

Control Number: 47012



Item Number: 29

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APPLICATION OF MOUNTAIN §  
CITY OAKS WATER SYSTEM AND §  
CITY OF MOUNTAIN CITY FOR §  
SALE, TRANSFER, OR MERGER OF §  
FACILITIES AND CERTIFICATE §  
RIGHTS IN HAYS COUNTY §

PUBLIC UTILITY COMMISSION

2018 JAN 24 PM 12:07  
PUBLIC UTILITY COMMISSION  
OF TEXAS  
CLERK

**JOINT MOTION TO ADMIT EVIDENCE AND REQUEST TO ADOPT PROPOSED NOTICE OF APPROVAL**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, respectfully requesting the admission of certain items into evidence for the purpose of supporting the Proposed Notice of Approval by the Commission in this proceeding, and that the Proposed Notice of Approval be adopted:

**I. BACKGROUND**

On March 31, 2017, Mountain City Oaks Water System (MCOWS) and the City of Mountain City (Mountain City or “the City”) (collectively, “Applicants”) filed an application for the sale, transfer, or merger of facilities and certificate rights in Hays County. The City seeks approval to acquire all assets held by MCOWS under water certificate of convenience and necessity (CCN) No. 11427.

On December 14, 2017, the Administrative Law Judge (ALJ) issued Order No. 7, requiring the parties to file joint proposed findings of fact and conclusions of law by January 25, 2017. This pleading is therefore timely filed.

**II. REQUEST TO ADMIT EVIDENCE**

Staff requests that the following items be admitted into evidence for the purpose of supporting the final order:

- a. The Application and all attachments, filed March 31, 2017;
- b. Proof of notice, filed on May 10, 2017;
- c. Commission Staff’s Recommendation on Sale, filed July 12, 2017;

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- d. Closing Documents, filed November 13, 2017 and December 12, 2017; and
- e. The consent forms, filed January 18, 2018.

### **III. REQUEST TO ADOPT PROPOSED ORDER**

Staff, MCOWS, and the City have agreed on the attached Proposed Notice of Approval. The parties request the ALJ issue a notice of approval in the form of the attached Proposed Notice of Approval.

Staff has contacted representatives for MCOWS and the City and is authorized to represent they support the Motion to Admit Evidence and Joint Proposed Notice of Approval.

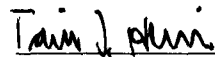
**Dated: January 24, 2018**

**PUBLIC UTILITY COMMISSION  
LEGAL DIVISION**

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director

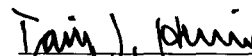
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Managing Attorney



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(512) 936-7216  
(512) 936-7216 (facsimile)  
TJ.Harris@puc.texas.gov

**DOCKET NO. 47012  
CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on January 24, 2018, in accordance with 16 TAC § 22.74.

  
TJ Harris

**DOCKET NO. 47012**

<b>APPLICATION OF MOUNTAIN</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>CITY OAKS WATER SYSTEM AND</b>	<b>§</b>	
<b>CITY OF MOUNTAIN CITY FOR</b>	<b>§</b>	<b>OF TEXAS</b>
<b>SALE, TRANSFER, OR MERGER OF</b>	<b>§</b>	
<b>FACILITIES AND CERTIFICATE</b>	<b>§</b>	
<b>RIGHTS IN HAYS COUNTY</b>	<b>§</b>	

**PROPOSED NOTICE OF APPROVAL**

This Notice of Approval addresses the application by Mountain City Oaks Water System, Inc. (MCOWS) and the City of Mountain City (“Mountain City” or “the City”) for the sale transfer or merger of facilities and amendment of certificate rights in Hays County. Public Utility Commission Staff recommends approval of the application. The application is approved.

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

**I. Findings of Fact**

**Procedural History**

1. On March 31, 2017, MCOWS and Mountain City filed an application with the Commission for approval of a sale, transfer, or merger of facilities and corresponding water CCN No. 11427 for an approximately 211-acre area in Hays County, Texas.
2. On May 1, 2017, Order No. 2 was issued, deeming the application administratively complete.
3. On June 2, 2017, Commission Staff filed its Recommendation Regarding Sufficiency of Notice and Proposed Procedural Schedule. In response to Order No. 2, Staff recommended the notice be found sufficient, and recommended an additional proposed procedural schedule for the remainder of the proceeding.
4. On June 8, 2017, issued Order No. 4 was issued, finding Applicant’s provision of notice sufficient and complete.
5. On July 12, 2017, Commission Staff recommended that the Applicants demonstrated adequate financial, managerial, and technical capability to provide service to the area

subject to this Application, and that Applicants be allowed to proceed with the proposed transaction.

6. On July 13, 2017, Order No. 6 was issued, authorizing the proposed transaction to proceed.
7. On November 13, 2017, Applicants filed documents indicating that MCOWS's assets had been transferred to the City and listing customer deposits which transferred from MCOWS to the City.
8. On December 12, 2017, Commission Staff recommended that the sale documents be found sufficient.
9. On December 14, 2017, Order No. 7 was issued, deeming the sale documents sufficient.
10. On January 18, 2018, Applicants filed the signed consent forms to the proposed map and certificate for Mountain City, as prepared by Commission Staff.
11. The proposed map and certificate referenced in Finding of Fact No. 10 are attached to this Notice.
12. On January 24, 2018, Commission Staff filed a joint proposed notice of approval and a request to admit evidence in this proceeding.

#### **Notice**

13. Notice of the Application was published in the *Texas Register* on April 21, 2017.
14. On May 10, 2017, Applicants filed an affidavit attesting to the provision of notice to all customers, neighboring utilities, and governmental entities completed on May 4, 2017.

#### **Evidence**

15. On \_\_\_\_\_, 2018, Order No. 8 was issued, admitting evidence into the record of this proceeding.

#### **The Transaction**

16. The total area being acquired includes approximately 211.4 acres and 237 current customers.
17. The requested area is generally bounded on the north by Mariettas Way, on the east by Jack C. Hays Trail, on the south by Jack C. Hays High School, and on the west by a line approximately 600 feet west of Maple Dr.

18. As a result of the application, MCOWS will no longer provide service to the transferred area, and all rights and facilities under water CCN No. 11427 will be transferred to the City.

**Informal Disposition**

19. More than 15 days have passed since completion of notice in this application.
20. MCOWS, the City, and Commission Staff are the only parties to this proceeding.
21. There are no contested issues, protest, motions to intervene, or requests for a hearing in this application.

**II. Conclusions of Law**

1. The Commission has jurisdiction over MCOWS and the City's application pursuant to Texas Water Code §§ 13.041, 13.241, 13.251, 13.301 (TWC) and 16 Tex. Admin. Code §§ 24.102, 24.109 (TAC).
2. MCOWS and Mountain City are retail public utilities as defined by Tex. Water Code §§ 13.002(19) and 16 Tex. Admin. Code §§ 24.3(59).
3. Public notice of the application was provided as required by TWC § 13.301 and 16 TAC §§ 24.109.
4. The application was processed in accordance with the requirements of the Administrative Procedure Act,<sup>1</sup> the Texas Water Code, and Commission Rules.
5. After considering the factors in TWC § 13.246(c), Mountain City has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area.
6. Applicants have demonstrated that the sale and transfer of facilities and amendment of the CCNs in this in this application will serve the public interest.
7. Under TWC 13.257(r) and 16 TAC § 24.106(e), Mountain City is required to record a certified copy of the approved certificates and map, along with a boundary description of the service area, in the real property records of each county in which the service area or a

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<sup>1</sup> Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2016 and Supp. 2017).

portion of the service are is located, and submit to the Commission evidence of the recording.

8. The application does not constitute a major rate proceeding, as defined by 16 TAC § 22.2(27).
9. The requirements for informal disposition pursuant to 16 Tex. Admin. Code §§ 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. The service area and facilities in Hays County associated with water CCN No. 11427 are transferred from MCOWS to the City.
3. Mountain City shall serve every customer and applicant for service within the area previously served by MCOWS under CCN No. 11427, and such service shall be continuous and adequate.
4. Mountain City shall comply with the recording requirements of TWC § 13.257(r) for the area in Hays County affected by the application 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, conclusions of law, and ordering paragraphs, and any other requests for general or specific relief, if not expressly granted, are denied.

Signed at Austin, Texas the \_\_\_\_\_ day of January 2018.

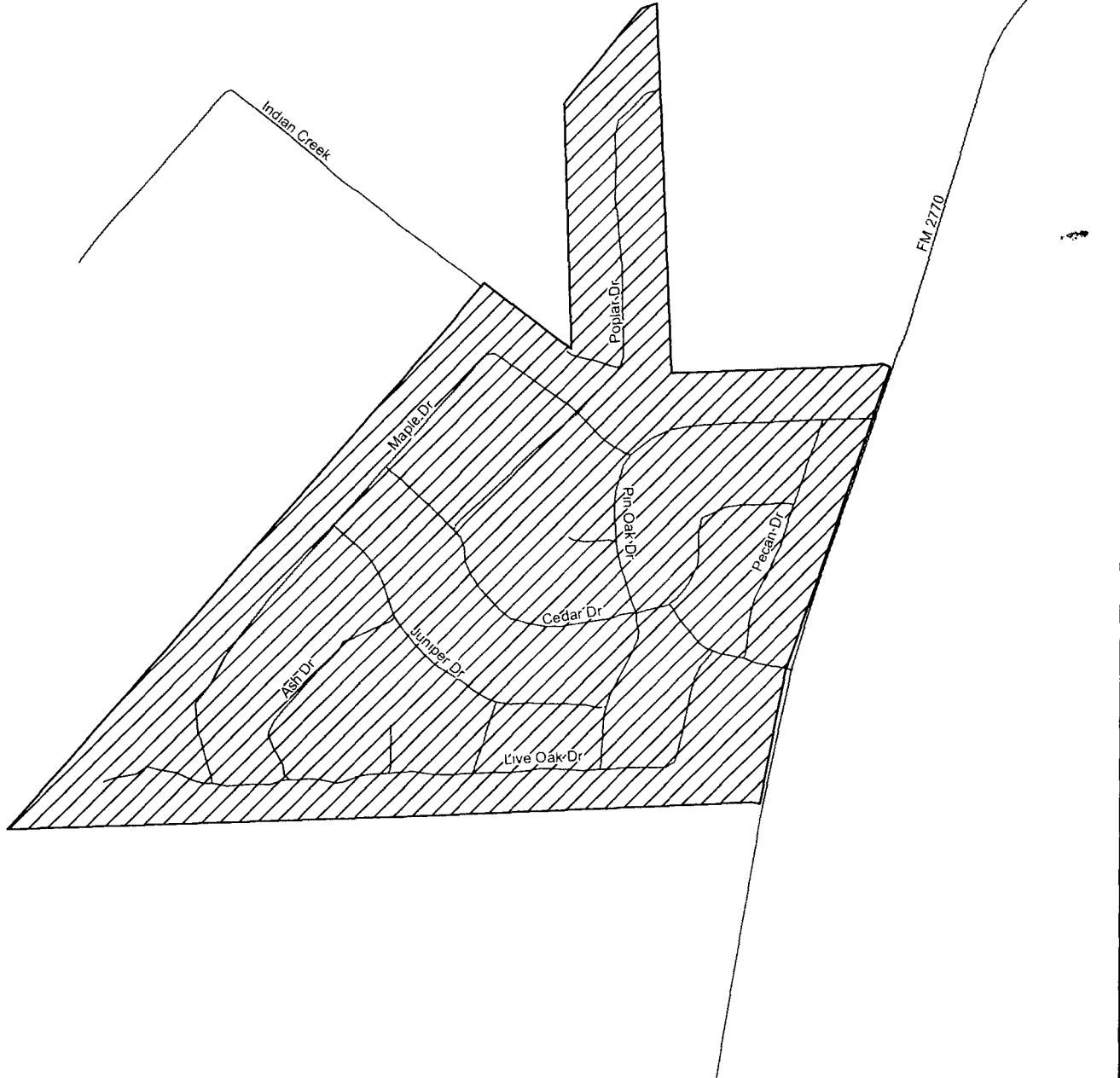
**PUBLIC UTILITY COMMISSION OF TEXAS**

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**JEFFREY J. HUHN**  
**ADMINISTRATIVE LAW JUDGE**

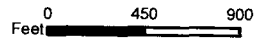


City of Mountain City  
Water CCN No. 11427  
PUC Docket No. 47012  
Transferred all of Mountain City Oaks Water System, CCN No. 11427 in Hays County



**Water CCN**

 11427 - City of Mountain City





# **Public Utility Commission of Texas**

**By These Presents Be It Known To All That  
City of Mountain City**

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, the City of Mountain City is entitled to this

## **Certificate of Convenience and Necessity No. 11472**

to provide continuous and adequate water utility service to that service area or those service areas in Hays County(ies) as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 47012 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 Mountain City, 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 \_\_\_\_\_ 2018.