



Control Number: 42983



Item Number: 46

Addendum StartPage: 0

**DOCKET NO. 42983**

**APPLICATION OF CRYSTAL CLEAR  
WATER SUPPLY CORPORATION AND  
CITY OF SAN MARCOS FOR SALE,  
TRANSFER, OR MERGER OF  
FACILITIES AND TO AMEND A  
CERTIFICATES OF CONVENIENCE  
AND NECESSITY IN COMAL,  
GUADALUPE, AND HAYS COUNTIES  
(37671-S and 37672-S)**

§  
§  
§  
§  
§  
§  
§  
§  
§

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

RECEIVED  
2016 FEB 10 PM 3:40  
PUBLIC UTILITY COMMISSION  
FILING CLERK

**NOTICE OF APPROVAL**

This Notice addresses the consolidated applications of Crystal Clear Water Supply Corporation (Crystal Clear) and the City of San Marcos (the City) (collectively, the Applicants) for the sale, transfer, or merger of facilities and to amend certificates of convenience and necessity (CCNs) in Comal, Guadalupe, and Hays Counties. Public Utility Commission of Texas (Commission) Staff recommended approval of the consolidated application, as amended. The consolidated application, as amended, is approved.

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

**I. Findings of Fact**

1. On July 26, 2013, Crystal Clear and the City filed two applications with the Texas Commission on Environmental Quality (TCEQ) for the sale, transfer, or merger of facilities and certificate rights and to amend CCNs in Comal, Guadalupe and Hays Counties pursuant to Tex. Water Code §§ 13.246, 13.254, 13.301 (TWC) and 16 Tex. Admin. Code §§ 24.109 and 24.112 (TAC). On November 9, 2015, the two applications were consolidated into this docket (the Application).
2. Crystal Clear holds water CCN No. 10297 in Comal, Guadalupe, and Hays Counties.
3. The City holds water CCN No. 10298 in Comal, Guadalupe, and Hays Counties.
4. Currently, the boundaries for CCN Nos. 10297 and 10298 overlap, forming areas that are dually certificated to the Applicants.
5. Approval of the Application would eliminate the areas where the Applicants are dually

46

certificated and add new previously uncertificated area to each of the Applicants' certificates.

**Docket No. 42983 Facts:**

6. Applicants request three amendments to the City's CCN No. 10298:
  - (1) decertification of approximately 4,044 acres to be transferred to Crystal Clear's CCN No. 10297,
  - (2) addition of approximately 4,510 acres transferred from Crystal Clear's CCN No. 10297 to City's CCN No. 10298, and
  - (3) addition of approximately 2,642 previously uncertificated acres to City's CCN No. 10298.
7. The Application contemplates the transfer of 206 customers from Crystal Clear to the City.
8. On January 10, 2014, TCEQ determined that the application was administratively complete and accepted it for filing.
9. Applicants provided public notice by April 7, 2014.
10. The comment period at TCEQ ended with TCEQ receiving one protest letter; however, TCEQ determined that the concerns listed in the protest letter did not meet the criteria in 30 TAC § 291.109(e), now 16 TAC § 24.109(e) and therefore, that a public hearing would not be scheduled.
11. By letter dated June 5, 2014, TCEQ authorized Crystal Clear and the City to proceed with the transaction and instructed the City to provide a copy of the signed bill of sale and documents supporting the disposition of customer deposits before the certificate transfer could occur.
12. On July 11, 2014, the City provided TCEQ the signed sale contract, which also provided that both Applicants will refund any customer deposits provided by customers whose service will be transferred.
13. On September 1, 2014, functions relating to the economic regulation of water and sewer utilities were transferred from TCEQ to the Commission. This Application, once pending at TCEQ, is now before the Commission for consideration.

14. On December 15, 2014, Commission Staff recommended approval of the application.
15. On January 30, 2015, Order No. 4 was issued, requiring clarification of the Application and notice, as provided.
16. On April 13, 2015, Applicants provided information clarifying the transaction and asking for an extension of the 365-day period contained in 16 TAC § 24.112(e) to allow for the dissemination of amended notices to reflect the entirety of the transaction.
17. On April 17, 2015, Commission Staff recommended that Applicants be instructed to provide revised mailed notice pursuant to 16 TAC § 24.112(c)(3) and to publish notice pursuant to 16 TAC § 24.112(c)(2).
18. On April 24, 2015, Order No. 6 was issued, instructing Applicants to provide revised notice, extending the 365-day deadline found in 16 TAC § 24.112(e) from June 5, 2015 to July 31, 2015, and establishing a procedural schedule.
19. On May 17, 2015 and May 24, 2015, Applicants' published notice in the *San Marcos Daily Record*, a newspaper of general circulation in Hays County.
20. On May 17, 2015 and May 24, 2015, Applicants' published notice in the *Seguin Gazette*, a newspaper of general circulation in Guadalupe County.
21. On May 17, 2015 and May 24, 2015, Applicants' published notice in the *New Braunfels Herald-Zeitung*, a newspaper of general circulation in Comal County.
22. On April 28, 2015, Applicants mailed notice to neighboring utilities, landowners, and affected parties.
23. Sufficient notice was published and provided to all affected and interested parties by April 28, 2015.
24. On June 11, 2015, Applicants filed proof of notice.
25. No protests, opt-out requests, or requests for hearing were received by the Commission.
26. On July 13, 2015, Commission Staff responded to Order No. 6, requesting that Applicants be required to provide additional documentation demonstrating that the transaction has been completed and that customer deposits have been transferred or refunded to the customers with interest. Additionally, Commission Staff and Applicants jointly requested

that the 365-day deadline be extended to September 25, 2015, for good cause.

27. On July 14, 2015, Order No. 7 was issued, requiring Applicants to provide the additional documentation requested by Commission Staff, granting the second extension of the 365-day deadline to September 25, 2015, and establishing a procedural schedule.
28. On August 13, 2015, Crystal Clear submitted a copy of the bill of sale and assignment evidencing the completed transaction and an affidavit attesting that all customer deposits had been refunded before or at closing.
29. On August 20, 2015, the City submitted new service area maps.
30. On August 21, 2015, Commission Staff transmitted a proposed amended service area map and proposed amended certificates of CCN Nos. 10297 and 10298 to Crystal Clear and the City, respectively, for review and consent.
31. On August 24, 2015, Crystal Clear and the City submitted signed consents to the proposed amended map and certificates of CCN Nos. 10297 and 10298, as prepared by Commission Staff.
32. On August 27, 2015, Commission Staff recommended approval of the Application, with the proposed amended map and certificates attached.
33. On September 10, 2015, Commission Staff filed a proposed notice of approval and request to admit certain evidence.
34. On October 22, 2015, Order No. 8 was issued, requiring clarification regarding the requested new service area by the City; specifically explaining the change from the original request to add 2,642 acres, and the 1,092 acres discussed in Commission Staff's final recommendation.
35. On November 5, 2015, Commission Staff responded to Order No. 8, clarifying that the maps filed by the parties on August 20, 2015 amended the application and removed approximately 1,550 acres from the City's requested new service area, such that the City is only seeking the addition of 1,092 acres of previously uncertificated property to its CCN No. 10298, not 2,642 as originally requested.

**Docket No. 42984 Facts:**

36. Applicants requested three amendments to Crystal Clear's CCN No. 10297:
- (1) decertification of approximately 4,510 acres to be transferred to the City's CCN No. 10298,
  - (2) addition of approximately 4,044 acres transferred from the City's CCN No. 10298 to Crystal Clear's CCN No. 10297, and
  - (3) addition of approximately 1,360 previously uncertificated acres to Crystal Clear's CCN No. 10297.
37. The Application contemplates the transfer of 239 customers from the City to Crystal Clear.
38. On January 10, 2014, TCEQ determined the Application was administratively complete and accepted it for filing.
39. Sufficient notice was published and provided to all affected and interested parties by March 4, 2014.
40. The comment period at TCEQ ended with TCEQ receiving one protest letter; however, TCEQ determined that the concerns listed in the protest letter did not meet the criteria in 30 TAC § 291.109(e), now 16 TAC § 24.109(e).
41. By letter dated May 1, 2014, TCEQ authorized Crystal Clear and the City to proceed with the transaction and instructed Crystal Clear to provide a copy of the signed bill of sale and documents supporting the disposition of customer deposits before the certificate transfer could occur.
42. On September 1, 2014, functions relating to the economic regulation of water and sewer utilities were transferred from the TCEQ to the Commission. This application once pending at TCEQ is now before the Commission for consideration.
43. On December 16, 2014, Commission Staff recommended approval of the application.
44. On January 30, 2015, Order No. 4 was issued, requiring clarification of the application and notice, as provided.
45. On April 13, 2015, Applicants provided information clarifying the transaction and asking for an extension of the 365 day period contained in 16 TAC § 24.112(e) to allow for the

dissemination of amended notices to reflect the entirety of the transaction in this Application.

46. On April 17, 2015, Commission Staff recommended that Applicants be instructed to provide revised mailed notice pursuant to 16 TAC § 24.112(c)(3) and to publish notice pursuant to 16 TAC § 24.112(c)(2).
47. On April 24, 2015, Order No. 6 was issued, instructing Applicants to provide revised notice, extending the 365-day deadline found in 16 TAC § 24.112(e) from June 5, 2015 to July 31, 2015, and establishing a procedural schedule.
48. On May 17, 2015 and May 24, 2015, Applicants' published notice in the *San Marcos Daily Record*, a newspaper of general circulation in Hays County.
49. On May 17, 2015 and May 24, 2015, Applicants' published notice in the *Seguin Gazette*, a newspaper of general circulation in Guadalupe County.
50. On May 17, 2015 and May 24, 2015, Applicants' published notice in the *New Braunfels Herald-Zeitung*, a newspaper of general circulation in Comal County.
51. Applicants mailed notice to neighboring utilities, landowners, and affected parties on or before May 6, 2015.
52. On June 11, 2015, Applicants provided proof of notice.
53. Sufficient notice was published and provided to all affected and interested parties by May 6, 2015.
54. No protests, opt-out requests, or requests for hearing were received by the Commission.
55. On July 13, 2015, Commission Staff responded to Order No. 6, requesting that Applicants be required to provide additional documentation, including closing documents, indicating that the transaction has been completed and that customer deposits have been transferred or refunded to the customers with interest. Commission Staff recommended that there is good cause to extend the 365-day deadline found in 16 TAC § 24.112(e). Commission Staff and Applicants jointly requested that the 365-day deadline be extended to September 25, 2015.
56. On July 14, 2015, Order No. 7 was issued, requiring Applicants to provide the additional

documentation requested by Commission Staff, granting the second extension of the 365-day deadline to September 25, 2015, and establishing a procedural schedule.

57. On August 13, 2015, Crystal Clear submitted a copy of the bill of sale and assignment evidencing the completed transaction and an affidavit attesting that all customer deposits had been refunded before or at closing.
58. On August 21, 2015, Commission Staff transmitted a proposed service area map and certificates of CCN Nos. 10297 and 10298 to Crystal Clear and the City, respectively, for review and consent.
59. On August 24, 2015, Crystal Clear and the City submitted signed consents to the proposed amended map and certificates of CCN Nos. 10297 and 10298, respectively, as prepared by Commission Staff.
60. On August 27, 2015, Commission Staff recommended approval of the Application.
61. On September 10, 2015, Commission Staff filed a proposed notice of approval and request to admit certain evidence.

**Consolidated Facts:**

62. On November 9, 2015, Order No. 9 was issued in Docket No. 42983 and Order No. 8 was issued in Docket No. 42984, consolidating the applications and requiring Commission Staff to confirm that the proposed amended map and certificates to which the parties had already consented did not need to be updated because of the consolidation, or make the necessary amendments.
63. On November 16, 2015, Commission Staff confirmed that revisions to the proposed amended map and certificates were required, and requested additional time to complete the revisions.
64. On November 18, 2015, Order No. 10 was issued, granting Commission Staff's request for an extension of time to complete the necessary revisions for this Application.
65. On December 18, 2015, Commission Staff transmitted a revised proposed amended service area map and certificates of CCN Nos. 10297 and 10298 to Crystal Clear and the City, respectively, for review and consent.



66. On December 22 and 23, 2015, Crystal Clear and the City, respectively, filed consents to the revised proposed map and certificates prepared by Commission Staff.
67. On January 29, 2016, Commission Staff filed a copy of the revised proposed amended map to which the parties consented and confirmed that the certificates originally provided to the parties in Commission Staff's August 27, 2015 final recommendation in both dockets did not require updating. The amended map and certificates described in Findings of Fact Nos. 65-67 are attached to this Notice.
68. On February 10, 2016, Order No. 12 was issued admitting evidence.
69. More than 15 days have passed since the completion of notice in this proceeding.
70. The only parties to this proceeding are Commission Staff, the City and Crystal Clear.
71. There are no disputed issues and a hearing on the merits was not necessary.

## II. Conclusions of Law

1. The Commission has jurisdiction over this proceeding pursuant to TWC §§ 13.246, 13.254, 13.301 and 16 TAC §§ 24.109 and 24.112.
2. Crystal Clear and the City are retail public utilities as defined in TWC § 13.002(19) and 16 TAC § 24.3(58).
3. Public notice of the Application was provided as required by TWC § 13.301(a)(2) and 16 TAC § 24.112(c).
4. The Application was processed in accordance with the requirements of TWC § 13.301, 16 TAC §§ 24.109 and 24.112.
5. Crystal Clear and the City completed the sale within the Commission-extended 365-day period for approval of the sale, consistent with 16 TAC § 24.112(e).
6. After considering the factors in TWC § 13.246(c), the City has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area.
7. After considering the factors in TWC § 13.246(c), Crystal Clear has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate

service to the requested area.

8. Pursuant to 16 TAC § 24.106(f), the City is required to record evidence of its approved CCN and service area in the real property record of each county in which the areas are located.
9. Pursuant to 16 TAC § 24.106(f), the Crystal Clear is required to record evidence of its approved CCN and service area in the real property record of each county in which the areas are located.
10. The City and Crystal Clear have demonstrated that the transaction requested in this Application, as amended, is necessary for the service, accommodation, convenience, and safety of the public.
11. The requirements for informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

### **III. Ordering Paragraphs**

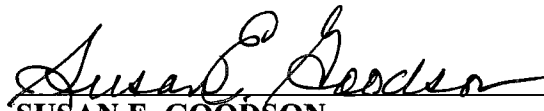
In accordance with these findings of fact and conclusions of law, the Commission issues the following Order:

1. The Application, as amended, is approved consistent with this Notice.
2. The City's CCN No. 10298 is amended to remove an approximately 4,044 acre portion of its service area that is decertified and transferred to Crystal Clear's CCN No. 10297.
3. The City's CCN No. 10298 is amended to add the approximately 4,510 acres of service area that is decertified and transferred from Crystal Clear's CCN No. 10297.
4. The City's CCN No. 10298 is amended to add approximately 1,092 acres of previously uncertificated service area.
5. The City shall serve every customer and applicant for service within the areas certified under CCN No. 10298, and such service shall be continuous and adequate.
6. The City shall submit to the Commission evidence of the recording of a certified copy of the map of CCN No. 10298 in the real property records of Comal, Guadalupe, and Hays Counties no later than the 31 days after receipt of this Notice.

7. Crystal Clear's CCN No. 10297 is amended to add the approximately 4,044 acres of service area that is decertified and transferred from the City's CCN No. 10298 service area.
8. Crystal Clear's CCN No. 10297 is amended to remove an approximately 4,510-acre portion of its service area that is decertified and transferred to the City's CCN No. 10298.
9. Crystal Clear's CCN No. 10297 is amended to add approximately 1,360 acres of previously uncertificated service area.
10. Crystal Clear shall serve every customer and applicant for service within the areas certified under CCN No. 10297, and such service shall be continuous and adequate.
11. Crystal Clear shall submit to the Commission evidence of the recording of a certified copy of the map of CCN No. 10297 in the real property records of Comal, Guadalupe, and Hays Counties no later than the 31 days after receipt of this Notice.
12. All other motions, requests for entry of specific findings of fact or 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 10<sup>th</sup> day of February 2016.

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**

## **Crystal Clear Water Supply Corporation**

having duly applied for 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 by this Applicant, is entitled to and is hereby granted this

### **Certificate of Convenience and Necessity No. 10297**

to provide continuous and adequate water utility service to that service area or those service areas in Comal, Guadalupe and Hays Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 42983 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 Crystal Clear Water Supply Corporation, 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 10<sup>th</sup> day of February 2016.



# **Public Utility Commission Of Texas**

**By These Presents Be It Known To All That**

## **City of San Marcos**

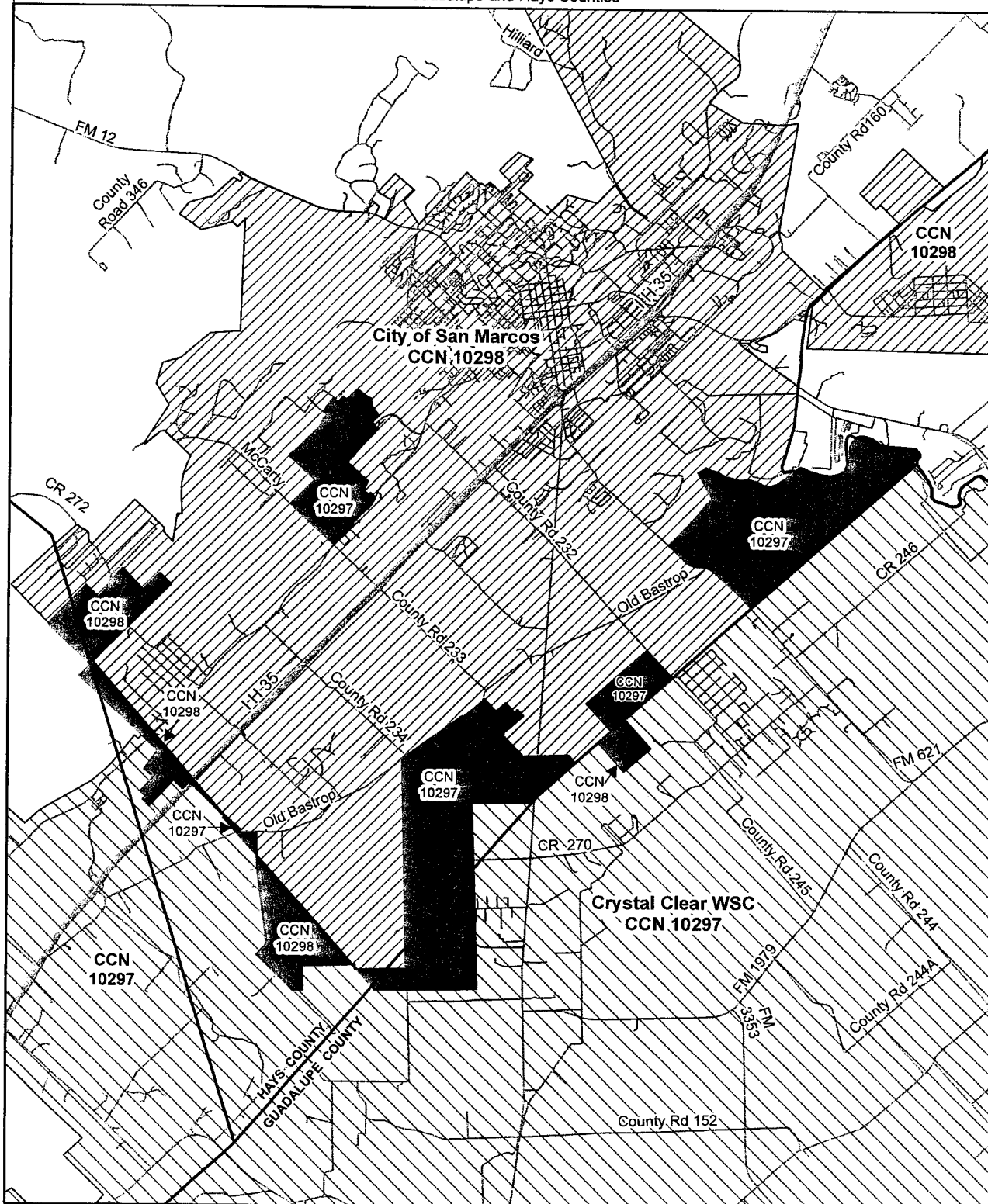
having duly applied for certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled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

### **Certificate of Convenience and Necessity No. 10298**



to provide continuous and adequate water utility service to that service area or those service areas in Comal, Guadalupe and Hays Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 42983 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 San Marcos, 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 10<sup>th</sup> day of February 2016.



City of San Marcos and Crystal Clear Water Supply Corporation  
 Portion of Water Service Areas  
 CCN Nos. 10298 & 10297  
 PUC Docket No. 42983  
 Amended Water Service Areas of the City of San Marcos, CCN No. 10298 and Crystal Clear WSC, CCN No. 10297  
 in Guadalupe and Hays Counties



**Water CCN Service Areas**

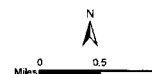
-  10298 - City of San Marcos
-  10297 - Crystal Clear WSC

**Amended Water CCN Service Areas**

-  10298 - City of San Marcos
-  10297 - Crystal Clear WSC



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



Map by: Komal Patel  
 Date created: December 10, 2015  
 Project path: n:\finalmapping\42983CityofSM&CrystalClear.mxd