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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	§	

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

I. INTRODUCTION

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. Pflugerville supplemented the application on February 21, 2023.

On February 15, 2023, the administrative law judge (ALJ) filed Order No. 2, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file comments on the administrative completeness of the application and proposed notice and propose a procedural schedule by March 23, 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 Jaspinder Singh, Infrastructure Division, and Fred Bednarski, Rate Regulation Division, recommends that the 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 Pflugerville 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. Singh. Along with each individual notice, Staff recommends that Pflugerville provide an accurate map delineating the requested service area.

Staff further recommends that Pflugerville publish notice of the application for two consecutive weeks in a newspaper of general circulation in Travis and Williamson Counties.

Once notice has been provided, Staff recommends that Pflugerville 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. Pflugerville should also provide a completed publisher's affidavit and a copy of the newspaper tear sheets demonstrating publication. Finally, Staff recommends that Pflugerville use the attached notices and affidavits to meet these requirements.

IV. PROCEDURAL SCHEDULE

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

Event	Date
Deadline for Pflugerville 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	May 8, 2023
Deadline for Staff to file a recommendation on sufficiency of notice	May 22, 2023
Deadline to intervene	30 days after notice is issued

V. CONCLUSION

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

Dated: March 23, 2023

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Marisa Lopez Wagley
Interim Division Director

John Harrison
Managing Attorney

/s/ Kelsey Daugherty
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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 March 23, 2023, in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ Kelsey Daugherty
Kelsey Daugherty

Public Utility Commission of Texas

Memorandum

TO: Kelsey Daugherty, Attorney
Legal Division

FROM: Jaspinder Singh, Engineering Specialist
Infrastructure Division

DATE: March 23, 2023

RE: Docket No. 54583 – *Application of City of Pflugerville to Amend Its Certificate of Convenience and Necessity and to Decertify Kelly Lane Utility’s Certificate of Convenience and Necessity in Travis and Williamson Counties*

On January 19, 2023, the City of Pflugerville (Pflugerville) filed with the Public Utility Commission of Texas (Commission) an application to amend its sewer Certificate of Convenience and Necessity (CCN) No. 20678 in Travis and Williamson counties, Texas under Texas Water Code (TWC) §§ 13.242 through 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 through 24.237 and to decertify a portion of Kelly Lane Utility Company, Inc.’s (Kelly Lane) CCN No. 20720 under TWC § 13.254(a) and TAC § 24.245(d)(1)(A).

Staff notes that the current style of this docket is “*Application of City of Pflugerville to Amend Its Certificate of Convenience and Necessity and to Decertify Kelly Lane Utility’s Certificate of Convenience and Necessity in Travis and Williamson Counties.*” The legal name of Kelly Lane is Kelly Lane Utility Company, Inc.¹ Staff requests that the style of the docket be changed to “*Application of City of Pflugerville to Amend Its Certificate of Convenience and Necessity and to Decertify a Portion of Kelly Lane Utility Company, Inc.’s Certificate of Convenience and Necessity in Travis and Williamson Counties.*”

Pflugerville is requesting the decertification of Kelly Lane’s CCN as Kelly Lane Utility Company, Inc. no longer exists and no longer provides service inside the area being requested for decertification. Pflugerville and Kelly Lane submitted an STM application in 2005 where the portion of Kelly Lane inside Travis County successfully transferred to Pflugerville, however the portion being requested for decertification in this docket was not transferred. Pflugerville provides service to an apartment complex inside the requested area. Additionally, there is a portion of the requested area being requested for decertification that is inside the city limits of the City of Hutto and where customers receive service from the City of Hutto. The decertification will not affect these customers as they do not receive service from Kelly Lane.

¹ Certificate issued on May 24, 2000 (attached).

Based on the mapping review by Hank Journeay, Infrastructure Division, the revised maps and digital mapping data submitted with Item 5 on February 21, 2023 are sufficient.

- The requested area includes 1 customer connection and approximately 116 acres, comprised of:
24 acres of decertified area from Kelly Lane (CCN No. 20720); and
92 acres of decertified area from Kelly Lane (CCN No. 20720) to amend (add) to Pflugerville (CCN No. 20678).
- The application proposes the subtraction of approximately 116 acres from CCN No. 20720 and the addition of approximately 92 acres to CCN No. 20678.

Based on the mapping review and my technical and managerial review of the additional information filed by Pflugerville on February 21, 2023, I recommend that the application be deemed administratively complete. I further recommend that Pflugerville 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:
 - *Brazos River Authority*
 - *City of Hutto (CCN No. 20122)*
 - *City of Round Rock (CCN No. 20421)*
 - *Jonah Water Special Utility District (SUD)*
 - *Kelly Lane Water Control and Improvement District (WCID) 1 of Travis County*
 - *Lakeside Municipal Utility District (MUD) 3*
 - *Lakeside WCID 1 (CCN No. 21092)*
 - *Lakeside WCID 2A (CCN No. 21095)*
 - *Lakeside WCID 2B (CCN No. 21093)*
 - *Lakeside WCID 2C (CCN No. 21094)*
 - *Lakeside WCID 2D*
 - *Lower Colorado River Authority*
 - *SWWC Utilities Inc. (CCN No. 20542)*
 - *Travis County MUD 15*
 - *Upper Brushy Creek WCID*
 - *Williamson County MUD 22*
 - *Williamson County Water Sewer Irrigation and Drainage Dist. 3*
 - b. The county judge of each county that is wholly or partially included in the requested area:
 - *Travis County Judge*
 - *Williamson County Judge*

- c. Each groundwater conservation district that is wholly or partially included in the requested area:
 - *None*
- d. 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 each 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, Pflugerville 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, specify whether or not landowners were provided notice, the date that the notice was provided, and the publisher's affidavit and tear sheets for proof of newspaper publication.

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

Public Utility Commission of Texas

Memorandum

TO: Kelsey Daugherty
Legal Division

FROM: Fred Bednarski III
Rate Regulation Division

DATE: March 23, 2023

RE: Docket No. 54583 – *Application of the City of Pflugerville to Amend its Certificate of Convenience and Necessity and Decertify Kelly Lane Utility's Certificate of Convenience and Necessity in Travis and Williamson Counties*

On January 19, 2023, the City of Pflugerville filed an application to amend its sewer Certificate of Convenience and Necessity (CCN) No. 20678 and to decertify Kelly Lane Utility's CCN number 20720, in Travis and Williamson counties under Subchapter G of Texas Water Code Chapter 13.

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

Notice for Publication

**NOTICE OF APPLICATION OF THE CITY OF PFLUGERVILLE TO DECERTIFY A
PORTION OF KELLY LANE UTILITY COMPANY, INC.'S CERTIFICATE OF
CONVENIENCE AND NECESSITY AND TO AMEND ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE SEWER UTILITY SERVICE IN TRAVIS
AND WILLIAMSON COUNTIES, TEXAS**

The City of Pflugerville has filed an application with the Public Utility Commission of Texas to decertify a portion of CCN No. 20720 of Kelly Lane Utility Company, Inc. and amend to the City of Pflugerville's sewer Certificate of Convenience and Necessity (CCN) No. 20678 for the provision of retail sewer utility service in Travis and Williamson counties, Texas.

The requested area includes 1 customer connections, is located approximately 2.9 mile(s) 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.

The requested area includes approximately 116 acres, comprised of:

24 acres of decertified area from Kelly Lane Utility Company, Inc. (CCN No. 20720); and
92 acres of decertified area from Kelly Lane Utility Company, Inc. (CCN No. 20720) to amend
(add) to City of Pflugerville (CCN No. 20678).

The application proposes the subtraction of approximately 116 acres from CCN No. 20720 and the addition of approximately 92 acres to CCN No. 20678.

A copy of the maps showing the requested area are available at: 100 East Main Street, Pflugerville 78660

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.

Si desea información en español, puede llamar al 1-888-782-8477.

Notice to Neighboring Systems, Landowners, Customers, and Cities
NOTICE OF APPLICATION OF THE CITY OF PFLUGERVILLE TO DECERTIFY A
PORTION OF KELLY LANE UTILITY COMPANY, INC.'S CERTIFICATE OF
CONVENIENCE AND NECESSITY AND TO AMEND ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE SEWER UTILITY SERVICE IN TRAVIS
AND WILLIAMSON COUNTIES, TEXAS

To: _____
(Neighboring System, Landowner, Customer or City)

Date Notice Mailed: _____, 20____

(Address)

(City State Zip)

The City of Pflugerville has filed an application with the Public Utility Commission of Texas to decertify a portion of CCN No. 20720 of Kelly Lane Utility Company, Inc. and amend to the City of Pflugerville's sewer Certificate of Convenience and Necessity (CCN) No. 20678 for the provision of retail sewer utility service in Travis and Williamson counties, Texas.

The requested area includes 1 customer connections, is located approximately 2.9 mile(s) 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.

The requested area includes approximately 116 acres, comprised of:

24 acres of decertified area from Kelly Lane Utility Company, Inc. (CCN No. 20720); and
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(add) to City of Pflugerville (CCN No. 20678).

The application proposes the subtraction of approximately 116 acres from CCN No. 20720 and the addition of approximately 92 acres to CCN No. 20678.

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.

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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. 54583

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

Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant, 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. 54583

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 _____