



Control Number: 46107



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DOCKET NO. 46107

APPLICATION OF BETHANY	§	PUBLIC UTILITY COMMISSION
HEARNE WATER SUPPLY	§	
CORPORATION AND CITY OF	§	
HEARNE FOR SALE, TRANSFER,	§	OF TEXAS
OR MERGER OF FACILITIES AND	§	
CERTIFICATE RIGHTS IN	§	
ROBERTSON COUNTY	§	

**MOTION FOR ADMISSION OF EVIDENCE AND ADOPTION OF PROPOSED
NOTICE OF APPROVAL**

COMES NOW, the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, files this Motion for Admission of Evidence and Adoption of Proposed Notice of Approval. In support thereof, Staff shows the following:

I. BACKGROUND

On June 29, 2016, Bethany Hearne Water Supply Company (Bethany Hearne WSC) and the City of Hearne (collectively Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate of convenience and necessity rights in Robertson County. Specifically, the City of Hearne seeks approval to acquire a portion of the water system assets of Bethany Hearne WSC held under water Certificate of Convenience and Necessity (CCN) No. 10330.

Order No. 4, issued October 18, 2016, approved the sale/transfer to proceed with closing. Applicants filed closing documentation on May 15, 2017 and supplemental documentation on June 8, 2017. Order No. 6 found the closing documents sufficient set July 21, 2017 as the deadline for the Parties to file joint proposed findings of fact and conclusions of law. This pleading is therefore timely filed.

II. MOTION TO ADMIT EVIDENCE

Staff moves to admit the following evidence into the record of this proceeding:

- a. The Applicants' Application (Commission's automated interchange system (AIS) Item 1, filed June 29, 2016;

- b. *Texas Register* notice of application for Sale, Transfer or Merger (AIS Item 3, filed July 6, 2016);
- c. Applicant's Proof of Publication and Publisher's Affidavit (AIS Item 7, filed August 25, 2016);
- d. Commission Staff's recommendation that the transaction be allowed to proceed (AIS Item 13, filed Oct. 17, 2016);
- e. Order No. 4 approving the sale, transfer or merger transaction to proceed (AIS Item 14, filed Oct 18, 2016);
- f. Applicant's Proof of Consummation of Transaction (AIS Item 22, filed May 15, 2017) and additional information on customer deposits (AIS Item 26, filed June 8, 2017);
- g. Staff's Recommendation on closing documents (AIS Item 27, filed June 20, 2017);
- h. Applicants' Consent Forms (AIS Item 29, filed July 3, 2017);
- i. Attachment A to the Joint Motion for Admission of Evidence and Adoption of Proposed Notice of Approval, filed on July 21, 2017, which includes the map, and certificate to which Applicant's consented.

III. MOTION FOR ADOPTION OF PROPOSED NOTICE OF APPROVAL

The attached Proposed Notice of Approval would grant the Applicants' Application for a transfer of a portion of the water system assets of Bethany Hearne WSC held under water Certificate of Convenience and Necessity (CCN) No. 10330 to the City of Hearne. Staff was unable to obtain final agreement on this motion from Applicants before filing.

IV. CONCLUSION

Staff respectfully request that the Commission grant the motion to admit the evidence specified above and adopt the attached proposed Notice of Approval.

Dated: July 21, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

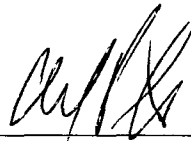
Karen S. Hubbard
Managing Attorney



Alexander Petak
State Bar No. 24088216
1701 N. Congress Ave.
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7377
(512) 936-7268 (facsimile)
Alexander.Petak@puc.texas.gov

**DOCKET NO. 46107
CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on July 21, 2017 in accordance with 16 TAC § 22.74.



Alexander Petak

DOCKET NO. 46107

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HEARNE WATER SUPPLY	§	
CORPORATION AND CITY OF	§	
HEARNE FOR SALE, TRANSFER,	§	OF TEXAS
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CERTIFICATE RIGHTS IN	§	
ROBERTSON COUNTY	§	

NOTICE OF APPROVAL

The Notice addresses the application of Bethany Hearne Water Supply Corporation (Bethany Hearne WSC) and the City of Hearne (collectively, the Applicants). The Public Utility Commission of Texas (Commission) Staff (Staff) recommends approval of the application. The application is approved.

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

II. FINDINGS OF FACT

Procedural History

1. On June 29, 2016, Bethany Hearne WSC and the City of Hearne filed an application (Application) with the Commission requesting (1) the sale, transfer, or merger of a portion of Bethany Hearne WSC's retail water system and CCN to the City of Hearne and (2) the amendment Bethany Hearne WSC's Certificate of Convenience and Necessity (CCN) No. 10330 to remove the transferred area pursuant to the criteria in Tex. Water Code §§ 13.241, 13.246, and 13.301 (TWC), and 16 Tex. Admin. Code §§ 24.102, 24.104-107, 24.109, and 24.112 (TAC).
2. Bethany Hearne WSC holds water CCN No. 10330.
3. The Applicants request approval for the City of Hearne to acquire a portion of the facilities and customers from Bethany Hearne WSC and to amend Bethany Hearne WSC's CCN No. 10330.
4. The application affects approximately 640 acres and 500 current customers.

5. On August 2, 2016, the ALJ issued Order No. 2, finding that the Application was sufficient and complete and establishing a procedural schedule.
6. On August 25, 2016, Applicants filed affidavits attesting to mailed notice, including copies of individual notices.
7. On October 17, 2016, Commission Staff recommended that the transaction be permitted to proceed.
8. On October 18, 2016, Order No. 4 was issued, authorizing the transaction to proceed and instructing the Applicants to provide monthly status reports and documents evidencing that the transaction has been consummated and customer deposits (if any) have been addressed.
9. On May 15, 2017, Applicant's filed proof of consummation of the transaction in the form of a Transfer Agreement. This was supplemented with information regarding customer deposits on June 8, 2017.
10. On June 21, 2017, Order No. 6 was issued, finding the closing documentation sufficient and complete and establishing a procedural schedule for the remainder of the proceeding.
11. On July 3, 2017, the Applicants filed their consent forms reflecting their consent to the map and certificate transmitted to the Applicants.

Notice

12. The Commission caused notice of this application to be published in the *Texas Register* on July 6, 2016.
13. Notice of the Application was mailed to current customers, neighboring systems and cities on August 16, 2016.
14. On August 25, 2016, Applicants filed an affidavit of mailed notice.

Informal Disposition

15. More than 15 days have passed since completion of all notice required for this docket.
16. No person has requested a public hearing on the Application.
17. Bethany Hearne WSC, the City of Hearne, and Staff are the only parties to this proceeding.

Evidence

18. On July __, 2017, Order No. 7 was issued, admitting evidence into the record of this proceeding.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this proceeding under TWC §§ 13.241, 13.244, 13.246, and 13.301, and 16 TAC §§ 24.102, 24.104-107, 24.109, and 24.112.
2. Bethany Hearne WSC and the City of Hearne are retail water utilities as defined by TWC § 13.002(19).
3. Notice of the application was provided as required by TWC §§ 13.301(a)(2) and 13.246.
4. Bethany Hearne WSC and the City of Hearne have completed the sale within one year from the date of the Commission's written approval of the transfer, consistent with 16 TAC § 24.112(e).
5. After consideration of the factors in TWC § 13.246(c), the City of Hearne has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to every consumer within the proposed service area, as required by TWC § 13.301(b).
6. Bethany Hearne WSC and the City of Hearne have demonstrated that the sale and transfer of service area and facilities requested in this application are in the public interest, as required by TWC § 13.301(d).
7. Bethany Hearne WSC and the City of Hearne have demonstrated that the certificate transfer requested in this application is necessary for the service, accommodation, convenience, and safety of the public.
8. Pursuant to TWC § 13.257(r) and 16 TAC § 24.106(f), the City of Hearne is required to record a certified copy of the approved CCNs and Maps, 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.
9. The requirements of informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

III. ORDERING PARAGRAPHS

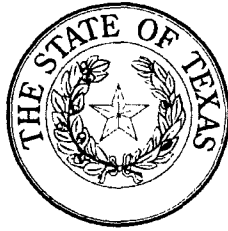
In accordance with these findings of fact and conclusions of law, the Commission issues the following Order:

1. The Application is approved.

2. Bethany Hearne WSC's CCN No. 10330 is amended consistent with this Notice, to remove the service areas transferred to the City of Hearne.
3. The City of Hearne shall serve every customer and qualified service applicant within its service area and such service shall be continuous and adequate.
4. The City of Hearne shall comply with the recording requirements of TWC § 13.257(r) for the area in Robertson County affected by the transfer 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 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 _____ day of _____, 2017.

ADMINISTRATIVE LAW JUDGE



Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Hearne

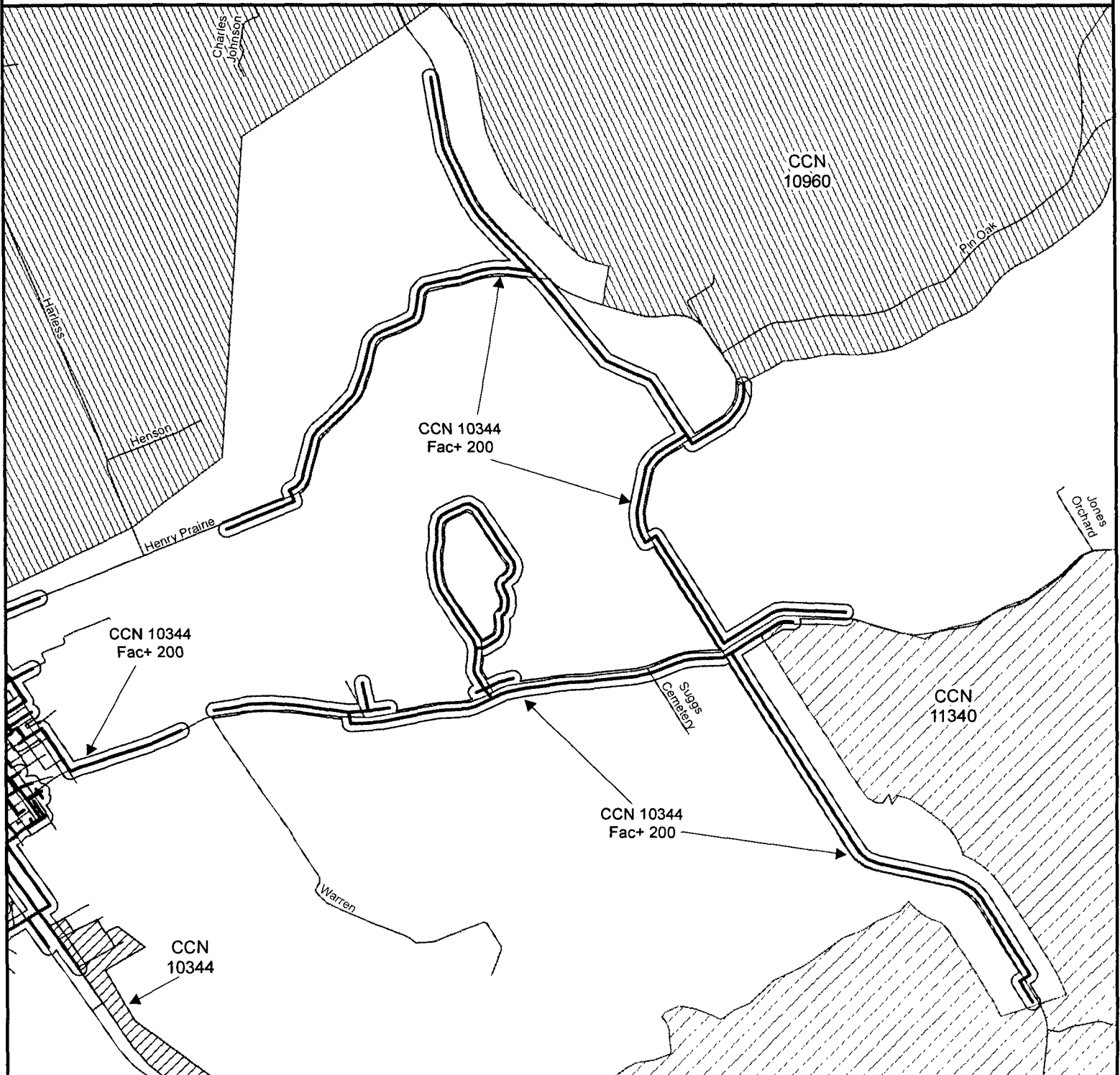
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Hearne is entitled to this

Certificate of Convenience and Necessity No. 10344


to provide continuous and adequate water utility service to that service area or those service areas in Robertson County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 46107 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 Hearne 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, the _____ day of _____ 2017.


City of Hearne
 Portion of CCN No. 10344
 PUC Docket No. 46107
 Transferred all of Bethany Hearne Water Supply Company, CCN No. 10330 in Robertson County




Water Facility CCN

 10344 - City of Hearne

Water CCN

 10344 - City of Hearne

 10960 - Robertson County WSC

 11340 - Wellborn SUD

0 1,750 3,500
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