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DOCKET NO. 54813

APPLICATION OF THE CITY OF	§	PUBLIC UTILITY COMMISSION
DONNA TO AMEND ITS	§	
CERTIFICATE OF CONVENIENCE	§	OF TEXAS
AND NECESSITY IN HIDALGO	§	
COUNTY	§	

JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

The City of Donna (City), together with the Staff (Staff) of the Public Utility Commission of Texas (Commission) (collectively, the Parties), files this Joint Motion to Admit Evidence and Proposed Notice of Approval. In support thereof, the Parties would show the following:

I. BACKGROUND

On March 31, 2023, the City of Donna (City) filed an application to amend its Certificate of Convenience and Necessity (CCN) in Hidalgo County. City holds wastewater CCN No. 20825.

The total requested area comprises approximately 81 acres. On February 5, 2024, City filed a consent form concurring with the final map and certificate transmitted by email. On February 8, 2024, Commission Staff filed its recommendation on final disposition. Pursuant to Order No. 7 issued on February __, 2024, the Parties must file a joint motion to admit evidence and proposed notice of approval by March 7, 2024. Therefore, this joint motion is timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

The Parties move to admit the following evidence into the record of this proceeding:

1. City's application, filed on March 31, 2023 (Interchange Item No. 1);
2. City's supplement to the application, filed on June 7, 2023 (Interchange Item No. 5);
3. City's second supplement to the application, filed on July 31, 2023 (Interchange Item No. 8);
4. Commission Staff's recommendation on administrative completeness, filed on September 5, 2023 (Interchange Item No. 9);
5. City's proof of notice, filed on October 19, 2023 (Interchange Item No. 12);
6. City's consent form, filed on February 5, 2024 (Interchange Item No. 17);

7. Commission Staff's recommendation on final disposition and the map and certificate attached thereto, filed on February 8, 2024 (Interchange Item No. 18).

III. PROPOSED NOTICE OF APPROVAL

The Parties respectfully request that the Commission adopt the findings of fact, conclusions of law, and ordering paragraphs contained in the proposed notice of approval, being provided as Attachment A.

IV. CONCLUSION

The Parties respectfully request that the Commission grant the joint motion to admit evidence and adopt the attached proposed notice of approval.

Dated: February 29, 2024

Respectfully submitted,

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**ATTORNEY FOR THE CITY OF DONNA,
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PUC DOCKET NO. 54813

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 February 29, 2024, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Kevin Pierce
Kevin Pierce

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PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of the City of Donna, Texas to amend its sewer certificate of convenience and necessity (CCN) number 20825 in Hidalgo County to add approximately 81 acres. The Commission amends City's CCN number 20825 to add 81 acres, to the extent provided in this Notice of Approval.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. City is a home rule Texas municipality located in Hidalgo County.
2. City operates, maintains, and controls facilities in Texas for providing retail sewer service under CCN number 20825.

Application

3. On March 31, 2023, City filed the application at issue in this proceeding.
4. On June 7, 2023, and July 31, 2023, City supplemented the application.
5. City's application, as supplemented, seeks to amend its sewer CCN number 20825 to add 81 acres, zero current connections, and 325 potential future connections.
6. The requested sewer service area is located approximately 1.2 miles northwest of downtown Donna, Texas, and is generally bounded on the north by County Road 200; on the east by Goolie Road; on the south by Interstate Highway 2; and on the west by Hutto Road.
7. City has a Texas Commission on Environmental Quality (TCEQ) approved wastewater treatment plant (WWTP) discharge permit number WQ-0010504001 with is capable of serving the requested area.

8. In Order No. 4 filed on September 6, 2023, the administrative law judge (ALJ) found the application administratively complete.

Notice

9. On October 19, 2023, City filed the affidavit of Chanel Borrego, Director of Planning for City, attesting that notice was provided to all neighboring utilities and affected parties on September 15, 2023.
10. On October 19, 2023, City filed a publisher's affidavit attesting to the publication of notice in *The Monitor*, a newspaper of general circulation in Hidalgo County, on September 16 and 20, 2023.
11. In Order No. 6 filed on December 1, 2023, the ALJ found notice sufficient.

Evidentiary Record

8. In Order No. ____ filed on _____, 2024, the ALJ admitted the following evidence into the record:
 - a. City's application, filed on March 31, 2023;
 - b. City's supplement to the application, filed on June 7, 2023;
 - c. City's second supplement to the application, filed on July 31, 2023;
 - d. Commission Staff's recommendation on administrative completeness, filed on September 5, 2023;
 - i. City's proof of notice, filed on October 19, 2023;
 - e. City's consent form, filed on February 5, 2024;
 - f. Commission Staff's recommendation on final disposition, and the map and certificates attached thereto, filed on February 8, 2024.

Adequacy of Existing Service

12. There are no existing customers in the requested area.
13. City does not have any outstanding violations listed in the TCEQ database.

Need for Additional Service

14. The requested area is being developed into a new subdivision with up to 325 future customers.

Effects of Granting the CCN Amendments

15. Granting the CCN amendments will obligate City to provide continuous and adequate service to future customers in the requested area.
16. Granting the CCN amendments will enable City to provide sewer service to the requested area.
17. All retail public utilities in the proximate area were provided notice of the application and none filed a protest or motion to intervene.
18. There will be no effect on any other retail public utility providing service in the proximate area.

Ability to Serve: Managerial and Technical

19. City is not under any enforcement action by TCEQ for non-compliance with rules, orders, or state statutes.
20. City employs TCEQ-licensed operators who will be responsible for operating and maintaining the public sewer system. City will have Class A, Class B, Class C, and Class D operators managing the system.
21. City's WWTP, discharge permit number WQ-0010504001 has been approved and is in operation.
22. City's sewer facilities meet the TCEQ design criteria for sewer treatment plants and the requirements of chapter 13 of the TWC.
23. City has the managerial and technical capability to provide continuous and adequate water service to the requested area.

Feasibility of Obtaining Service from Adjacent Utilities

24. The developer of the subdivision requested service from City and executed a memorandum of understanding for City to provide sewer service to the requested area.

25. The requested area is within City's ETJ or has been annexed into the City's municipal limits and intends to annex the remaining area in the ETJ.
26. It is not feasible to obtain service from an adjacent retail public utility.

Regionalization or Consolidation

27. Service is not requested from neighboring utilities.
28. City and developer have entered into a memorandum of understanding for City to provide sewer service.
29. City will be extending its WWTP facilities into the requested area.
30. City demonstrated that regionalization or consolidation with an adjacent retail public utility is not economically feasible.

Ability to Serve: Financial Ability and Stability

31. The City's financial statements show that the City's unrestricted cash balance exceeds two years of debt service amount. Therefore, City satisfies the leverage test.
32. City projects no operations and maintenance shortages during the first five years after the approval of the CCN amendments. Therefore, City satisfies the operations test.
33. City possesses the funds or has committed funding necessary for the construction of the water and sewer facilities that will serve the requested area.
34. City has demonstrated the financial capability and stability to provide continuous and adequate water service.

Financial Assurance

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

Environmental Integrity and Effect on the Land

36. There will be minimal temporary effects on environmental integrity and on the land as construction of the WWTP facilities occur.
37. The effects on environmental integrity and on the land will not be adverse to such a degree that the CCN amendments should not be granted.

Improvement of Service or Lowering Cost to Consumers

38. Sewer service to the requested area will improve because City will be obligated to provide continuous and adequate service to future customers in the requested area.
39. No lowering of cost to customers in the requested area will result from granting the CCN amendments.

Maps, Certificates, and Tariffs

40. On February 1, 2024, Commission Staff emailed the proposed final map, and certificate to City.
41. On February 5, 2024, City filed its consent to the proposed final map and certificate.
42. On February 8, 2024, Commission Staff filed the final map and certificate as attachments to its Final Recommendation.

Informal Disposition

43. More than 15 days have passed since the completion of the notice provided in this docket.
44. No person filed a protest or motion to intervene.
45. City 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 to approve 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 application under TWC §§ 13.041, 13.241, 13.242, 13.244, and 13.246.
2. City is a retail public utility as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. City's application meets the requirements of TWC § 13.244 and 16 TAC § 24.227 and 24.233.

4. City provided notice of the application that complies with TWC § 13.246 and 16 TAC § 24.235.
5. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,¹ the TWC, and Commission rules.
6. After consideration of the factors in TWC §§ 13.241(c) and 13.246(c) and 16 TAC § 24.227(a) and (e), City demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area, as required by TWC § 13.241 and 16 TAC § 24.227.
7. City demonstrated that regionalization or consolidation is not economically feasible, as required by TWC § 13.241(d) and 16 TAC § 24.227(b).
8. It is not necessary for City to provide a bond or other financial assurance under TWC § 13.246(d) and 16 TAC § 24.227(d).
9. City has demonstrated that the amendment of sewer CCN number 20825 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), City must record a certified copy of the approved maps and certificates, along with a boundary description of the service areas, in the real property records of Hidalgo County within 31 days of this Notice of Approval and must submit evidence of the recording 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 orders the following:

¹ Tex. Gov't Code §§ 2001.001–.903.

1. The Commission amends City's sewer CCN number 20825 to add the requested area as described in this Notice of Approval and shown on maps attached to Commission Staffs Final Recommendation.
2. The Commission approves the maps attached to Commission Staffs Final Recommendation.
3. The Commission issues the certificate attached to Commission Staffs Final Recommendation.
4. City must provide sewer service to every customer and applicant for service within the approved area under CCN number 20825 who requests sewer service and meets the terms of City's sewer service policies, and such service must be continuous and adequate.
5. City must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Hidalgo County affected by this application and must file in this docket proof of the recording no later than 45 days after the date of this Notice of Approval.
6. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas this ____ day of _____, 2024.

PUBLIC UTILITY COMMISSION OF TEXAS

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ADMINISTRATIVE LAW JUDGE