



Control Number: 44892



Item Number: 42

Addendum StartPage: 0

DOCKET NO. 44892

**APPLICATION OF CITY OF LUBBOCK §
TO AMEND A CERTIFICATE OF §
CONVENIENCE OF TEXAS AND §
NECESSITY IN LUBBOCK COUNTY §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

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PUBLIC UTILITY COMMISSION
FILING CLERK**

COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Recommendation on Final Disposition. In support thereof, Staff shows the following:

I. Background

On June 30, 2015, the City of Lubbock (Lubbock) filed with the Public Utility Commission of Texas (Commission) an application to amend its water certificate of convenience (CCN) No. 10627 in Lubbock County, Texas pursuant to Texas Water Code Ann. §§13.242-.250 (TWC) and the 16 Tex. Admin Code §§24.101-107 (TAC). On October 28, 2015, the City filed an amended application to amend its water CCN No. 10627 and its sewer CCN No. 20230.

On November 1, 2016, Order No. 12 was issued requiring Staff to file a final recommendation on the application by January 3, 2017. Accordingly, this pleading is timely filed.

II. Recommendation on Final Disposition

Lubbock published notice of the application on May 15, 2016 and May 22, 2016, in the *Lubbock Avalanche Journal* in Lubbock County. On May 19, 2016, individual notice was provided to neighboring systems, cities and affected parties in Lubbock County. Affidavits of notice were filed with the Commission on May 31, 2016. The comment period ended June 21, 2016. No protests, requests for hearing, or opt-out requests were received.

Staff has completed its formal review of the application on the merits and, based upon the attached memorandum of Patricia Garcia, Engineering Specialist, Andrew Novak, Financial & Managerial Review Specialist, and Tracy Montes, GIS Specialist in the Commission's Water Utilities Division, Staff recommends approval of the application. Lubbock meets all of the statutory requirements of TWC Chapter 13 and the 16 TAC Chapter 24.

Lubbock consented to the attached map and certificate on December 15, 2016. Staff also recommends that once its application is approved, Lubbock file certified copies of the CCN map along with a written description of the CCNs' service areas in the county clerk's office pursuant to TWC § 13.257 (r) and (s).


Dated: January 3, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Karen S. Hubbard
Managing Attorney

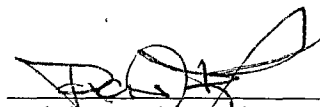


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DOCKET NO. 44892

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on January 3, 2017, in accordance with 16 TAC § 22.74.



Ralph J. Daigneault

PUC Interoffice Memorandum

To: Ralph Daigneault
Legal Division

Through: Tammy Benter, Director
Lisa Fuentes, Team Lead
Heidi Graham, Team Lead
Water Utility Regulation

From: Patricia Garcia, Engineering Specialist
Andrew Novak, Financial & Managerial Review Specialist
Tracy Montes, GIS Specialist
Water Utility Regulation

Date: January 3, 2017

Re: **Docket 44892**, *Application of City of Lubbock to Amend its Certificates of Convenience and Necessity (CCN) in Lubbock County*

On June 30, 2015, City of Lubbock (Applicant) filed with the Public Utility Commission of Texas (Commission) an application to amend and decertify portions of its water Certificate of Convenience and Necessity (CCN) No. 10627 and its sewer CCN No. 20230 in Lubbock County, Texas pursuant to Texas Water Code Ann. (TWC), §§ 13.242 to 13.250 and the 16 Tex. Admin Code (TAC) §§24.101 to 24.107.

Background

The Applicant is seeking to amend and decertify portions of its water and sewer CCN service areas to be more in line with their corporate boundaries. The area being amended for the water CCN includes approximately 84,256 total acres and 82,172 current water customers. The area being amended for the sewer CCN includes approximately 83,571 acres and 77,293 current sewer customers.

Notice

On May 10, 2016, the application and mapping information was deemed sufficient for filing and found administratively complete. Staff provided revised notice forms to the City of Lubbock which stated the intent of the City of Lubbock to amend and decertify portions of its water CCN No. 10627 and sewer CCN No. 20230 in Lubbock County. On May 15, 2016, and May 22, 2016, the City of Lubbock published notice in the *Lubbock Avalanche Journal* in Lubbock County. On May 19, 2016, individual notice was provided to neighboring systems, cities and affected parties in Lubbock County. Affidavits of notice were filed with the Commission on May 31, 2016. The comment period ended June 21, 2016. No protests, requests for hearing, or opt-out requests were received.

Compliance with TCEQ Standards

The City of Lubbock has a TCEQ approved Public Water Systems (PWS), PWS Identification (ID) No. 1520002. The City of Lubbock has no outstanding violations for their PWS.

The City of Lubbock has a wastewater permit issued by the TCEQ, Permit ID No. WQ0010353002. The permit expires on March 1, 2019. The wastewater treatment plant has received violations for failure to meet the limit for one or more permit parameters for the wastewater treatment plant. The Applicant is working with the TCEQ to resolve these violations.

Financial Test

In Staff's opinion, the City of Lubbock demonstrates adequate financial and managerial capability to provide service to the area subject to this application in addition to any area already served by the Applicant. These conclusions are based on information provided by the Applicant prior to this date and may not reflect any changes in the Applicant's status subsequent to this date.

TWC § 13.246(c)(6) requires the Commission to consider the financial ability of the City of Lubbock to pay for facilities necessary to provide continuous and adequate service and the financial stability of the City of Lubbock. 16 TAC § 24.11 establishes criteria to demonstrate that an owner or operator of a retail public utility has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and proposed utility service area. 16 TAC § 24.11(e) lists the financial tests. The Applicant must meet one of the leverage tests and the operations test. The below information is taken from a copy of audited financial statements for the fiscal year ending September 30, 2015. Staff notes that the following discussion shows that the applicant does meet the required criteria:

1) 16 TAC § 24.11(e)(2) refers to the leverage test:

- i. Ratio = $\$58,189,045 / \$614,413,090 = 0.09$
- ii. Net Position = \$614,413,090
- iii. Long-term Notes payable 2015 = \$58,189,045

The applicant does meet this ratio criterion.

2) 16 TAC § 24.11(e)(3) refers to the operations test. This states that the owner or operator must demonstrate that sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations.

- a. There are no projected operations and maintenance shortages. Therefore, the applicant meets this test.

Criteria Considered

TWC § 13.246(c) requires the Commission to consider nine criteria when granting or amending a CCN. Therefore, the following criteria were considered:

- ***TWC §13.246(c)(1) requires the commission to consider the adequacy of service currently provided to the requested area.*** The City of Lubbock provides adequate service to the customers in the proposed area, approximately 82,172 current water and 77,293 current sewer customers. This application proposes to extend the certificated service areas for their water and sewer CCNs to cover the city limit boundaries (or corporate boundaries) of the City of Lubbock.
- ***TWC §13.246(c)(2) requires the commission to consider the need for service in the requested area.*** The City of Lubbock currently provides adequate service to the customers in the proposed area.
- ***TWC §13.246(c)(3) requires the commission to consider the effect of granting an amendment on the recipient and on any other retail public utility servicing the proximate area.***

The City of Lubbock is currently providing service to the customers in the proposed area there will be no effect to other retail public utility providers in the proximate area.

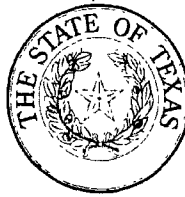
- ***TWC §13.246(c)(4) requires the commission to consider the ability of the Applicant to provide adequate service.*** The City of Lubbock currently provides adequate service to the customers in the proposed area.
- ***TWC §13.246(c)(5) requires the commission to consider the feasibility of obtaining service from an adjacent retail public utility.*** The City of Lubbock is currently providing service to the customers in the proposed area therefore receiving service from other providers in the area was not considered.
- ***TWC §13.246(c)(6) requires the commission to consider the financial ability of the Applicant to pay for facilities necessary to provide continuous and adequate service.*** Based on the review of the application and information provided, the City of Lubbock has demonstrated adequate financial and managerial capabilities to provide service to the area being requested.
- ***TWC §§13.246(7) and (9) require the commission to consider the environmental integrity and the effect on the land to be included in the certificate.*** There will be no effect on the environmental integrity of the land as all facilities are already in place to serve the customers in the proposed service area.
- ***TWC § 13.246(8) requires the commission to consider the probable improvement in service or lowering of cost to consumers.*** The City of Lubbock has been providing adequate service to the customers in the proposed area. There will be no change in the cost to the consumers.

The City of Lubbock meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations. Approval of this application will result the amendment and decertification of portions of the City of Lubbock's water and sewer CCNs.

The City of Lubbock is capable of providing continuous and adequate service. Staff recommends approval of the application. The City of Lubbock consented to the attached maps and certificates on December 15, 2016.

Based on the above information, Staff recommends the Commission issue an order approving the application and provide the attached maps and certificates to the City of Lubbock.

Staff also recommends the Applicant file a copy of each CCN map along with a written description of the CCN service area in the respective county clerks' offices pursuant to Texas Water Code § 13.257 (r) and (s).



Public Utility Commission of Texas

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

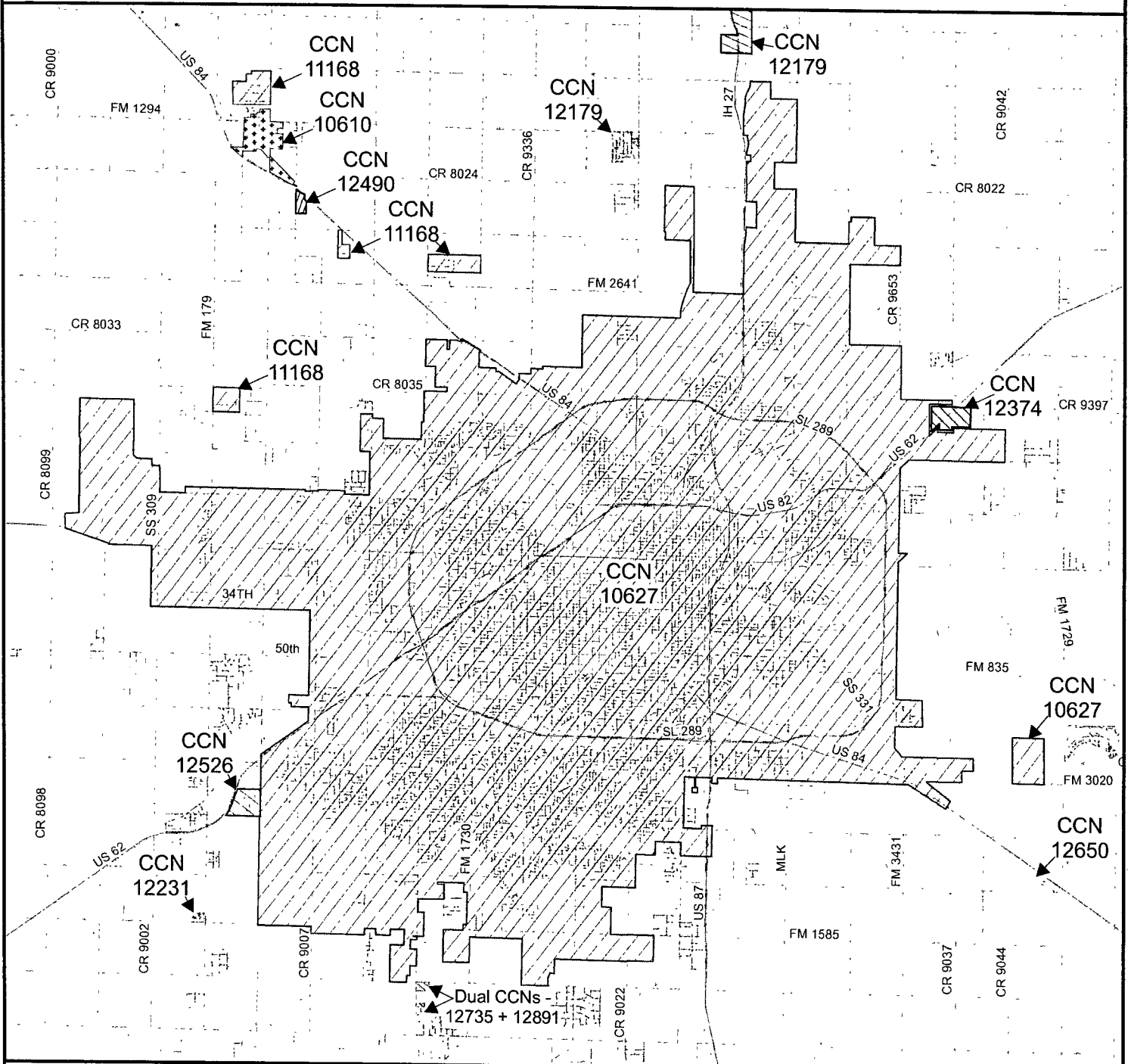
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Lubbock is entitled to this

Certificate of Convenience and Necessity No. 10627

to provide continuous and adequate water utility service to that service area or those service areas in Lubbock County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 44892 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 Lubbock, 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 _____ day of _____ 2017.

City of Lubbock
Water Service Area
CCN No. 10627
PUC Docket No. 44892
Amended CCN No. 10627 in Lubbock County



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

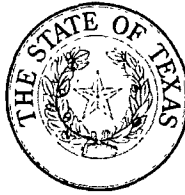
Water CCN Service Areas

- 10627 - City of Lubbock
- 10610 - City of Shallowater
- 11080 - New Deal WSC
- 11168 - Smith Management Services
- 12179 - North University Estates Water
- 12231 - Casey Homes Estates Water

- 12374 - Franklin Water Service Co
- 12490 - Country View Water System
- 12526 - AIM Water Company
- 12650 - Texin Enterprises Water System
- 12735 - Southwest Water System
- 12891 - Southwest Gardens Water



Map by: Kristy Nguyen
Date created: December 12, 2016
Project Path: n:\Final Maps\44892Water.mxd



Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Lubbock

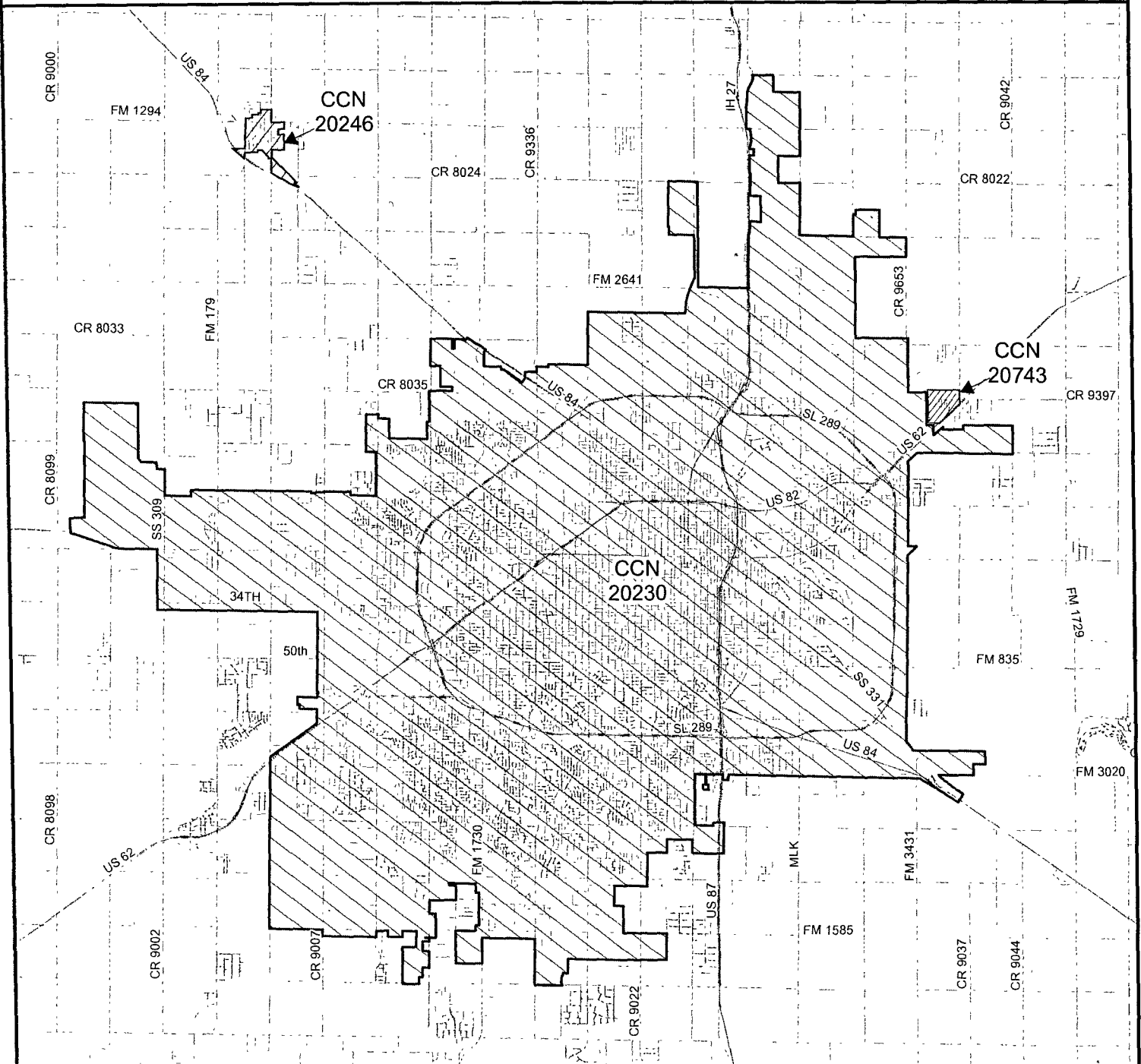
having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Lubbock is entitled to this

Certificate of Convenience and Necessity No. 20230

to provide continuous and adequate sewer utility service to that service area or those service areas in Lubbock County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 44892 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 Lubbock, 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 _____ day of _____ 2017.

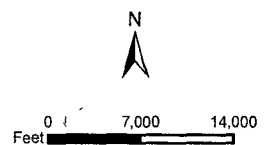
City of Lubbock
Sewer Service Area
CCN No. 20230
PUC Docket No. 44892
Amended CCN No. 20230 in Lubbock County



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

Sewer CCN Service Areas

-  20230 - City of Lubbock
-  20246 - City of Shallowater
-  20743 - JE Franklin Trust



Map by: Kristy Nguyen
Date created: December 12, 2016
Project Path: n:\Final Maps\44892Sewer.mxd