



Ohio Administrative Code

Rule 4901:1-15-05 Application for certificate of public convenience and necessity.

Effective: November 2, 2017

(A) Any person, firm, or corporation desiring to obtain a certificate of public convenience and necessity authorizing such person, firm, or corporation to construct and/or operate a waterworks system and/or a sewage disposal system or to expand the area in which such a system is operated, shall file an application in the form and with the content specified in this rule. Exhibits as described and enumerated in paragraph (D) of this rule shall be attached to and made a part of each application. The required number of copies to be filed with the commission of applications made pursuant to this rule is set forth in rule 4901-1-02 of the Administrative Code.

(B) All applications and exhibits shall be typewritten, filed electronically pursuant to paragraph (D) of rule 4901-1-02 of the Administrative Code, printed, or reproduced by some other equally legible and permanent process on good quality paper, eight and one-half inches by eleven inches nominal size. Maps and plans may be reproduced by any reasonably permanent process and shall be of such size that they can be folded to match the other documents presented.

(C) Applications and exhibits must be signed by the applicant or his/her attorney and shall show the complete post office address of the person whose signature is affixed. If the applicant is a partnership, one partner may sign for all; if a corporation, the president, a vice-president, secretary, or other duly authorized officer may sign. The applicant shall serve a copy of the application, the exhibits, and all other filings upon the Ohio environmental protection agency (OEPA) at Columbus, Ohio, and shall indicate this service on the copies filed with the commission. Any of the exhibits which are currently on file with the OEPA may be omitted.

(D) All of the following exhibits shall be filed with each application and, if a hearing is held, shall be presented as evidence at the hearing.

(1) Exhibit one

(a) If applicant is a corporation, it shall file both of the following:



(i) A list of the officers, directors, and the ten largest shareholders of the corporation, the address of each, and the number of shares held by each. If there are not as many as ten shareholders, a statement to that effect.

(ii) The nature, character, and extent of the interest, if any, of any of the above officers, directors, or shareholders in any other waterworks company and/or sewage disposal system company, or in any other partnership or corporation that holds an interest in any other waterworks company and/or sewage disposal system company.

(b) If applicant is a partnership, it shall file both of the following:

(i) Name and address of each partner.

(ii) The nature, character, and extent of the interest, if any, of any partner in any other waterworks company and/or sewage disposal system company, or in any other partnership or corporation that holds any interest in any other waterworks company and/or sewage disposal system company.

(c) If applicant is an individual, it shall file the same information for an individual owner of a waterworks company and/or a sewage disposal system company as required by paragraphs (D)(1)(b)(i) and (D)(1)(b)(ii) of this rule for a partnership application.

(d) If any person, firm, or corporation purports to guarantee the obligations of the applicant, the person, firm, or corporation shall file a disclosure including both of the following:

(i) Identification of such person, firm, or corporation by name and complete post office address.

(ii) A detailed balance sheet (net worth statement) for such person, firm, or corporation.

(e) Further, if any developer of all or part of the area for which applicant requests a certificate of public convenience and necessity has any interest in, or control over, the applicant, the developer shall file a disclosure including all of the following:



- (i) Identification of such developer by name and complete post office address.
- (ii) A detailed balance sheet (net worth statement) of such developer.
- (iii) The nature and extent of the developer's interest in applicant and the means by which control is exercised over applicant.

(2) Exhibit two

A certified copy of the articles of incorporation and any amendments if applicant is a corporation, or a copy of the partnership agreement if applicant is a partnership.

(3) Exhibits three, three A, and three B

A financial statement (balance sheet) showing in detail applicant's assets, liabilities, and net worth as of a date no more than one month prior to the date the application was filed (exhibit three), and projected to exist as of the date when construction will be completed and the system or systems will be ready for operation (exhibit three A). If a hearing is held, applicant shall tender at the hearing a financial statement showing in detail applicant's assets, liabilities, and net worth as of the date the application was filed (exhibit three B).

(4) Exhibits four and four A

Pro forma income statements for applicant's first (exhibit four) and fifth (exhibit four A) contemplated full years of operation, showing in reasonable detail for each of those years applicant's anticipated operating revenues, expenses, and net income available for fixed charges.

(5) Exhibit five

A multi-page document (tariff) setting forth all of applicant's proposed rates, charges, and rules and regulations. This document shall be considered by the commission in its determination of applicant's ability to operate the proposed waterworks system and/or sewage disposal system at rates and charges that will produce from such operations a fair and reasonable rate of return on the statutory



rate base value of the property dedicated to the service of the public. Such tariff documents tendered to the commission as exhibits to an application shall bear no issued or effective dates and their form and content shall be subject to approval by the commission.

(6) Exhibit six

A metes and bounds description of the area in which service is to be rendered pursuant to the authority sought and a map based upon the metes and bounds description. The map offered as exhibit six to any application shall be drawn or reproduced to a scale with no greater than one thousand feet equaling one inch. The scale shall be shown in a written statement or by a legend on the map. The map shall also bear a title block indicating the name of the owner of the system or systems shown, the type or types of system(s) shown, the date of preparation of the map, and the contact information of the individual responsible for its accuracy and completeness.

(7) Exhibit seven

(a) A written description of the proposed waterworks system and/or sewage disposal system and the component parts of the system prepared by a registered engineer licensed to practice in Ohio. For a waterworks system, the description shall show the engineer's estimate of the maximum hour, maximum day, and average day demands on the waterworks system and shall compare such demand estimates with the corresponding capabilities of all the components of the proposed waterworks system. For a sewage disposal system, the description shall include, but not be limited to, statements of the design capacities of the components of the sewage disposal system facilities and of the maximum hourly and average inflows to the facilities which are anticipated.

(b) A description of the type of pipe to be used in the water distribution system or in the sewage collection and transmission system. This description shall include the type of material from which the pipe is to be fabricated and the type or types of joints to be used.

(8) Exhibit eight

A statement evidencing that, in the case of a waterworks system, the proposed facilities are capable of providing a minimum static pressure of thirty-five pounds per square inch at normal operating



conditions at all curb stops.

(9) Exhibit nine

A statement evidencing that the company's system of mains shall be of adequate size to permit the installation and proper operation of public fire hydrants. Except as provided in rule 4901:1-15-30 of the Administrative Code, such public fire hydrants need be installed only if they are paid for by the proper public authority, agency, or entity ordering the installation for both the capital cost and the cost of maintaining and operating the hydrants.

(10) Exhibit ten

A statement evidencing that the company will avoid dead ends in the distribution mains so far as possible. If such dead ends exist, the waterworks company shall provide facilities for flushing.

(11) Exhibit eleven

A statement evidencing that, in the case of a sewage disposal system, the mains and laterals proposed are of adequate size and are to be laid with such flow lines as to permit an expeditious flow from the point of the origin at the customer's premises to the point of treatment or disposal. If land contours are not such as to permit transport of the outflow by gravity, adequate lift stations or other adequate facilities shall be provided as a part of the applicant's system. If, in lieu of or as an adjunct to such lift stations, force pumps are proposed to be installed to move sewage discharge away from a customer's premises, a full description of the equipment and of the manner and means of its operation shall be included.

(12) Exhibit twelve

(a) An estimate(s) in full detail of the cost of construction of the waterworks system and/or sewage disposal system shown and described in paragraph (D) of this rule, in exhibits six and seven. This estimate shall be prepared and signed by the person who prepared and presented exhibit seven.

(b) Upon the request of the commission, the cost of feasible alternatives to the proposed waterworks



and/or sewage disposal system such as connection to an existing system or use of alternate processes and material shall be presented, together with reasons for the choice which was selected.

(13) Exhibit thirteen

A statement of the financing plan by which applicant proposes to fund the construction or acquisition of its proposed waterworks system and/or sewage disposal system and to secure working capital. Such statement shall show the amount of equity capital applicant expects to have or to secure by the issuance of equity securities; the amount of capital it expects to secure by the issuance of notes or bonds; the source and terms of the equity funds; the terms of the notes or bonds; and any sums that applicant expects will be voluntarily contributed.

(14) Exhibit fourteen

A statement evidencing that applicant has in its treasury sufficient unobligated paid-in capital or internally generated funds and/or has commitments from a responsible financial organization, satisfactory to the commission, which will enable it to secure through the issuance of securities, approved by the commission, all additional financing necessary to complete construction of and place into operation its proposed utility system. Sufficient unobligated paid-in capital or internally generated funds is presumed to be that equal to at least forty per cent of the estimated cost of construction of the utility plant. To overcome such presumption, the applicant must show by competent evidence that it otherwise has sufficient unobligated paid-in capital funds and satisfactory financial commitments to complete construction of and place into operation its proposed system.

(15) Exhibit fifteen

A statement evidencing that, at the rates proposed in applicant's tariff as filed with the application and based upon a pro forma income statement also filed with the application, applicant will have sufficient revenues to enable it to meet its operating and maintenance expenses, to begin establishing a depreciation reserve, to pay all taxes, to establish an adequate reserve for contingencies, and to pay interest on any outstanding debt.

(16) Exhibit sixteen



If OEPA approval is necessary for the construction of the facilities described in the application, a written statement to the commission from an official of the OEPA, stating that the OEPA has approved general plans for the proposed waterworks system and/or sewage disposal system and that it would approve acceptable final detail plans upon notification that the commission has granted to the applicant a certificate of public convenience and necessity for the construction and operation of the system or systems. In the event that approval of final detail plans is not readily available or cannot be obtained from the OEPA, the commission may grant a certificate of public convenience and necessity contingent upon approval by the OEPA of final detail plans.

(17) Exhibit seventeen

(a) A proposed construction and installation schedule stating in number of days of expected elapsed time of both of the following:

(i) The time between the issuance of the certificate as applied for and the start of active and continued construction of the facilities.

(ii) The time between the date upon which active and continued construction is started and the date of its completion in condition to render the proposed service.

(b) A statement that the applicant will complete all waterworks system and/or sewage disposal system facilities required to adequately serve the entire area for which the certificate of public convenience and necessity is sought and that the completion date will be as stated in paragraph (D)(17)(a)(ii) of this rule, unless work is interrupted by weather or by other conditions beyond applicant's control.

(18) Exhibit eighteen

A statement that there is a present and continuing need by the public in the area encompassed by the application for facilities and services of the type which applicant proposes to provide.

(19) Exhibit nineteen



A statement evidencing that no existing agency, publicly or privately owned or operated, would or could economically and efficiently provide the facilities and services needed by the public in the area which is the subject of the application.

(20) Exhibit twenty

A statement describing the public convenience to be served by means of granting a certificate of public convenience and necessity to applicant, and a list of the counties and any municipal corporations proposed to be served in whole or in part.

(21) Exhibit twenty-one

A proposed legal notice containing all the information required by paragraphs (C)(2)(d)(i) to (C)(2)(d)(v) of rule 4901:1-15-04 of the Administrative Code.

The proposed notice shall set forth the rates proposed to be charged and collected, and describe the specific area to be served by the applicant under the certificate being applied for. The proposed description need not be stated in terms of metes and bounds; however, it shall be in sufficient detail to enable a member of the public to locate the service areas and determine their boundaries.

(22) Exhibit twenty-two

An affidavit attesting to and adopting all filings submitted with the application. The affiant shall not be the applicant's attorney, but may be any other person qualified to sign the application pursuant to paragraph (C) of this rule.