



Filing Receipt

Received - 2021-11-03 10:03:37 AM
Control Number - 52646
ItemNumber - 3

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	§	
13.255 AND TO AMEND CERTIFICATES	§	
OF CONVENIENCE AND NECESSITY IN	§	
TRAVIS COUNTY	§	

**COMMISSION STAFF’S COMMENTS REGARDING ADMINISTRATIVE
COMPLETENESS AND NOTICE**

On September 27, 2021, the City of New Boston and Central Bowie County Water Supply Corporation (collectively, Petitioners) filed a petition for approval of a service-area contract under Texas Water Code (TWC) § 13.248 and to amend certificates of convenience and necessity in Bowie County.

On September 28, 2021, the administrative law judge (ALJ) filed Order No. 1 requiring the Staff of the Public Utility Commission of Texas (Staff) to file comments on the administrative completeness of the petition and proposed notice by October 27, 2021. The Order further required the parties to file a recommendation regarding how to proceed with the petition and propose a procedural schedule by October 27, 2021. Staff apologizes for the untimeliness of this response.

I. ADMINISTRATIVE COMPLETENESS

Staff has reviewed the petition and as supported by the attached memorandum of Jolie Mathis of the Infrastructure Division, Staff recommends that the petition be found incomplete from a managerial and technical perspective. As explained in Ms. Mathis’s memorandum, Petitioners must clarify which portions of the requested area pertain to Texas Water Code (TWC) § 13.248, and which components pertain to TWC § 13.255. Petitioners’ agreement states in relevant part:

If Central Bowie has not upgraded its lines to provide the quality and quantity necessary to support the City of New Boston Fire Department pumper trucks by said date, the City of New Boston, Texas, may extend its water service line to the property described as Tract One and Tract Two, and provide water service. In such event, the Parties will coordinate to file an agreement with the PUC in accordance with Texas Water Code § 13.255 to amend the Certificates of Convenience and Necessity of each Party to show the property described as Tracts One and Two as

dual certification areas. The agreement may, in addition to other terms, include compensation to be paid to Central Bowie County Water Supply Corporation.¹

This term is prospective, and Staff could not find anything in the petition that concretely confirms that the petition in the instant docket is the agreement referenced in the above-quoted text. Accordingly, Staff recommends that Petitioners clarify whether (1) this petition constitutes the filing under TWC § 13.255 requesting dual certification for Tracts One and Two; (2) whether Tracts One and Two are the only portions of the requested area subject to an agreement under TWC § 13.255; and (3) whether either petitioner is currently serving customers in any area where dual certification is being requested.

Staff further recommends that Petitioners provide proof that the City of New Boston has annexed the portions of the requested area subject to the agreement under TWC § 13.255 and file supplemental information to resolve the mapping deficiencies as explained in that memorandum. Staff recommends that Petitioners be ordered to cure the deficiencies identified in Ms. Mathis's memorandum by December 3, 2021, and that Staff be given a deadline of January 4, 2022 to file a supplemental recommendation on the administrative completeness of the petition.

II. SUFFICIENCY OF NOTICE

In the case of a service area contract under TWC § 13.248, notice is governed by 16 TAC § 24.253(c). Under this section, two forms of notice may potentially be required. First, if affected customers will be transferred as part of the contract, then notice must be provided to those customers.² According to the petition, no existing customers will be transferred. To the extent that this statement means there are no existing customers in the areas where dual certification is sought, or that the existing customers will continue to be served by their current water providers, Staff recommends that this form of notice be found inapplicable. If there are existing customers who will experience a change in water providers, then Staff recommends that individual notice is required.³

¹ Petition for Approval of Service Area Contract Under Texas Water Code §§ 13.248 and 13.255 and to Amend Water Certificates of Convenience and Necessity in Bowie County, Exhibit A at 2 (Sep. 27, 2021) (Petition).

² 16 Texas Administrative Code (TAC) § 24.253(c)(1).

³ Although it is not required, Staff recommends that individual notice be provided to customers even if the areas for which dual certification is requested are the areas subject to TWC § 13.255.

Second, if the decision to enter into a contract was discussed at a meeting of a city council, a water supply or sewer service corporation's board, district board, county commissioner's court, or other regulatory authority, a copy of the meeting agenda and minutes for the meeting during which the item was discussed may be considered sufficient notice.⁴ If notice was provided in accordance with either of these two methods, both parties to the contract shall ensure that the following are filed with the Commission: an affidavit attesting to the date that notice was provided and copies of the notice that was sent. The petition contains the required documentation from both Petitioners.

In the case of an amendment to a certificate of convenience and necessity under TWC § 13.255, notice is governed by 16 TAC § 24.259. Under subsection (c), a municipality that intends to provide service to an annexed area is required to notify the current CCN holder of its intent to serve the annexed area. The City of New Boston has not filed documentation demonstrating that notice was sent to Central Bowie County Water Supply Corporation. However, Petitioners have entered into an agreement for dual certification as allowed by 16 TAC § 24.259(d). Therefore, Staff recommends that the notice requirements have been fulfilled.

III. PROCEDURAL SCHEDULE

Until the petition is deemed administratively complete, Staff recommends that the procedural schedule for further processing be limited to curing the deficiencies in the petition and Staff's supplemental recommendations. As explained above, Staff recommends that Petitioners be ordered to cure the deficiencies identified in Ms. Mathis's memorandum by December 3, 2021, and that Staff be given a deadline of January 4, 2022 to file a supplemental recommendation on the administrative completeness of the petition. Once the petition is deemed administratively complete, Staff will make further recommendations on the processing of this petition.

IV. REQUEST TO CORRECT THE CASE STYLE

Staff requests that this docket be restyled as *Petition of the City of New Boston and Central Bowie County Water Supply Corporation for Approval of Service Area Contract Under Texas Water Code §§ 13.248 and 13.255 and to Amend Certificates of Convenience and Necessity in Bowie County*. This restyling is needed to reflect that the areas subject to the agreement between

⁴ 16 TAC § 24.253(c)(2)

Petitioners is located in Bowie County and not Travis County.⁵ This restyling would also conform the style of this docket to match the case style in the as-filed petition.

V. CONCLUSION

Staff respectfully requests entry of an order consistent with this pleading.

Dated: 2021-11-03

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

Rachelle Nicolette Robles
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Deputy Division Director

/s/ R. Floyd Walker
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**DOCKET NO. 52646
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 2021-11-03, in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ R. Floyd Walker
R. Floyd Walker

⁵ Petition, Exhibit A at 1.

Public Utility Commission of Texas

Memorandum

TO: Floyd Walker, Attorney
Legal Division

FROM: Jolie Mathis, Utility Engineering Specialist
Infrastructure Division

DATE: November 3, 2021

RE: Docket No. 52646 – *Petition of the City of New Boston and Central Bowie County Water Supply Corporation for Approval of Service Area Contract Under Texas Water Code §§ 13.248 and 13.255 and to Amend Certificates of Convenience and Necessity in Travis County*

On September 27, 2021, the City of New Boston (the City) and Central Bowie County Water Supply Corporation (Central Bowie County WSC) (collectively, Petitioners) filed a petition for approval of a service area contract under Texas Water Code (TWC) § 13.248 and to amend the City's water certificate of convenience and necessity (CCN) No. 10525 and Central Bowie County WSC's water CCN No. 13164 in Bowie County, Texas. The Petitioners' TWC § 13.248 service area contract is being reviewed in accordance with 16 Texas Administrative Code (TAC) § 24.253.

Specifically, the City and Central Bowie County WSC entered into a contractual agreement that:

- i. transfers portions of the service area under Central Bowie County WSC's CCN to the City's CCN;
- ii. transfers portions of the service area under the City's CCN to Central Bowie County WSC's CCN; and
- iii. establishes a dual certification area in an area presently served by the City.

Based on the mapping review by Tracy Montes, Infrastructure Division and my technical review of the information filed by the Petitioners, I recommend that the petition be deemed administratively incomplete and not accepted for filing.

Petition Content:

The following deficiency must be remedied:

- Staff needs clarification about the intent of filing the petition under both TWC § 13.248 and § 13.255. Mapping staff is unable to determine which portions of the requested area pertain to 13.248, and which components of the requested area have been annexed by the City and fall under TWC § 13.255.
- In addition, please provide the City ordinance or other document demonstrating that the area for which dual certification has been requested under TWC § 13.255 has been annexed.

Mapping Content:

Maps submitted with the petition on September 27, 2021 are deficient.

Petitioners must submit the following items to resolve the mapping deficiencies:

- Revised general location maps identifying only the requested areas, in reference to the nearest county boundary, city, or town.
- Revised detailed maps identifying only the requested areas, in reference to verifiable man-made and natural landmarks, such as roads, rivers, and railroads.
- Revised digital mapping data for the requested areas, as a single polygon record, in shapefile (SHP) format, georeferenced in NAD83 Texas Statewide Mapping System (Meters).

Staff recommends the Petitioners obtain additional mapping guidance from the PUC's mapping staff, Ms. Tracy Montes by email at tracy.montes@puc.texas.gov to resolve the mapping deficiencies.

Staff will need at least 30 days to review the documentation, maps, and digital data provided by the Petitioners and draft a recommendation.