



## Filing Receipt

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**DOCKET NO. 54271**

**APPLICATION OF KICKAPOO § PUBLIC UTILITY COMMISSION**  
**UTILITY LLC FOR A CERTIFICATE §**  
**OF CONVENIENCE AND NECESSITY § OF TEXAS**  
**IN WALLER COUNTY §**

**COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION ON  
ADMINISTRATIVE COMPLETENESS AND NOTICE AND PROPOSED  
PROCEDURAL SCHEDULE**

On October 27, 2022, Kickapoo Utility LLC (Kickapoo) filed an application to obtain a sewer certificate of convenience and necessity (CCN) in Waller County, Texas under Texas Water Code (TWC) §§ 13.241 through 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 through 24.237.

On November 29, 2022, the administrative law judge (ALJ) filed Order No. 2, requiring the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file supplemental recommendation on the administrative completeness of the application and proposed notice and a and propose a procedural schedule, if appropriate by February 6, 2023. Therefore, this pleading is timely filed.

**II. ADMINISTRATIVE COMPLETENESS**

Staff has reviewed the application and supplemental information and, as detailed in the attached memoranda from James Harville, Infrastructure Division and David Lopez and Fred Bednarski III, Rate Regulation Division, recommends that the supplemented application is administratively complete. Staff's recommendation on administrative completeness is not a comment on the merits of the application.

**III. NOTICE**

At this time, Staff recommends that Kickapoo proceed with providing public notice to all landowners, neighboring utilities, political subdivisions, and other persons listed in the attached memorandum using the notice form provided by Mr. Harville. Along with each individual notice, Staff recommends that Kickapoo provide an accurate map delineating the requested service area. Staff further recommends that Kickapoo publish notice of the application for two consecutive weeks in a newspaper of general circulation in Waller County.

Once notice has been provided, Staff recommends that Kickapoo file proof of notice as described in the attached memorandum, including an affidavit specifying the name and address of every person and entity to whom notice was provided, the date that the notice was provided, and a copy of the map provided with the notice. Kickapoo should also provide a completed publisher's affidavit and a copy of the newspaper tear sheets demonstrating publication. Finally, Staff recommends that Kickapoo use the attached notices and affidavits to meet these requirements.

**IV. PROCEDURAL SCHEDULE**

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

<b>Event</b>	<b>Date</b>
Deadline for Kickapoo to file with the Commission signed affidavits that the 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	March 23, 2023
Deadline for Staff to file a recommendation on sufficiency of notice	April 3, 2023
Deadline to intervene	30 days after notice is issued

**V. CONCLUSION**

For the reasons detailed above, Staff recommends that the supplemented application be found administratively complete, that Kickapoo be directed to provide notice as described in Mr. Harville's attached memorandum, and that the proposed procedural schedule be adopted. Staff respectfully requests the entry of an order consistent with these recommendations.

Dated: February 6, 2023

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Keith Rogas  
Division Director

John Harrison  
Managing Attorney

/s/ Arnett D. Caviel  
Arnett D. Caviel  
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1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7245  
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Arnett.Caviel@puc.texas.gov

**DOCKET NO. 54271**

**CERTIFICATE OF SERVICE**

I certify that unless otherwise ordered by the presiding officer, notice of the filing of this document will be provided to all parties of record via electronic mail on February 6, 2023 in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ Arnett D. Caviel  
Arnett D. Caviel

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Arnett Caviel, Attorney  
Legal Division

**FROM:** James Harville, Infrastructure Analyst  
Infrastructure Division

**DATE:** February 6, 2023

**RE:** Docket No. 54271 – *Application of Kickapoo Utility LLC for a Certificate of Convenience and Necessity in Waller County*

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On October 27, 2022, Kickapoo Utility LLC (Kickapoo Utility) filed with the Public Utility Commission of Texas (Commission) an application to obtain a sewer certificate of convenience and necessity (CCN) in Waller County, Texas under Texas Water Code (TWC) §§ 13.242 through 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 through 24.237.

Based on the mapping review by Dave Babicki, Infrastructure Division, the maps and digital mapping data submitted with Item 2 on October 27, 2022 are sufficient.

- The requested area includes 0 customer connections and approximately 38 acres, comprised of uncertificated area.
- The application proposes the addition of approximately 38 acres and the issuance of a sewer CCN number to Kickapoo Utility.
- The application indicates that the total acreage being requested is approximately 31 acres, however, the mapping review determined the requested area is approximately 38 acres.

Based on the mapping review and my technical and managerial review of the information filed by Kickapoo Utility, I recommend that the application be deemed administratively complete. I further recommend that Kickapoo Utility 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:
  - *San Jacinto River Authority*
- b. The county judge of each county that is wholly or partially included in the requested area:
  - *Waller County Judge*
- c. Each groundwater conservation district that is wholly or partially included in the requested area:
  - *Bluebonnet Groundwater Conservation District*
- 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 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 <https://www14.tceq.texas.gov/iwud/index.cfm>.

- 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, Kickapoo Utility 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 maps 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 maps 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.
- 6) Supplement the application with a copy of the approval letter for the wastewater permit for the facility that will provide sewer service to the requested area from TCEQ once it is received. Kickapoo Utility must file the approval letter prior to Staff making a final recommendation on the application.

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 Kickapoo Utility. Kickapoo Utility will have 20 days from the receipt of the RFI to respond.

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Arnett Caviel  
Legal Division

**FROM:** David Lopez  
Fred Bednarski III  
Rate Regulation Division

**DATE:** February 6, 2023

**RE:** Docket No. 54271 – *Application of Kickapoo Utility LLC for a Certificate of Convenience and Necessity in Waller County*

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On October 27, 2022, Kickapoo Utility LLC (Kickapoo) filed an application to obtain a sewer Certificate of Convenience and Necessity in Waller County under Subchapter G of Texas Water Code Chapter 13.

We reviewed the answers provided to questions 28, 29, 30, and 31 of the application. We did not identify any deficiencies in those answers for purposes of determining whether the application is administratively complete. Therefore, we recommend that the Commission deem the application administratively complete from a financial perspective.



***Notice for Publication***

NOTICE OF APPLICATION OF KICKAPOO UTILITY LLC TO OBTAIN A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE SEWER UTILITY SERVICE IN WALLER COUNTY, TEXAS

Kickapoo Utility LLC has filed an application with the Public Utility Commission of Texas to obtain a sewer certificate of convenience and necessity (CCN) for the provision of retail sewer utility service in Waller County, Texas.

The requested area overlaps the district boundaries of San Jacinto River Authority. If this district does not request a public hearing, the Commission shall determine that the district is consenting to Kickapoo Utility LLC's request to provide retail sewer utility service in the requested area.

The requested area includes 0 customer connections, is located approximately 6.3 mile(s) southwest of downtown Todd Mission, Texas, and is generally bounded on the north by Kickapoo Road; on the east by Kickapoo Road; on the south by Haner Road; and on the west by the Farm to Market 1488.

The requested area includes approximately 38 acres, comprised of uncertificated area.

The application proposes the addition of approximately 38 acres and the issuance of a sewer CCN number to Kickapoo Utility LLC.

**A copy of the maps showing the requested area are available at:** Water Engineers, Inc., 17230 Huffmeister Road, Suite A, Cypress, TX 77429.

*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 KICKAPOO UTILITY LLC TO OBTAIN A CERTIFICATE  
OF CONVENIENCE AND NECESSITY TO PROVIDE SEWER UTILITY SERVICE IN  
WALLER COUNTY, TEXAS

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

Kickapoo Utility LLC has filed an application with the Public Utility Commission of Texas to obtain a sewer certificate of convenience and necessity (CCN) for the provision of retail sewer utility service in Waller County, Texas.

The requested area overlaps the district boundaries of San Jacinto River Authority. If this district does not request a public hearing, the Commission shall determine that the district is consenting to Kickapoo Utility LLC’s request to provide retail sewer utility service in the requested area.

The requested area includes 0 customer connections, is located approximately 6.3 mile(s) southwest of downtown Todd Mission, Texas, and is generally bounded on the north by Kickapoo Road; on the east by Kickapoo Road; on the south by Haner Road; and on the west by the Farm to Market 1488.

The requested area includes approximately 38 acres, comprised of uncertificated area.

The application proposes the addition of approximately 38 acres and the issuance of a sewer CCN number to Kickapoo Utility LLC.

**See enclosed maps 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.*

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 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.

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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.

# PUBLIC UTILITY COMMISSION OF TEXAS



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

DOCKET NO. 54271

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 Kickapoo Utility LLC, that is, owner, member of partnership, title of officer of corporation, or other authorized representative of Kickapoo Utility LLC); 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.

\_\_\_\_\_  
Kickapoo Utility LLC's Authorized Representative

If the Kickapoo Utility LLC to this form is any person other than the sole owner, partner, officer of the Kickapoo Utility LLC, 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. 54271

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 \_\_\_\_\_