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DOCKET NO. 54583

APPLICATION OF CITY OF	§	PUBLIC UTILITY COMMISSION
PFLUGERVILLE TO AMEND ITS	§	
CERTIFICATE OF CONVENIENCE	§	OF TEXAS
AND NECESSITY AND TO	§	
DECERTIFY KELLY LANE UTILITY'S	§	
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY IN TRAVIS AND	§	
WILLIAMSON COUNTIES	§	

JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

On January 19, 2023, the City of Pflugerville (Pflugerville) filed an application to amend its certificate of convenience and necessity (CCN) number 20678 and to decertify Kelly Lane Utility's CCN number 20720 in Travis and Williamson Counties.

On September 20, 2023, the administrative law judge filed Order No. 8, directing the parties to file joint proposed findings of fact and conclusions of law by November 29, 2023. Therefore, this pleading is timely filed.

I. MOTION TO ADMIT EVIDENCE

The parties respectfully request that the following evidence be admitted into the record of this proceeding:

- a. Pflugerville's application and all attachments, filed on January 19, 2023.
- b. Pflugerville's supplemental mapping, filed on February 21, 2023.
- c. Commission Staff's recommendation on administrative completeness, filed on March 23, 2023.
- d. Pflugerville's response to Commission Staff's First Request for Information, filed on April 5, 2023.
- e. Pflugerville's proof of notice, filed on May 1, 2023.
- f. Pflugerville's notice maps, filed on May 1, 2023.
- g. Pflugerville's landowner notice affidavit, filed on June 5, 2023.
- h. Pflugerville's supplemental map including landowner details from Appraisal District records, filed on June 23, 2023.

- i. Pflugerville's supplemental response to Order No. 4, filed on August 29, 2023.
- j. Pflugerville's supplemental notice affidavit, filed on September 14, 2023.
- k. Commission Staff's recommendation on sufficiency of notice, filed on September 19, 2023.
- l. Pflugerville's consent form, filed on October 24, 2023.
- m. Commission Staff's final recommendation and request for good cause exception and all attachments, filed on November 15, 2023.
- n. The final proposed map and certificate, attached to the joint motion to admit evidence and proposed notice of approval, filed on November 29, 2023.

II. JOINT PROPOSED NOTICE OF APPROVAL

The parties have agreed to the attached Joint Proposed Notice of Approval, which would approve Pflugerville's application to amend its sewer CCN number 20678 and decertify Kelly Lane's sewer CCN number 20720 in Travis and Williamson Counties. The parties request that the Public Utility Commission of Texas (Commission) adopt the findings of fact, conclusions of law, and ordering paragraphs contained in the Proposed Notice of Approval.

III. CONCLUSION

For the reasons discussed above, the parties respectfully request that the Commission grant the Joint Motion to Admit Evidence and adopt the attached Joint Proposed Notice of Approval.

Date: November 29, 2023

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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**DIRECTOR OF PUBLIC UTILITIES OF
PFLUGERVILLE**

**DOCKET NO. 54583
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 November 29, 2023, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Kelsey Daugherty
Kelsey Daugherty

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WILLIAMSON COUNTIES	§	

JOINT PROPOSED NOTICE OF APPROVAL

The Staff (Staff) of the Public Utility Commission of Texas (Commission) and the City of Pflugerville (Pflugerville) submit this Joint Proposed Notice of Approval addressing Pflugerville’s application to amend its sewer certificate of convenience and necessity (CCN) number 20678 and to decertify Kelly Lane Utility’s (Kelly Lane) sewer CCN number 20720 in Travis and Williamson Counties (the Application). Staff and Pflugerville request that the Commission approve the Application and adopt the following Findings of Fact, Conclusions of Law, and Ordering Paragraphs:

I. Findings of Fact

The Commission makes the following findings of fact.

Background

1. Pflugerville is a home rule municipality and retail public utility.
2. Pflugerville operates, maintains, and controls facilities for providing retail sewer service in Travis and Williamson Counties under CCN number 20678.
3. Pflugerville owns and operates a wastewater treatment plant (WWTP) registered with the Texas Commission on Environmental Quality (TCEQ) under identification number WQ0011845002.

Application

4. On January 19, 2023, Pflugerville filed the application at issue in this proceeding.
5. On February 21, May 1, June 5, June 23, August 29, and September 14, 2023, Pflugerville filed supplemental information.

6. Pflugerville's application seeks to amend its sewer CCN Number 20678 to subtract approximately 116 acres from Kelly Lane's certificated sewer area, to add approximately 92 acres to Pflugerville's certificated sewer area, and to add one customer connection to its certificated sewer area.
7. The requested area is located approximately 2.9 miles southwest of downtown Hutto, Texas, and is generally bounded on the north by Kaatz Lane, on the east by the intersection of Greenridge Drive and County Road 138 (Gattis School Road), on the south by Leger Street, and on the west by State Highway 130.
8. In Order No. 3 filed on March 24, 2023, the administrative law judge (ALJ) found the application, as supplemented, administratively complete.

Notice

9. On May 1, 2023, Pflugerville filed the affidavit of Brandon Pritchett, Director of Public Utilities of Pflugerville, attesting that notice was provided to all neighboring utilities and affected parties on April 11, 2023.
10. On May 1, 2023, Pflugerville filed a publisher's affidavit attesting that notice was published in the *Austin American Statesman*, a newspaper of general circulation in Travis and Williamson Counties, on April 12, 2023 and April 19, 2023.
11. On June 5, 2023, Pflugerville filed the affidavit of Mr. Pritchett, attesting that notice was provided to ten additional landowners on June 1, 2023.
12. On August 29, 2023, Pflugerville filed the affidavit of Mr. Pritchett, attesting that notice was provided to 118 additional landowners on August 25, 2023.
13. On September 14, 2023, Pflugerville filed the affidavit of Mr. Pritchett, attesting that notice was provided to two additional landowners on April 10, 2023 and August 25, 2023.
14. In Order No. 8, filed on September 20, 2023, the ALJ found the notice sufficient.

Evidentiary Record

15. In Order No. _ filed on _____, the ALJ admitted the following evidence into the record of this proceeding:
 - a. Pflugerville's application and all attachments, filed on January 19, 2023.

- b. Pflugerville's supplemental mapping, filed on February 21, 2023.
- c. Commission Staff's recommendation on administrative completeness, filed on March 23, 2023.
- d. Pflugerville's response to Commission Staff's First Request for Information, filed on April 5, 2023.
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- n. The final proposed map and certificate, attached to the joint motion to admit evidence and proposed notice of approval, filed on November 29, 2023.

Adequacy of Existing Service

- 16. Pflugerville currently provides retail sewer service to customers in the requested area through its TCEQ approved WWTP, identification number WQ0011845002.
- 17. Pflugerville does not have any violations listed in the TCEQ database in the last five years.
- 18. No additional construction is necessary for Pflugerville to serve the requested area.

Need for Additional Service

- 19. There is a need for service as there are existing customers and potential new customers in the requested area.

Effect of Granting the Amendment

20. Approving the CCN amendment will obligate Pflugerville to provide sewer service to current and future customers in the requested area.
21. Landowners in the area will have a sewer provider available when they need to request sewer service.
22. There will be no effect on any retail public utility servicing the proximate area.
23. 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.

Ability to Serve: Managerial and Technical

24. Pflugerville does not have any violations listed in the TCEQ database in the last five years.
25. The Commission's complaint records, which go back five years, show no complaints against Pflugerville.
26. Pflugerville employs TCEQ-licensed operators who are licensed in wastewater treatment to run the systems.
27. Pflugerville has the technical and managerial capability to provide adequate and continuous service to the requested area.

Feasibility of Obtaining Service from Adjacent Utilities

28. Pflugerville is currently serving customers in the requested area, has facilities in the requested area to serve any future customers, and has sufficient capacity to provide service to future customers.
29. It is not feasible to obtain service from an adjacent retail public utility.

Regionalization and Consolidation

30. Pflugerville currently provides sewer service to an apartment complex; therefore, consideration of regionalization or consolidation with another retail public utility is not required.

Ability to Serve: Financial Ability and Stability

31. Pflugerville is capable, available, and willing to cover temporary cash shortages, and has a debt service coverage ratio greater than 1.25, satisfying the leverage test.

32. Pflugerville demonstrated it has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations after approval of the CCN amendment, satisfying the operations test.
33. Capital improvements are not required to provide continuous and adequate sewer service to the requested area.
34. Pflugerville demonstrated the financial capability and stability to provide continuous and adequate service to the requested area.

Financial Assurance

35. There is no need to require Pflugerville to provide a bond or other financial assurance to ensure continuous and adequate service.

Environmental Integrity and Effect on the Land

36. The environmental integrity of the land will not be affected, as no additional construction is needed to provide service to the requested area.

Improvement in Service or Lowering Cost to Consumers

37. Sewer service to the requested area will improve because Pflugerville will be obligated to serve future customers in the requested area.
38. Pflugerville will continue to provide sewer service to the existing customers in the area. There will be no change in the quality or cost of service to customers.

Map and Certificate

39. On October 23, 2023, Commission Staff emailed to the applicant the final proposed map and certificate related to this docket.
40. On October 24, 2023, Pflugerville filed its consent to the proposed final map and certificate.
41. On November 21, 2023, the ALJ filed Order No. 9, granting Commission Staff's request, for good cause, to except to the requirement that Kelly Lane file a signed consent form in this proceeding because Kelly Lane no longer exists as a utility.
42. The parties filed the proposed final map and certificate as attachments to the joint motion to admit evidence and proposed notice of approval, filed on November 29, 2023.

Informal Disposition

43. More than 15 days have passed since the completion of notice provided in this docket.
44. No person filed a protest or motion to intervene.
45. Pflugerville and Commission Staff are the only parties to this proceeding.
46. No party requested a hearing, and no hearing is needed.
47. Commission Staff recommended approval of the application.
48. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law:

1. The Commission has authority over this proceeding under TWC §§ 13.041, 13.241, 13.242, 13.244, and 13.246.
2. Pflugerville is a home rule municipality and retail public utility as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
3. The Commission processed the application as required by the TWC, the Administrative Procedure Act,¹ and Commission Rules.
4. Pflugerville's application meets the requirements of TWC § 13.244 and 16 TAC §§ 24.227 and 24.233.
5. Pflugerville provided notice of the application that complies with TWC § 13.246 and 16 TAC § 24.235.
6. After consideration of the factors in TWC §§ 13.241(c) and 13.246(c) and 16 TAC § 24.227(a) and (e), Pflugerville demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area, as required by TWC § 13.241 and 16 TAC § 24.227.
7. Regionalization and consolidation concerns under TWC § 13.241(d) do not apply in this proceeding because construction of a physically separate sewer system is not required.

¹ Tex. Gov't Code §§ 2001.001-.903.

8. It is not necessary for Pflugerville to provide a bond or other financial assurance under TWC § 13.246(d) and 16 TAC § 24.227(f).
9. Pflugerville demonstrated that the amendment of CCN number 20678 is necessary for the service, accommodation, convenience, or safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(d).
10. Under TWC § 13.257(r) and (s), Pflugerville must record certified copies of the approved map and certificate, along with a boundary description of the service area, in the real property records of Travis and Williamson Counties within 31 days of this Notice of Approval and must submit evidence of the recordings to the Commission.
11. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission amends Pflugerville's sewer CCN number 20678 to add the requested area as described in this Notice of Approval and shown on the attached map.
2. The Commission decertifies the portion of Kelly Lane's sewer CCN number 20720 described in this Notice of Approval and shown on the attached map.
3. The Commission approves the map attached to this Notice of Approval.
4. The Commission issues the certificate attached to this Notice of Approval.
5. Pflugerville must provide sewer service to every customer and applicant for service within the approved area under CCN number 20678 who requests sewer service and meets the terms of Pflugerville's sewer service policies, and such service must be continuous and adequate.
6. Pflugerville must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Travis and Williamson Counties affected by this application and must file in this docket proof of the recordings no later than 45 days after the date of this Notice of Approval.

7. Within ten days of the date this Notice of Approval is filed, Commission Staff must provide the Commission with a clean copy of the tariff to be stamped *Approved* and retained by Central Records.
8. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the __ day of _____.

PUBLIC UTILITY COMMISSION OF TEXAS

CHRISTINA DENMARK
ADMINISTRATIVE LAW JUDGE



Public Utility Commission of Texas

By These Presents Be It Known To All That

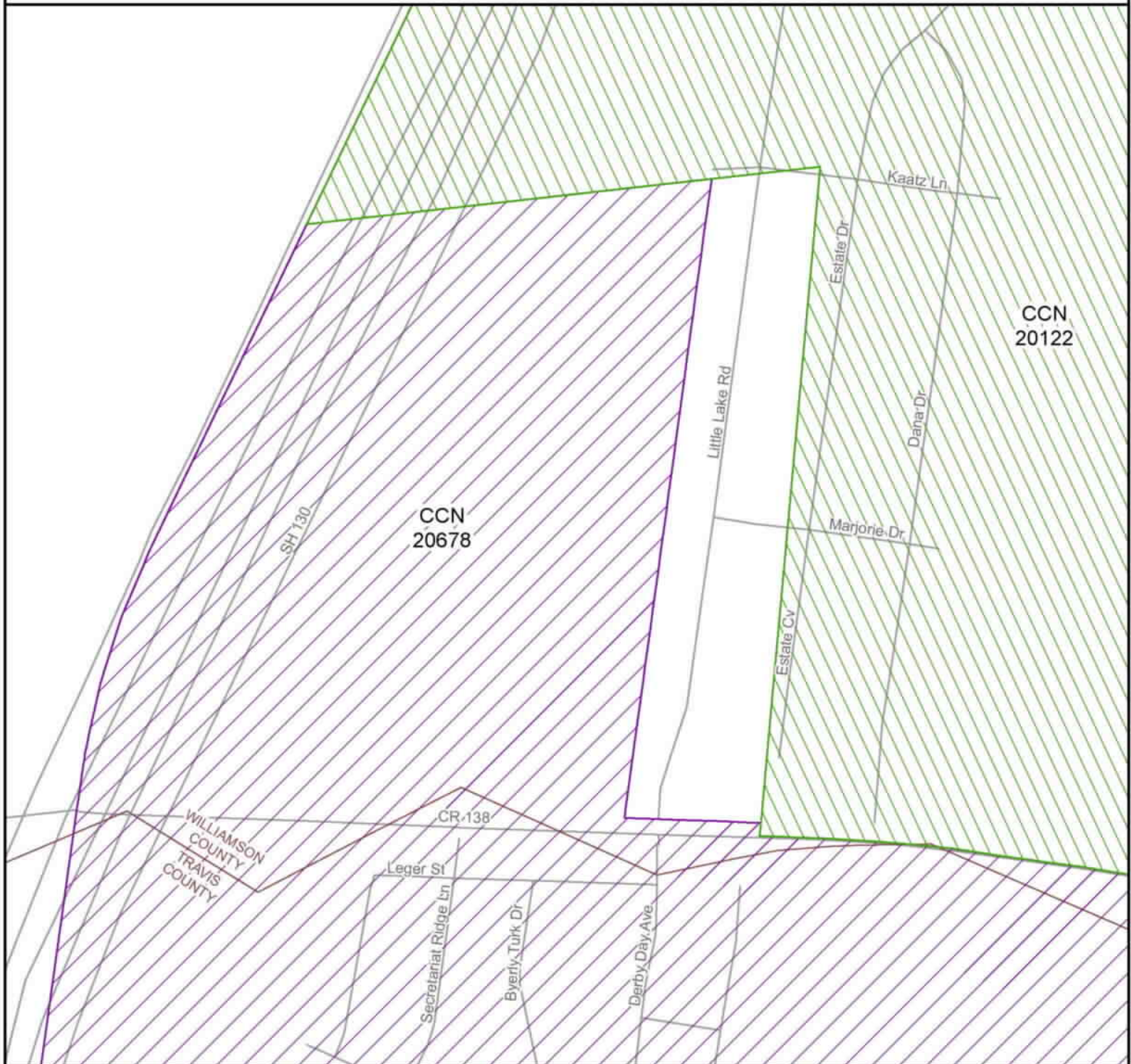
City of Pflugerville

having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Pflugerville is entitled to this



Certificate of Convenience and Necessity No. 20678

to provide continuous and adequate sewer utility service to that service area or those service areas in Travis and Williamson counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 54583 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of Pflugerville to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

PUCT Docket No. 54583
City of Pflugerville
Portion of Sewer CCN No. 20678
Amend CCN No. 20678 and Decertify all of Kelly Lane Utility Company, Inc., CCN No. 20720
in Travis and Williamson Counties



Sewer CCN

-  20678 - City of Pflugerville
-  20122 - City of Hutto

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