent form, filed on September 6, 2022.³
4. Central Bowie County WSC's executed consent form, filed on September 6, 2022.⁴
5. Staff's Comments Regarding Administrative Completeness and Proposed Procedural Schedule filed on September 13, 2022 ("Final Recommendation"), together with Staff' Memorandum recommending the Application be approved.⁵
6. The attached final maps and certificates.

III. JOINT PROPOSED FINDINGS OF FACT

The parties propose the following findings of fact.

Applicants

1. Central Bowie County WSC is a Texas nonprofit corporation and a water supply corporation created under TWC, Chapter 67.
2. Central Bowie County WSC operates, maintains, and controls facilities and provides retails water service to its certificated service area in Bowie County under water certificate of convenience and necessity ("CCN") number 10525.
3. The City is a Type A general law municipality and retail public utility.

¹ Interchange Item Nos. 1, 5, 6, 13, and 19.

² Interchange Item No. 22.

³ Interchange Item No. 24.

⁴ Interchange Item No. 25.

⁵ Interchange Item No. 26.

4. The City operates, maintains, and controls facilities providing water service in Bowie County to its certificated service area under CCN number 13264.

Application

5. Central Bowie County WSC and the City executed an Agreement Regarding Water Utility Service to Designated Areas (the “Service Area Agreement”), whereby the Applicants agreed to transfer (i) portions of Central Bowie County WSC’s certificated service area to the City’s certificated service area; (ii) transfers portions of the City’s certificated service area to Central Bowie County WSC; and (iii) establishes a dual certification area in an area presently served by the City.
6. On September 27, 2021, Central Bowie County WSC and the City filed the Application seeking approval for the Service Area Agreement, and amendments to CCN numbers 10525 and 13164.
7. The Application included a copy of the Service Area Agreement executed by the Central Bowie County WSC and the City.
8. Upon approval of the Application and Service Area Agreement, 2,288 acres will be transferred from Central Bowie County WSC’s certificated service area under CCN number 10525, to the City’s certificated service area under CCN number 13164; 6 acres will be transferred from Central Bowie County WSC’s single certificated service area under CCN number 10525 to the Applicants’ dually certificated service area under CCN numbers 13164 and 10525; 56 acres will be transferred from the City’s certificated service area under CCN number 13164 to Central Bowie County WSC’s certificated service area under CCN number 10525; and 713 acres will be transferred from the City’s single certificated service area under CCN number 13164 to the Applicants’ dually certificated service area under CCN numbers 13164 and 10525.
9. Upon approval of the Application and Service Area Agreement, the Applicants’ dually certificated service area will comprise a total of 719 contiguous acres under CCN numbers 13164 and 10525.
10. There are no customers, tangible assets, or facilities within the 2,344 acres of the combined certificated service areas being transferred between the Applicants.
11. There are no customers, tangible assets, or facilities within the 719 acres of the contiguous dually certificated service area.

12. There will be no transfer of customers, tangible assets, or facilities as a result of the Service Area Contract or Application.
13. In Order No. 9 filed on June 30, 2022, the ALJ found the Application administratively complete.

Notice

14. On December 1, 2020, the Central Bowie County WSC Board of Directors considered and approved the Service Area Agreement at a properly noticed public meeting.
15. The Application included a copy of the agenda and minutes from the December 1, 2020, Central Bowie County WSC Board of Directors meeting as well as a supporting affidavit from Hal Harris, General Manager of the Central Bowie County WSC.
16. On March 16, 2021, the New Boston City Council considered and approved the Service Area Agreement at a properly noticed public meeting.
17. The Application included a copy of the agenda and minutes from the March 16, 2021, City Council meeting as well as a supporting affidavit from Ronald Humphrey, Mayor of the City of New Boston.
18. In Order No. 2, filed on November 4, 2021, the ALJ found the notice sufficient under 16 Texas Administrative Code (“TAC”) § 24.259(d).

Certificates and Map

19. On August 30, 2022, Commission Staff emailed its proposed maps and certificates to the Applicants.
20. On September 6, 2022, Central Bowie County WSC filed its consent to Commission Staff’s proposed map and certificates.
21. On September 6, 2022, the City filed its consent to Commission Staff’s proposed map and certificates.

Evidentiary Record

22. On September 28, 2022, the Parties filed a Joint Motion to Admit Evidence and Proposed Findings of Fact, Conclusions of Law, and Ordering Paragraphs.
23. In Order No. __, filed on _____, 2022, the ALJ admitted the following evidence into the record of this proceeding:
24. The Application, filed on September 27, 2021, as amended on December 3, 2021, and supplemented on December 12, 2021, February 17, 2022, and May 6, 2022.

25. Staff's Comments Regarding Administrative Completeness and Proposed Procedural Schedule filed on June 28, 2022 ("Comments"), together with the Staff's Memorandum deeming the Application administratively complete and notice sufficient (attached to its Comments).
26. The City's executed consent form, filed on September 6, 2022.
27. Central Bowie County WSC's executed consent form, filed on September 6, 2022.
28. Staff's Comments Regarding Administrative Completeness and Proposed Procedural Schedule filed on September 13, 2022 ("Final Recommendation"), together with Staff's Memorandum recommending the Application be approved.
29. The final maps and certificates attached to the Joint Motion to Admit Evidence and Proposed Findings of Fact and Conclusions of Law.

Informal Disposition

30. More than 15 days have passed since the completion of the notice provided in this docket.
31. No person filed a protest or motion to intervene.
32. Central Bowie County WSC, the City, and Commission Staff are the only parties to this proceeding.
33. No party requested a hearing, and no hearing is necessary.
34. Commission Staff recommended approval of the Service Area Agreement and Application.
35. This decision is not adverse to any party.

IV. JOINT PROPOSED CONCLUSIONS OF LAW

The parties propose the following conclusions of law.

1. The Commission has authority over the Application under TWC §§ 13.041 and 13.248.
2. Central Bowie County WSC and the City are retail public utilities as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
3. Under TWC § 13.248, contracts between retail public utilities designating areas to be served by the retail public utilities, when approved by the Commission, are valid and enforceable and incorporated into the affected CCNs.
4. The Application meets the requirements of 16 TAC § 24.253.
5. Public notice of the Application was processed in accordance with the TWC, the Administrative Procedure Act, and Commission rules.
6. The Application was processed in accordance with the TWC, the Administrative Procedure Act, and Commission rules.

7. Under TWC § 13.257(r) and (s), Central Bowie County WSC and the City must each record a certified copy of their respective approved map and certificate, along with any boundary descriptions of its service area, in the real property records of Bowie County within 31 days of this Notice of Approval and must submit evidence of the recording to the Commission.
8. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

V. JOINT PROPOSED ORDERING PARAGRAPHS

In accordance with the joint proposed findings of fact and conclusions of law, the parties propose the following ordering paragraphs.

1. The Commission approves the Service Area Agreement.
2. The Commission amends the City's water CCN number 13164, as described in this Notice of Approval and as shown in the map attached to this Notice Approval.
3. The Commission amends Central Bowie County WSC's water CCN number 10525, as describe in this Notice of Approval and as shown in the map attached to this Notice of Approval.
4. The Commission approves the maps attached to this Notice of Approval.
5. The Commission approves the certificates attached to this Notice of Approval.
6. The City must provide service to every customer and qualified applicant for water service within the approved service area certificated under CCN number 13164, and such service must be continuous and adequate.
7. Central Bowie County WSC must provide service to every customer and qualified applicant for water service within the approved service area certificated under CCN number 10525, and such service must be continuous and adequate.
8. The City and Central Bowie County WSC must each comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Bowie County affected by the application and file in this docket proof of the recording no later than 45 days after the date of this Notice of Approval.
9. The Commission denies all other motions and other requests for general or specific relief not expressly granted herein.

VI. CONCLUSION

The parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence, and further that the findings of fact, conclusions of law, and ordering paragraphs identified herein be adopted and included in a final notice of approval approving the Service Area Agreement and Application.

Respectfully submitted,

/s/ C. Cole Ruiz

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CERTIFICATE OF SERVICE

I hereby certify that I have complied with 16 TAC § 22.74, recognizing that there are no other parties of record in this docket, as of this the 28th day of September, 2022.

/s/ C. Cole Ruiz
C. Cole Ruiz