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DOCKET NO. 55154

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

JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

On June 16, 2023, the City of Pharr (Pharr) filed an application to amend its sewer certificate of convenience and necessity (CCN) number 20643 in Hidalgo County, Texas under Texas Water Code (TWC) §§ 13.242 and 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 and 24.237. Pharr filed supplemental information on September 6, 2023, September 21, 2023, December 18, 2023, December 21, 2023, February 9, 2024, March 11, 2023, and March 20, 2023.

On March 14, 2023, the administrative law judge (ALJ) filed Order No. 10, establishing the deadline of April 25, 2024 for the Staff (Staff) of the Public Utility Commission of Texas and Pharr (collectively, the Parties) to file a joint proposed motion to admit evidence and proposed notice of approval. Therefore, this pleading is timely filed.

I. JOINT MOTION TO ADMIT EVIDENCE

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

1. Application of City of Pharr to Amend its Certificate of Convenience and Necessity in Hidalgo County, Texas filed on June 16, 2023 (Interchange No. 1);
2. City's Response to Order No. 2 filed on September 6, 2023 (Interchange No. 7);
3. Letter to PUC Central Records re filing of requested shapefiles filed on September 21, 2023 (Interchange No. 8);

4. Commission Staff's Supplemental Recommendation on Administrative Completeness and Notice and Proposed Procedural Schedule filed on October 9, 2023 (Interchange No. 9);
5. Publisher's Affidavit and Tearsheet filed on December 18, 2023 (Interchange No. 15);
6. City of Pharr Affidavits and Notices filed on December 18, 2023 (Interchange No. 16);
7. Neighboring System Affidavit filed on December 21, 2023 (Interchange No. 17);
8. Commission Staff's Recommendation on Sufficiency of Notice and Proposed Procedural Schedule filed on January 24, 2024 (Interchange No. 18);
9. City's Response to Staff's First RFI filed on February 9, 2024 (Interchange No. 23);
10. Consent Form filed on March 11, 2024 (Interchange No. 25);
11. City's Wastewater System Master Plan filed on March 20, 2024 (Interchange No. 28);
12. Commission Staff's Final Recommendation filed on April 11, 2024 (Interchange No. 31); and
13. The attached final map and certificate provided by Staff to Pharr on March 4, 2024, and consented to by Pharr on March 11, 2024.

II. JOINT PROPOSED NOTICE OF APPROVAL

The attached Joint Proposed Notice of Approval would grant the application to amend sewer CCN number 20643 in Hidalgo County, Texas.

III. CONCLUSION

The Parties respectfully request that the Commission grant the Motion to Admit Evidence, including the attached final map and certificates, and adopt the attached Joint Proposed Notice of Approval as described above.

Respectfully submitted,

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BY:

Emily W. Rogers
Emily W. Rogers

CERTIFICATE OF CONFERENCE

I certify that I have conferred with Counsel for the Public Utility Commission of Texas Staff, Dylan King, and he concurs with this Joint Motion to Admit Evidence and Proposed Notice of Approval.

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record on April 25, 2024, in accordance with the requirements of 16 Tex. Admin. Code § 22.74 and PUC Order No. 2 in Docket No. 50664.

Emily W. Rogers
Emily W. Rogers

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

JOINT PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of the City of Pharr to amend its certificate of convenience and necessity (CCN) number 20643 to add approximately 678.9 uncertificated areas in Hidalgo County. The Commission amends Pharr’s CCN number 20643 to add the requested area, to the extent provided in this Notice of Approval.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Pharr is a home rule Texas municipality located in Hidalgo County.
2. Pharr operates, maintains, and controls facilities in Texas for providing retail sewer service under CCN number 20643.
3. Pharr owns and operates a wastewater treatment plant permitted by the Texas Commission on Environmental (TCEQ) under wastewater discharge permit number WQ0010596001.

Application

4. On June 16, 2023, Pharr filed the application at issue in this proceeding.
5. On September 6, 2023, September 21, 2023, December 18, 2023, December 21, 2023, February 9, 2024, March 11, 2023, and March 20, 2023, Pharr filed supplements to the application.
6. Pharr’s application, as supplemented, seeks to amend its sewer CCN number 20643 to add 678.9 acres of uncertificated land, 1006 current connections, and 234 potential future

connections. The requested area is divided into the requested area north and the requested area south.

7. The requested area north is located approximately 3.4 miles north of downtown Pharr, Texas, and is generally bounded on the north by Owassa Road, on the east by Raul Longoria Road (Farm to Market Road 1426, on the south by Minnesota Road, and on the west by North Jackson Road (Farm to Market Road 3362.
8. The requested area south is located approximately 7.1 miles south of downtown Pharr, Texas, and is generally bounded on the north by Military Highway (United States Highway 281), on the east by Steward Road (County Road 4015), on the south by Doffing Road, and on the west by South I Road.
9. In Order No. 4 filed on October 10, 2023, the administrative law judge (ALJ) found the application, as supplemented, administratively complete.

Notice

10. On December 18, 2023, Pharr filed the following:
 - a. the affidavit of Rae Fregeolle-Burk, legal assistant to attorney for Pharr, attesting that notice was provided to current customers and affected parties between November 27, 2023 and December 18, 2023; and
 - b. a publisher's affidavit attesting to publication of notice in *The Advance News Journal*, a newspaper of general circulation in Hidalgo County, on October 25, 2023 and November 1, 2023.
11. On December 21, 2023, Pharr filed the affidavit of Rae Fregeolle-Burk, legal assistant to attorney for Pharr, attesting that notice was provided to neighboring systems between November 27, 2023 and December 21, 2023.

12. In Order No. 7 filed on January 25, 2024, the ALJ found notice sufficient.

Evidentiary Record

13. In Order No. ___ filed on _____, 2024, the ALJ admitted the following evidence into the record of this proceeding:

- a. Application of City of Pharr to Amend its Certificate of Convenience and Necessity in Hidalgo County, Texas filed on June 16, 2023;
- b. City's Response to Order No. 2 filed on September 6, 2023;
- c. Letter to PUC Central Records re filing of requested shapefiles filed on September 21, 2023;
- d. Commission Staff's Supplemental Recommendation on Administrative Completeness and Notice and Proposed Procedural Schedule filed on October 9, 2023;
- e. Publisher's Affidavit and Tearsheet filed on December 18, 2023;
- f. City of Pharr Affidavits and Notices filed on December 18, 2023;
- g. Neighboring System Affidavit filed on December 21, 2023;
- h. Commission Staff's Recommendation on Sufficiency of Notice and Proposed Procedural Schedule filed on January 24, 2024;
- i. City's Response to Staff's First RFI filed on February 9, 2024;
- j. Consent Form filed on March 11, 2024;
- k. City's Wastewater System Master Plan filed on March 20, 2024;
- l. Commission Staff's Final Recommendation filed on April 11, 2024; and
- m. The attached final map and certificate provided by Staff to Pharr on March 4, 2024, and consented to by Pharr on March 11, 2024.

Adequacy of Existing Service

14. Customers in the requested area to the north currently receive sewer service from Pharr, which operates a TCEQ-permitted wastewater treatment plant authorized under wastewater treatment plant discharge permit number WQ0010596001.
15. Pharr has violations listed in the TCEQ database.
16. Construction of facilities is necessary for Pharr to service the requested area to the south and portions of the requested area to the north.
17. The Commission's complaint records, which go back 5 years, show 6 complaints against Pharr. All the complaints have been reviewed and closed by the Commission's Customer Protection Division.

Need for Service

18. There are 1006 existing customers in the requested areas and potential new customers in the requested areas.

Effect of Granting the CCN Amendment

19. Pharr will be the certificated entity for the requested areas and will be required to provide continuous and adequate service to the requested areas.
20. Landowners in the requested areas will have a sewer provider available when they need to request service.
21. All retail public utilities in the proximate area were provided notice of the application and none requested to intervene.
22. There will be no effect on any retail public utility servicing the proximate area.

Ability to Service: Managerial and Technical

23. Pharr operates the TCEQ-permitted wastewater treatment plant authorized under wastewater treatment plant discharge permit number WQ0010596001.
24. Pharr has qualified TCEQ licensed operators licensed in wastewater treatment to run the system operations.
25. Pharr has violations listed in the TCEQ database.
26. The Commission's complaint records, which go back 5 years, show 6 complaints against Pharr. All the complaints have been reviewed and closed by the Commission's Customer Protection Division.
27. Pharr has the managerial and technical capability to provide continuous and adequate sewer service to the requested areas.

Feasibility of Obtaining Service from Adjacent Utilities

28. The requested area in the north is within the city limits of Pharr. The requested area in the south has been or will be annexed into Pharr.
29. Pharr's Code of Ordinances require that all subdivisions within the city limits connect to an approved sewage collection system, unless a variance is granted by Pharr. The only approved sewage collection system in the city limits is Pharr's wastewater collection system.
30. Pharr is currently serving customers in the requested area in the north.
31. Pharr has sufficient capacity to serve the requested areas.
32. It is not feasible to obtain service from an adjacent retail public utility.

Regionalization or Consolidation

33. Pharr has existing wastewater facilities in the requested area in the north.

34. Pharr has an existing wastewater treatment facility that is permitted to treat and dispose of 8 million gallons per day of treated wastewater. The City does not need to amend its permit or obtain a new permit to serve the requested areas.
35. Regionalization or consolidation do not apply.

Ability to Serve: Financial Ability and Stability

36. Pharr's debt-to-equity ratio is 0.78 and thus Pharr meets the leverage test.
37. Pharr's financial statements include net income of \$23,416,900 and a \$48,382,603 cash and cash equivalents balance that indicates that Pharr will have sufficient cash to cover any projected shortages. Thus, Pharr meets the operations test.
38. Future capital improvements will be paid for by the requestor pursuant to Pharr's ordinance 118.48(a)(1) and (c) which requires new developments and subdivisions to extend and install the new sewer facilities needed to serve the developments or requests for service. Thus, Pharr has provided a firm capital commitment.
39. Pharr has demonstrated the financial capability and stability to provide continuous and adequate sewer service to the requested area.

Financial Assurance

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

Environmental Integrity and Effect on the Land

41. The environmental integrity of the land will be minimally affected as facilities are constructed to provide service to the requested area.

Improvement of Service or Lowering of Costs to Consumers

42. Pharr will continue to provide sewer service to the existing customers in the area and provide service to any new customers in the requested area. There will be no change in the quality or cost of service to customers.

Map and Certificate

43. On March 5, 2024, the Commission Staff emailed the proposed final map and certificate to Pharr.
44. On March 11, 2024, Pharr filed its consent to the proposed final map and certificate.
45. On _____, 2024 the Commission Staff filed the final map and certificate.

Informal Disposition

46. More than 15 days have passed since the completion of the notice provided in this docket.
47. No person filed a protest or motion to intervene.
48. Pharr and Commission Staff are the only parties to this proceeding.
49. No party requested a hearing, and no hearing is needed.
50. Commission Staff recommended approval of the application.
51. 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 application under TWC §§ 13.041, 13.241, 13.242, 13.244, and 13.246.
2. Pharr is a retail public utility as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. Pharr's application meets the requirements of TWC § 13.244 and 16 TAC §§ 24.227 and 24.233.

4. Pharr 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 Procedures Act,¹ the TWC, and Commission rules.
6. After consideration of the factors in TWC §§ 13.241(a) and 13.246(c) and 16 TAC §§ 24.277(a) and (e), Pharr demonstrated adequate financial, managerial, and technical capability to provide adequate and continuous service to the requested area as required by TWC § 13.241(a) and 16 TAC § 24.277.
7. Pharr has a TCEQ-approved system that is capable of meeting the TCEQ's design criteria for sewer treatment plants, TCEQ rules, and the TWC in accordance with TWC § 13.241(c) and 16 TAC § 24.227(a)(2).
8. 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.
9. It is not necessary for Pharr to provide a bond or financial assurance under TWC § 13.246(d) or 16 TAC § 24.227(f).
10. Pharr demonstrated that granting CCN number 20643 for the requested area 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).
11. Under TWC § 13.257(r) and (s), Pharr must record a certified copy of the approved map and certificate, along with the boundary description of the service area, 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.
12. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

¹ Tex. Gov't Code §§ 2001.001-.903.

III. Ordering Paragraphs

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

1. The Commission grants Pharr CCN number 20643 as described in this Notice of Approval and shown on the attached map.
2. The Commission approves the map attached to this Order.
3. The Commission issues the certificate attached to this Order.
4. Pharr must provide service to every customer or applicant for service within the approved areas under water CCN number 20643 who requests sewer service and meets the terms of Pharr's sewer service policies, and such service must be continuous and adequate.
5. Pharr must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Hidalgo County affected by the application and must submit to the Commission evidence of the recording no later than 45 days after receipt of the 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 the _____ day of _____ 202__.

PUBLIC UTILITY COMMISSION OF TEXAS

REBECCA BROMLEY-WILLIAMS
ADMINISTRATIVE LAW JUDGE