



Control Number: 44843



Item Number: 5

Addendum StartPage: 0

**DOCKET NO. 44843**

**APPLICATION OF CHILDRESS  
CREEK WATER SUPPLY  
CORPORATION TO AMEND ITS  
WATER CERTIFICATE OF  
CONVENIENCE AND NECESSITY IN  
BOSQUE COUNTY BY  
DECERTIFYING THE VM  
NEIGHBORS WATER GROUP  
TRACTS**

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**PUBLIC UTILITY COMMISSION**

**OF TEXAS**

**COMMISSION STAFF'S RECOMMENDATION**

Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) files its Recommendation in response to Order No. 1. In support of its Recommendation, Staff states the following:

**I. Background**

On June 16, 2015, Childress Creek Water Supply Corporation (Childress Creek WSC) filed an application with the Commission. Childress Creek WSC requests a decertification of a portion of the service area certificated under water certificate of convenience and necessity (CCN No. 11000). The area to be decertified is currently not receiving, nor has it ever received, water or wastewater services from Childress Creek WSC. The service area is in Bosque County, Texas.

On June 22, 2015, the Administrative Law Judge issued Order No. 1. Order No. 1 requires Staff to comment on the administrative completeness of Childress Creek WSC's application and proposed notice. Staff's Recommendation is timely filed.

**II. Applicable Statutes and Rules**

**A. Amendment to a Certificate of Convenience and Necessity**

The Texas Water Code details the requirements for amending a certificate of convenience and necessity (CCN). In determining whether to approve the amendment of a CCN, the Commission "shall ensure that the applicant possesses the financial, managerial, and technical capability to provide continuous and adequate service."<sup>1</sup> The Commission must ensure that the

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<sup>1</sup> Tex. Water Code § 13.241(a).

applicant is capable of providing drinking water that meets the requirements of Chapter 341 of the Health and Safety Code and has access to an adequate supply of water.<sup>2</sup> The Texas Water Code and the Commission's substantive rules list the factors that are to be considered by the Commission in determining whether to approve the amendment of a CCN.<sup>3</sup>

## **B. Notice**

With regards to the required notice for an amendment to a certificate of convenience and necessity, an applicant must provide notice to the following:

- a. Any cities and retail public utilities<sup>4</sup> providing the same utility service within two (2) miles of the proposed service area.
- b. Any city with an extraterritorial jurisdiction that overlaps the proposed service area.
- c. Landowners with more than twenty-five (25) acres and any affected parties in the proposed service area.<sup>5</sup>

Additionally, the applicant must "publish notice in a newspaper having general circulation in the county or counties where a CCN is being requested, once each week for two consecutive weeks beginning with the week after the proposed notice is approved by the commission."<sup>6</sup> Once notice is provided and published, the applicant must file an affidavit regarding such notice within thirty (30) days of the provision or publication of such notice.<sup>7</sup>

## **C. Administrative Completeness**

In order for a CCN amendment application to be processed, the Commission's substantive rules require that the Commission make a determination of administrative completeness. The

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<sup>2</sup> Tex. Water Code § 13.241(b)(1)-(2).

<sup>3</sup> Tex. Water Code § 13.246(c); 16 Tex. Admin. Code § 24.102(a)(1), (d)(1)-(9).

<sup>4</sup> A retail public utility is defined as: "Any person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation." 16 Tex. Admin. Code § 24.3(41).

<sup>5</sup> 16 Tex. Admin. Code § 24.106(b)(2)-(3).

<sup>6</sup> 16 Tex. Admin. Code § 24.106(c).

<sup>7</sup> 16 Tex. Admin. Code § 24.106(b)(6), (c).

Commission's substantive rules state:

Notice of rate/tariff change; report of sale, acquisition, lease, rental, merger, or consolidation; and sale, assignment of, or lease of a certificate; and applications for certificates of convenience and necessity shall be reviewed for administrative completeness within ten working days of receipt of the application. A notice or an application for rate/tariff change; report of sale, acquisition, lease, rental, merger, or consolidation; and applications for certificates of convenience and necessity are not considered filed until received by the commission, accompanied by the filing fee, if any, required by statute or commission rules, and a determination of administrative completeness is made. Upon determination that the notice or application is administratively complete, the applicant shall be notified by mail of that determination. If the commission determines that material deficiencies exist in any pleadings, statement of intent, applications, or other requests for commission action addressed by this chapter, the notice or application may be rejected and the effective date suspended until the deficiencies are corrected.<sup>8</sup>

### **III. Staff's Recommendation**

Staff recommends that Childress Creek WSC's application be found not administratively complete.<sup>9</sup> Staff has identified the following deficiencies in Childress Creek WSC's application:

- a. Childress Creek WSC must submit a copy of the most current tariff for the certificated area.
- b. Childress Creek WSC must submit a general location (small scale) map showing only the proposed service area with enough detail to accurately locate the service area within the nearest town, city, or county.
- c. Childress Creek WSC must submit a large scale map showing only the proposed service area with enough detail to accurately locate the service area in the vicinity of surrounding roads, streets, and highways.
- d. Childress Creek WSC must submit revised legal description with the coordinates for the proposed service area, or submit digital data in a shapefile (SHP) or drawing (DWG) format file for the proposed service area. The legal description or digital data submitted must delineate the same proposed service area as shown on both the small and large scale maps.

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<sup>8</sup> 16 Tex. Admin. Code § 24.8(a).

<sup>9</sup> Staff's recommendation is based on the attached memorandum from Debbie Reyes Tamayo from the Water Utility Regulation Division.

e. The legal description submitted for the proposed service area appears to include all of tracts 1, and 3 through 10 with approximately 100.41 acres. However, the survey plat map only appears to include a portion of tract 5 resulting in less acreage for the proposed service area. Childress Creek WSC must clarify the total acreage for the proposed service area.

With regards to Childress Creek WSC's proposed notice, Staff is unable to make a recommendation at this time because Childress Creek WSC has yet to provide adequate maps and digital data.

Staff recommends Childress Creek WSC be given thirty (30) days to amend its application in order to cure the deficiencies identified by Staff. Staff will then review this amended application for administrative completeness. In the event that Staff determines that Childress Creek WSC's amended application is administratively complete, Staff will propose a procedural schedule.

## **V. Conclusion**

Staff has determined that Childress Creek WSC's application is not administratively complete due to certain deficiencies identified by Staff. Staff recommends that Childress Creek WSC be given thirty (30) days to amend its application in order to cure the deficiencies identified by Staff, with the deadline being August 14, 2015. Staff further recommends that it be given until September 14, 2015 to review this amended application for administrative completeness. In the event that Staff determines that Childress Creek WSC 's amended application is administratively complete, Staff will propose a procedural schedule.

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Date: July 15, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director  
Legal Division

Shelah J. Cisneros  
Managing Attorney  
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**DOCKET NO. 44843**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document was served on all parties of record on July 15, 2015,  
in accordance with 16 TAC § 22.74.



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Sam Chang

## PUC Interoffice Memorandum

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**To:** Sam Chang, Attorney  
Legal Division

**From:** Debbie Reyes Tamayo, Program Specialist  
Tracy Harbour, GIS Specialist  
Water Utilities Division

**Thru:** Tammy Benter, Director  
Water Utility Regulation Division

**Date:** July 14, 2015

**Subject:** *Application of Childress Creek Water Supply Corporation (WSC) to Amend its Water Certificate of Convenience and Necessity (CCN) in Bosque County by Decertifying the VM Neighbors Water Group Tracts; Docket No. 44843*

On June 16, 2015, Childress Creek WSC (Applicant) filed an application to decertify a portion its Certificate of Convenience and Necessity (CCN) No. 11000 in Bosque County. The area to be decertified is not receiving, nor has it ever received, water service from Childress Creek WSC. VM Neighbors Water Group currently provides service to the eight customers located within the area to be decertified and will seek to obtain exempt registration status in Docket No. 44849. The application is being reviewed under 16 Tex. Admin. Code §§ 24.102 through 24.105 (TAC) and Tex. Water Code § 13.246(c) (TWC).

### **Application Content**

Based on my review of the information in the application, I recommend that the application be deemed insufficient for filing. In order to continue processing this application, the Applicant should do the following:

- Provide a copy of the most current tariff.

### **Mapping Requirements**

Maps and mapping documents are insufficient and staff is unable to determine and evaluate notice documents until mapping requirements are met by the Applicant. The Applicant should do the following:

- Submit a general location (small scale) map showing only the proposed service area with enough detail to accurately locate the service area within the nearest city, town or county.
- Submit a large scale map showing only the proposed service area with enough detail to accurately locate the service area in the vicinity of surrounding roads, streets, and highways. This map is used to accurately position the metes and bounds (legal) description provided for the proposed service area.
- Submit revised legal description with the coordinates for the proposed service area, or submit digital data in a shapefile (SHP) or drawing (DWG) format file for the proposed service area. The legal description or digital data submitted must delineate the same proposed service area as shown on both the small and large scale maps.
- The legal description submitted for the proposed service area appears to include all of tracts 1, and 3 through 10 with approximately 100.41 acres. However, the survey plat map only appears to include a portion of tract 5 resulting in less acreage for the proposed service area. Please clarify the total acreage for the proposed service area.
- Staff cannot complete evaluation of the 2-mile notice list or the proposed notice until adequate maps and digital data are received.

Based on the information above, I recommend ordering the applicant rectify the mapping issues and submit corrected mapping information for the application within 30 calendar days from the date of the order. If the applicant fails to rectify the deficiency during this time frame, I further recommend dismissal of the application.

TB/DRT