



Control Number: 45552



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DOCKET NO. 45552

**APPLICATION OF OLD TAMINA
WATER SUPPLY CORPORATION TO
AMEND ITS WATER CERTIFICATE
OF CONVENIENCE AND NECESSITY
FOR DUAL CERTIFICATION WITH
THE CITY OF SHENANDOAH IN
MONTGOMERY COUNTY (37615-C)**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

NOTICE OF APPROVAL

This Notice addresses the application of Old Tamina Water Supply Corporation to amend water certificate of convenience and necessity (CCN) number 12289. Old Tamina requests to add a total of 190 acres to its certificated service area, 141 acres of which will be singly certificated to Old Tamina, and 49 acres of which will be dually certificated to Old Tamina and the City of Shenandoah. The Commission amends Old Tamina's CCN to include the 141-acre area for single certification and grants dual certification for the approximately 49 acres that overlap the City of Shenandoah's water service area.

I. Background

Old Tamina currently provides water service to many residents in the 540-acre community of Tamina. The City of Shenandoah's water CCN covers a portion of the Tamina community. While some residents use private wells, no sanitary sewer system is currently available to any residents in Tamina. Residents rely on private septic systems, some of which are failing, to meet their waste disposal needs. Old Tamina has proposed a plan to install sanitary sewer service in the entire Tamina community and has qualified for a loan from the United States Department of Agriculture Rural Development Administration to finance the sewer-system project. Old Tamina originally applied for both a water CCN amendment and new sewer CCN in a single application. The sewer CCN application was severed into Docket No. 45988.¹ The amendment to Old Tamina's water CCN number 12289 will expand Old Tamina's water service area to cover the

¹ *Application of Old Tamina Water Supply Corporation to Obtain a Sewer Certificate of Convenience and Necessity in Montgomery County (37616-C), Docket No. 45988 (pending).*

areas proposed for sewer certification in Docket No. 45988, in order to help Old Tamina secure the loan needed to finance the construction of the sewer system.

II. Findings of Fact

The Commission makes the following findings of fact.

Applicant and Other Interested Parties

1. Old Tamina is a water supply corporation registered with the Texas secretary of state under file number 29285401.
2. Old Tamina provides water service under CCN number 12289.
3. The City of Shenandoah is a municipality that provides water service under CCN number 13146.

Application

4. On May 13, 2013, Old Tamina submitted an application to the Texas Commission on Environmental Quality (TCEQ) to amend water CCN number 12289 and to obtain a sewer CCN. The TCEQ assigned application numbers 37615-C and 37616-C to the filings. Old Tamina sought authority to provide water and sewer service to an area of approximately 540 acres with 165 customers. The application was accepted for filing on June 25.
5. The requested area is located within the municipal boundaries of the City of Shenandoah and is generally bounded on the west side by David Memorial Drive, the north side by the Conroe Independent School District Natatorium, the east side by the east line of Kimblewood subdivision, and the south side by the Chateau Woods subdivision.
6. By letter dated July 22, 2013, Old Tamina submitted proof that notice of the application was mailed to customers and other affected persons.
7. Old Tamina filed a supplement to its application in July 2013.
8. By letter dated July 25, 2013, the City of Shenandoah objected to Old Tamina's application.
9. By letter dated August 5, 2013, the Conroe Independent School District requested that a 60-acre tract it owned in Shenandoah be excluded from the requested area.

10. By letter dated October 24, 2013, TCEQ found the application was deficient and Old Tamina filed a supplement to its application.
11. On November 20, 2013, Old Tamina filed supplemental information.
12. On May 15, 2014, TCEQ issued a notice of deficiency. By letter dated May 29, 2014, Old Tamina provided supplemental information.
13. The applications were transferred from the TCEQ to the Commission on September 1, 2014, and on January 28, 2016, the applications were assigned the docket number shown on this Notice under the style *Application of Old Tamina Water Supply Corporation to Amend its Water Certificate of Convenience and Necessity for Dual Certification with the City of Shenandoah and to Obtain a Sewer Certificate of Convenience and Necessity in Montgomery County (37615-C, 37616-C)*.
14. In Order No. 2 issued March 3, 2016, the administrative law judge (ALJ) found the application deficient.
15. On April 13, 2016, Old Tamina filed supplemental information for its application, requested that the application for the new sewer CCN be severed out of this docket, and requested that the application for the amendment to its water CCN in this docket be abated.
16. Old Tamina filed suit against the City of Shenandoah related to a mediated settlement agreement regarding the dual certification requested by Old Tamina, and Old Tamina stated that it could not prosecute its application until that suit was resolved.
17. In Order No. 5 issued May 27, 2016, the ALJ severed the application for a new sewer CCN into Docket No. 45988² and revised the style for this case as shown on this Notice.
18. On March 3, 2017, Old Tamina filed a copy of a letter from Shenandoah agreeing to dual certification.

² *Application of Old Tamina Water Supply Corporation to Obtain a Sewer Certificate of Convenience and Necessity in Montgomery County (37616-C)*, Docket No. 45988 (pending).

19. In a filing made on April 6, 2017, Old Tamina stated that the lawsuit against Shenandoah had been settled, and on April 19, Commission Staff filed a joint motion to unabate this proceeding. In Order No. 7 issued April 24, this docket was unabated.
20. In Order No. 8 issued May 24, 2017, the ALJ found the application was deficient.
21. On June 16, 2017, Old Tamina filed supplemental information for its application and clarified that, with the removal of the property of the Conroe Independent School District, it was now seeking to add 189 acres to its water CCN.
22. In Order No. 9 issued July 21, 2017, the ALJ found that the application was deficient.
23. On August 8, 2017, Old Tamina provided corrected information for its application.
24. In Order No. 10 issued September 20, 2017, the ALJ found the application deficient.
25. On January 31, 2018, Old Tamina provided supplemental information to its application and requested additional time to respond to Commission Staff's request for information.
26. On March 9, 2018, Old Tamina filed a response to Commission Staff's request for information.
27. In Order No. 14 issued April 3, 2018, the ALJ found the application deficient.
28. Old Tamina provided Commission Staff with some additional information and, on April 16, 2018, Commission Staff recommended that the application be found sufficient for further review.
29. In Order No. 15 issued April 17, 2018, the ALJ found that the application was administratively complete.
30. On August 27, 2018, Commission Staff filed its final recommendation on the application in which it stated it had confirmed that, based on the mapping information submitted by Old Tamina, the area requested by Old Tamina was approximately 190 acres. The area that was requested for single certification to Old Tamina was approximately 141 acres and the area that was requested for dual certification was approximately 49 acres.
31. In Order No. 15 issued April 17, 2018, the ALJ found the application administratively complete.

32. Old Tamina's application asks to amend its CCN number 12289 to add approximately 190 acres to its certificated service area, approximately 141 acres to be singly certificated to Old Tamina and approximately 49 acres to be dually certificated with the City of Shenandoah, CCN number 13146. There are approximately 165 customers currently being served in the requested area.

Notice of Application

33. On July 11, 2013, Old Tamina mailed notice of the application to neighboring systems, landowners, cities, and affected parties.
34. By letter dated July 22, 2013, Old Tamina submitted the affidavit of James E. Leveston, Sr., president of Old Tamina, attesting that notice of the application had been mailed to customers and other affected persons on July 11, 2013 with copies of the notices provided attached to the affidavit.
35. Notice of the application appeared in the February 12, 2016 issue of the *Texas Register*.
36. On April 23, 2016, Old Tamina filed the affidavit of James E. Leveston, Sr., attesting that attached copies of notice of the application in the *Courier* on July 10 and July 17, 2013 were true and correct.
37. In Order No. 16 issued on June 11, 2018, the ALJ found that the notice of the application was sufficient.

Evidentiary Record

38. On September 6, 2018, Commission Staff filed the joint motion of Commission Staff and Old Tamina to admit evidence into the record.
39. In Order No. 18 issued September 18, 2018, the ALJ admitted the following evidence into the record: (a) Old Tamina Water Supply Corporation's application and all attachments filed January 28, 2016; (b) Old Tamina's supplements to the application and all attachments filed on January 28, 2016, February 1, 2016, April 13, 2016, March 3, 2017, April 6, 2017, June 16, 2017, August 9, 2017 and March 9, 2018; (c) affidavits of notice and notice copies filed on January 28, 2018; (d) Old Tamina's consent forms filed on

August 6, 2018; and (e) Commission Staff's final recommendation and all attachments filed August 21, 2018.

Adequacy of Existing Service—TWC § 13.246(c)(1), 16 TAC § 24.227(d)(1)

40. Expansion of Old Tamina's service area will allow all residents in Tamina the opportunity to receive service from a permitted and compliant public water system.

Need for Additional Service—TWC § 13.246(c)(2), 16 TAC § 24.227(d)(2)

41. The amendment will allow Old Tamina to provide water service to residents in the requested area currently relying on private wells at risk of contamination from on-site septic systems.

Effect of Granting the Amendment—TWC § 13.246(c)(3), 16 TAC § 24.227(d)(3)

42. Granting the amendment will further Old Tamina's goal to improve water service to the requested area.
43. Granting the amendment for dual certification to a portion of the requested area will not adversely affect the City of Shenandoah's ability to provide service.

Ability to Serve: Managerial and Technical—TWC §§ 13.241(a), 13.246(c)(4), 16 TAC §§ 24.227(a), 24.227(d)(4)

44. Old Tamina's public water system is permitted by the TCEQ under identification number 1012052 and is capable of providing drinking water that meets the requirements of chapter 341 of the Texas Health and Safety Code and TCEQ rules.
45. Old Tamina has access to an adequate supply of treated water from the City of Shenandoah.
46. Old Tamina's public water system has no outstanding TCEQ violations.
47. Old Tamina has shown it has facilities, a water supply, and experienced personnel that can provide continuous and adequate water service to customers in the requested area.

Ability to Serve: Financial Ability and Stability—TWC §§ 13.241(a), 13.246(c)(6), 16 TAC §§ 24.227(a), 24.227(d)(6)

48. Old Tamina has operated for decades and the information provided indicates that the operating income is sufficient to cover expenses and does not project a shortage due to operations.

49. Old Tamina's existing facilities and infrastructure have the capacity to serve additional connections.
50. As Old Tamina develops the sewer system for the community, the water customer base and revenues will grow. Commission Staff confirmed with the United States Department of Agriculture Rural Development Administration that a loan approval for \$2.2 million will follow upon Old Tamina receiving the CCN approvals requested in this proceeding and in Docket No. 45988.
51. Old Tamina has demonstrated the financial ability to provide continuous and adequate service to the requested area.

Financial Assurance–TWC § 13.246(d); 16 TAC § 24.227(e)

52. There is no need to require Old Tamina to provide a bond or other financial assurance to ensure continuous and adequate service.

Service from Other Utilities–TWC §13.246(c)(5), 16 TAC § 24.227(d)(3)

53. In the area that is dually certificated, residents can also obtain service from the City of Shenandoah.
54. In the area proposed for single certification, no adjacent retail public utility indicated the ability to serve.

Regionalization or Consolidation–TWC §§ 13.241(d), 16 TAC § 24.227(b)

55. Old Tamina does not anticipate building any new facilities for the provision of water service to continue serving the area.

Environmental Integrity–TWC § 13.246(c)(7), 16 TAC § 24.227(d)(7)

56. Granting Old Tamina's application will not impact the environmental integrity of the requested area as no additional treatment facilities are required to service the area.

Improvement in Service–TWC § 13.246(c)(8), 16 TAC § 24.227(d)(8)

57. Granting Old Tamina's CCN amendment will not affect service to customers, because Old Tamina already serves the requested area.

Lowering of Cost–TWC § 13.246(c)(8), 16 TAC § 24.227(d)(8)

58. Old Tamina will continue to provide service to customers and will charge the same rates.

Effect on Land–TWC § 13.246(c)(9), 16 TAC § 24.227(d)(9)

59. Granting the CCN amendments will afford more Tamina residents the opportunity to take service from an approved public water system and reduce the need for individual water wells at risk of contamination from on-site septic systems.

Map and Certificate

60. On August 7, 2018, Commission Staff emailed its proposed map and certificate to Old Tamina.
61. On August 6, 2018, Old Tamina filed a signed consent form concurring with the map and certificate as prepared by Commission Staff.
62. On August 21, 2018, Commission Staff filed proposed certificates and a map as attachments to its final recommendation.

Informal Disposition

63. More than 15 days have passed since completion of the notice provided in this docket.
64. Old Tamina and Commission Staff are the only parties to this proceeding.
65. Commission Staff recommended approval of Old Tamina's application.
66. This decision is not adverse to any party.

III. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over Old Tamina's application under TWC §§ 13.241, 13.244, and 13.246.
2. Old Tamina is a retail public utility as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Notice of the application complies with TWC § 13.246 and 16 TAC § 24.235.
4. The Commission processed the application as required by the Administrative Procedure Act,³ the TWC, and Commission rules.

³ Tex. Gov't Code Ann. §§ 2001.001–.902.

5. Old Tamina possesses the financial, managerial, and technical capability to provide continuous and adequate service to the requested area as required by TWC § 13.241(a) and 16 TAC § 24.227.
6. The amendment to CCN number 12289 is required for the public convenience and necessity and is necessary for the service, accommodation, convenience, and safety of the public under TWC §§ 13.242 and 13.246.
7. Old Tamina is capable of providing water that meets the requirements of chapter 341 of the Health and Safety Code and has access to an adequate supply of water as required under TWC § 13.241(b).
8. Old Tamina must record a certified copy of the approved map for the certificate amendment, along with a boundary description of the service area, in the real property records of Montgomery County within 31 days of receiving this Notice and submit to the Commission evidence of the recording. TWC § 13.257(r), (s).
9. The application meets the requirements for informal disposition in 16 TAC § 22.35.

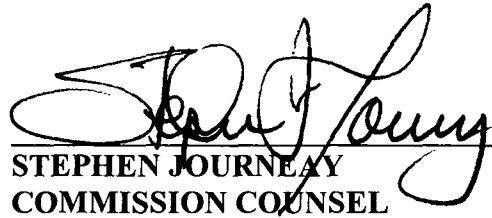
IV. Ordering Paragraphs

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

1. The Commission amends Old Tamina's CCN number 12289 to add approximately 190 acres to its certificated service area, with approximately 141 acres to be singly certificated to Old Tamina and approximately 49 acres to be dually certificated with the City of Shenandoah, CCN number 13146, as shown on the map attached to this Notice.
2. The Commission grants the certificates attached to this Notice.
3. Old Tamina is required to serve every customer and applicant for service within its certificated area, and such service must be continuous and adequate.
4. Old Tamina must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Montgomery County affected by the application.

5. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 19th day of March 2019.


STEPHEN JOURNEY
COMMISSION COUNSEL



Public Utility Commission of Texas

By These Presents Be It Known To All That Old Tamina Water Supply Corporation

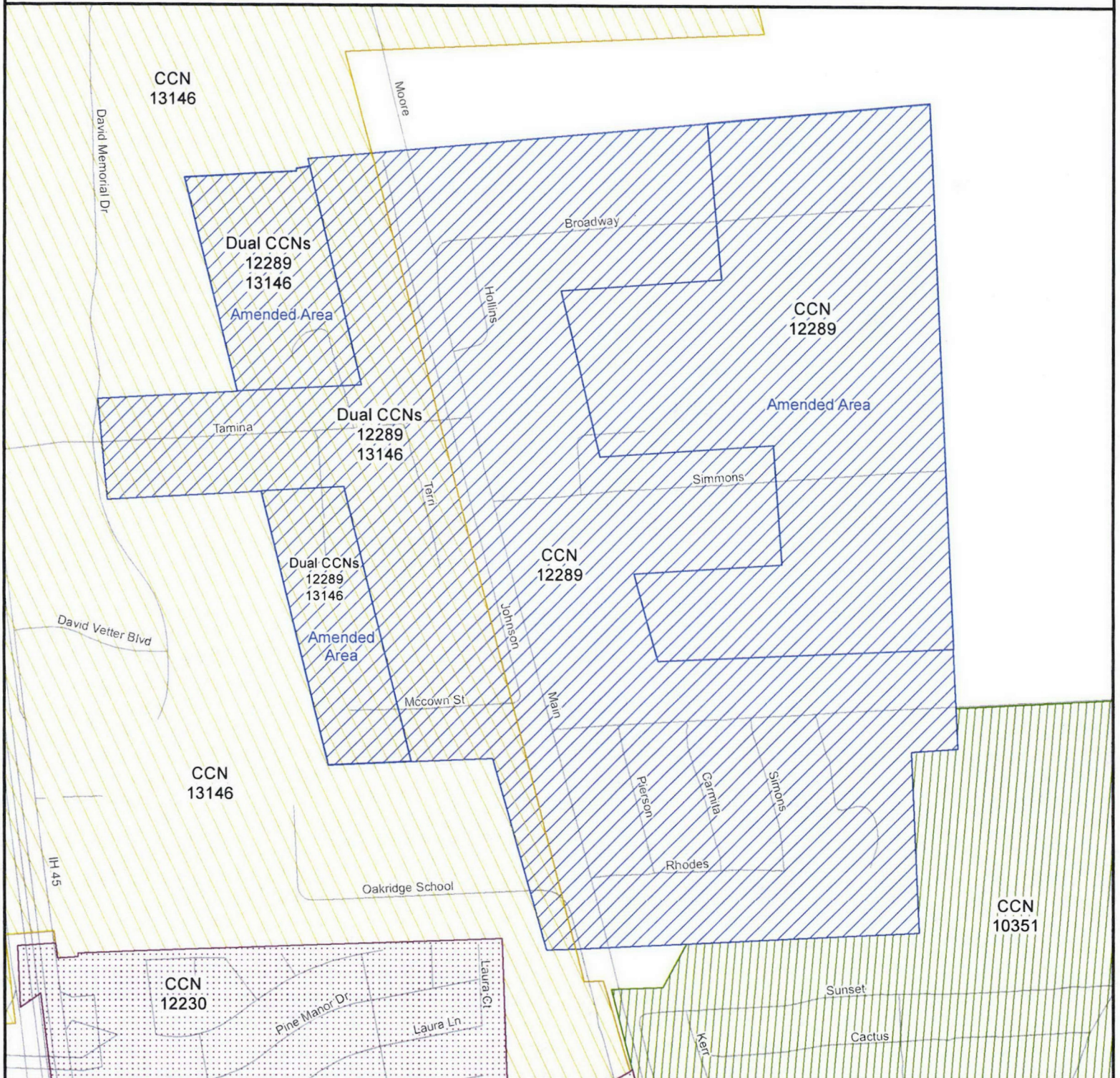
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Old Tamina Water Supply Corporation is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

Certificate of Convenience and Necessity No. 12289

to provide continuous and adequate water utility service to that service area or those service areas in Montgomery County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45552 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 Old Tamina 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 19th day of March 2019.

Old Tamina Water Supply Corporation
 Water CCN No. 12289
 PUC Docket No. 45552
 Amended CCN No. 12289 in Montgomery County



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

Water CCN

-  12289 - Old Tamina WSC
-  13146 - City of Shenandoah
-  10351 - Chateau Woods MUD
-  12230 - City of Oak Ridge North

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Map by: Komal Patel
 Date created: June 27, 2018
 Project Path: n:\finalmapping\
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Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Shenandoah

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 Shenandoah is entitled to this

Certificate of Convenience and Necessity No. 13146

to provide continuous and adequate water utility service to that service area or those service areas in Montgomery County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45552 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 City of Shenandoah, 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 19th day of March 2019.