



Control Number: 42944



Item Number: 88

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DOCKET NO. 42944

APPLICATION OF THE CITY OF
THRALL TO AMEND A
CERTIFICATE OF CONVENIENCE
AND NECESSITY IN WILLIAMSON
COUNTY (36627-C)

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PUBLIC UTILITY COMMISSION
OF TEXAS

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NOTICE OF APPROVAL

This Notice addresses the application of the City of Thrall to amend its water service certificate of convenience and necessity (CCN) in Williamson County. Commission Staff recommended approval of the application, as amended. The application, as amended, is approved.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

Procedural History

1. On January 28, 2010, Thrall filed with the Texas Commission on Environmental Quality (TCEQ) an application to amend water service CCN No. 13063 in Williamson County.¹
2. The requested service area included approximately 47.6 acres that are adjacent to the city limits of Thrall, with no current customers.²
3. On March 12, 2010, the TCEQ accepted the application for filing and required the City to provide revised public notice of the application.³
4. Thrall provided affidavits attesting to mailed notice to neighboring utilities, landowners, and affected parties on July 12, 2010.⁴

¹ Application from the City of Thrall, to Amend Certificate of Convenience and Necessity (CCN) No. 13063, in Williamson County; Application No. 36627-C, Texas Commission on Environmental Quality (the Commission's Automated Information System (AIS) Item Nos. 1 and 2) (Jan. 28, 2010).

² *Id.* at 10.

³ AIS Item No. 9.

⁴ AIS Item Nos. 12 and 13.

5. On July 19, 2010, Thrall provided a publishers affidavit attesting to published notice in the *Taylor Daily Press*, a newspaper of general circulation in Williamson County, on July 9, 2010 and July 16, 2010.⁵
6. On August 6, 2010, The Stiles Farm Foundation opposed the application and requested a public hearing.⁶
7. On August 9, 2010, Noack Water Supply Corporation protested the application, claiming that all or a portion of the requested service area overlapped with Noack's water CCN, and requested a public hearing.⁷
8. On October 15, 2010, TCEQ referred the case to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.⁸
9. On January 6, 2011, SOAH Order No. 1 was issued, summarizing a prehearing conference at which TCEQ, Thrall, Noack, and Stiles appeared and Noack and Stiles were admitted as parties, identifying exhibits that were admitted for jurisdictional purposes, and acknowledging the parties agreement to abate the proceeding and provide a status report no later than March 11, 2011.⁹
10. Between May 10, 2011 and May 31, 2012, SOAH Order Nos. 2-5 were issued abating the proceeding and requiring status updates, and SOAH Order No. 6 was issued, dealing with procedural matters and setting a deadline for an agreed schedule or a status report.
11. On June, 25, 2012, SOAH Order No. 7 was issued, adopting an unopposed procedural schedule, including dates for a hearing on the merits.¹⁰

⁵ AIS Item No. 14.

⁶ AIS Item No. 18.

⁷ AIS Item No. 17.

⁸ AIS Item No. 19.

⁹ Application of City of Thrall to Amend its Certificate of Convenience and Necessity No. 13063, in Williamson County; Application No. 36627-C; Docket No. 2010-1674-UCR; SOAH Docket No. 582-11-1116, SOAH Order No. 1 at 1 (AIS Item No. 28) (Jan 6, 2011).

¹⁰ AIS Item Nos. 22 and 34.

12. On October 23, 2012, SOAH Order No. 8 was issued, granting Thrall's motion to remand the case based on a settlement agreement entered by the parties and dismissing the docket from SOAH, without prejudice.¹¹
13. Effective September 1, 2014, the Commission began the economic regulation of water and sewer utilities. This application, formerly pending at TCEQ, is now before the Commission for consideration.
14. On November 4, 2014, Order No. 1 was issued, addressing the transfer from TCEQ and establishing the Commission's procedural guidelines; and Order No. 2 was issued, requiring Commission Staff to comment on the status of this application by December 5, 2014.
15. On December 5, 2014, Commission Staff responded to Order No. 2, reciting the procedural history, stating that after Thrall provided notice of the application, NOACK and Stiles requested a hearing, the matter was referred to SOAH, a preliminary hearing was held, the parties engaged in settlement negotiations for a protracted period of time and initiated formal discovery when settlement seemed unlikely, but then reached a settlement on October 11, 2012, SOAH remanded to TCEQ for further processing on October 23, 2012, and for reasons unknown, a final order from TCEQ cannot be found.¹²
16. In the October 11, 2012 settlement agreement, the requested service area was reduced from 47.6 acres for the construction of a high school, to 22.62 acres.¹³
17. On December 8, 2014, Order No. 3 was issued, requiring Commission Staff to file supplemental comments on the status of the proceeding by February 6, 2015.
18. Between February 11, 2015 and September 16, 2016, Order Nos. 4 - 8 were issued, extending the deadline for a proposed order or a status updates, to allow the parties time to work toward a final settlement of this application.

¹¹ AIS Item No. 23.

¹² Staff's Response to Order No. 2 at 1-2 (Dec. 5, 2014).

¹³ Motion to Admit Evidence, attached PUC Memorandum in Support of Unanimous Stipulation and Settlement Agreement at 2 (Apr. 20, 2017).

19. On September 18, 2015, the City filed a signed consent to the proposed final map, dated September 8, 2015, and amended certificate for CCN No. 13063, as prepared by Commission Staff.
20. Between October 19, 2016 and March 23, 2017, Order Nos. 9 - 24 were issued, extending deadlines for a proposed order or a status updates, to allow the parties time to work toward a final settlement of this application.
21. On April 20, 2017, Commission Staff filed a motion to admit evidence, provided a proposed final order and provided a memo in support of an attached Stipulation and Agreement, in which the parties consented to Thrall providing service in the requested area and to amending CCN No. 13063 consistent with the proposed revised map referenced in Finding of Fact No. 19.
22. The revised map and certificate for CCN No. 13063 referenced in Finding of Fact Nos. 19 and 21 are attached to this Notice.
23. On April 28, 2017, Order No. 25 required Commission Staff to clarify whether the service area requested by Thrall is currently uncertificated, or to provide all necessary documentation for decertification if appropriate.
24. On May 18, 2017, Commission Staff clarified that the requested service area is uncertificated, there are no overlaps with other certificated service area, and no other consents are required.
25. On June 13, 2017, Order No. 26 was issued admitting evidence into the record.

II. Conclusions of Law

1. The Commission has jurisdiction and authority over this docket under Texas Water Code §§ 13.242 – 13.250 (TWC).
2. The City is a retail public utility as defined in TWC § 13.002(19) and 16 Texas Administrative Code § 24.3(59) (TAC).

3. This docket was processed in accordance with the requirements of the TWC, Texas Administrative Procedure Act,¹⁴ and Commission rules.
4. Thrall provided notice in compliance with TWC § 13.246 and 16 TAC § 24.106.
5. This application was processed in accordance with the requirements of TWC § 13.244 and 16 TAC §§ 24.102 and 24.105.
6. After considering the factors in TWC § 13.246(c), Thrall has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and its current service area as is required by TWC § 13.241.
7. Thrall has demonstrated that the application meets the requirements set forth in TWC §§ 13.241, 13.244, and 13.246 and 16 TAC §§ 24.101-102 and 24.104-106.
8. Approval of the application, as amended, is necessary for the service, accommodation, convenience, or safety of the public as is required by TWC §13.246(b) and 16 TAC § 24.102(c).
9. Under TWC § 13.257(r) and 16 TAC § 24.106(e), the City is required to record a certified copy of the approved CCN and map, along with a boundary description of the service area in the real property records of each county in which the service area or a portion of the service area is located, and submit to the Commission evidence of the recording.
10. The requirements for informal disposition under 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:

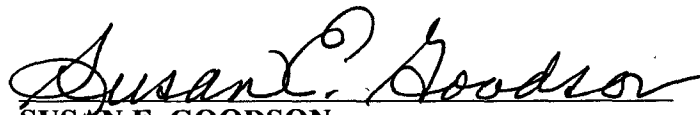
1. Thrall's application, as amended, is approved.
2. Thrall's water CCN No. 13063 is amended consistent with this Notice.

¹⁴ Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2008 & Supp. 2014) (APA).

3. The City shall serve every customer and applicant for water service within the area certified under CCN No. 13063, and such service shall be continuous and adequate.
4. The City shall comply with the recording requirements in TWC § 13.257(r) for the area in Williamson County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.
5. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.

SIGNED AT AUSTIN, TEXAS the 13th day of June 2017.

PUBLIC UTILITY COMMISSION OF TEXAS


SUSAN E. GOODSON
ADMINISTRATIVE LAW JUDGE



Public Utility Commission of Texas

By These Presents Be It Known To All That City of Thrall

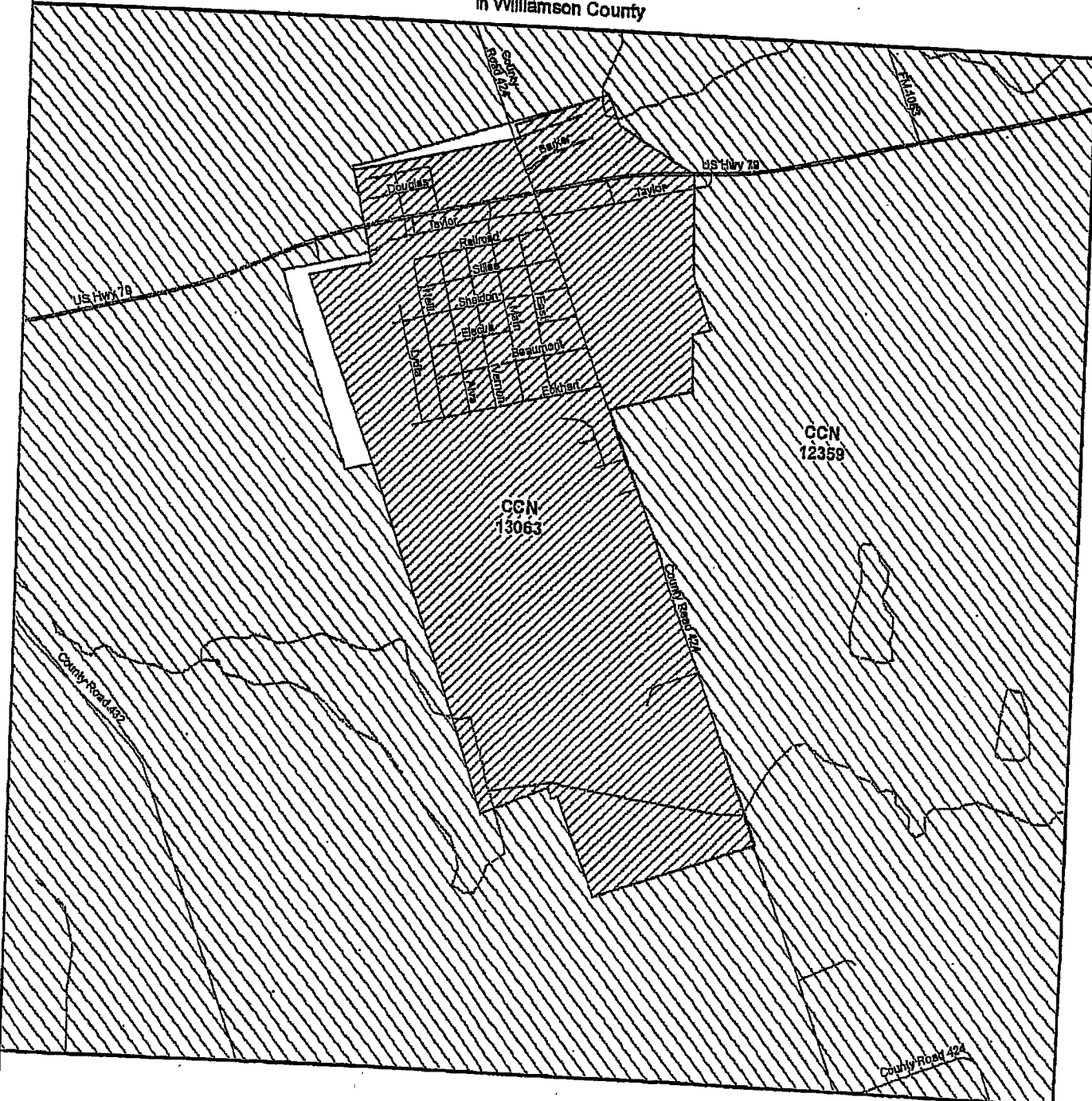
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, the City of Thrall, is entitled to and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

Certificate of Convenience and Necessity No. 13063

to provide continuous and adequate water utility service to that service area or those service areas in Williamson County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 42944 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 Thrall, 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.



Issued at Austin, Texas, this 13th day of June 2017.

City of Thrall
 Water Service Area
 CCN No. 13063
 PUC Docket No. 42944
 Amended CCN No. 13063
 in Williamson County



Public Utility Commission of Texas
 1701 N. Congress Ave
 Austin, TX 78701

Water CCN Service Areas

-  13063 - City of Thrall
-  12359 - Noack WSC

0 750 1,500
 Feet



Map by: Suzanne Jasler
 Date created: Dec. 8, 2014
 Updated by Komal Patel on Sep. 8, 2015
 Project path: n:\gis\project\applications\42944.mxd