



Control Number: 47173



Item Number: 17

Addendum StartPage: 0

APPLICATION OF AQUA WATER §  
 SUPPLY CORPORATION AND CITY §  
 OF SMITHVILLE FOR APPROVAL OF §  
 A SERVICE AREA CONTRACT UNDER §  
 TEXAS WATER CODE § 13.248 AND TO §  
 AMEND CERTIFICATES OF §  
 CONVENIENCE AND NECESSITY IN §  
 BASTROP COUNTY §

PUBLIC UTILITY COMMISSION  
FILING CLERK

OF TEXAS

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

COME NOW, the City of Smithville, Texas (“Smithville”) and Aqua Water Supply Corporation (“Aqua”) together with the Public Utility Commission (“Commission”) Staff (“Staff”) (collectively, the “Parties”) and files this Joint Proposed Notice of Approval and Motion to Admit Evidence. In support thereof, the Parties show the following:

**I. BACKGROUND**

On May 16, 2017, Smithville and Aqua (“Applicants”) filed with the Commission an application for approval of a service area contract under Texas Water Code (“TWC”) § 13.248 and 16 Texas Administrative Code (“TAC”) § 24.117. On June 29 and September 1, 2017, Applicants filed additional information to supplement the application. On October 4, 2017, pursuant to Staff’s Supplemental Recommendation on Completeness, the Commission found the application sufficient and administratively complete. Pursuant to Order No. 4, Parties were to file a joint motion to admit evidence and joint proposed notice of approval on or before January 16, 2018. Due to inclement weather, the Commission was closed on January 16, 2018. Therefore, the Parties file this joint motion and joint proposed notice of approval on the first day that the Commission is once again open for business, January 17, 2018.

**II. JOINT MOTION TO ADMIT EVIDENCE**

The Parties respectfully request the entry of the following items into evidence for the purposes of supporting the Notice of Approval in this proceeding:

1. The application of Smithville and Aqua for approval of an agreement pursuant to TWC § 13.248 and 16 TAC § 24.117, to amend water certificate of convenience and necessity (“CCN”) Nos. 10946 and 10294 in Bastrop County, Texas, filed on May 16, 2017, as

supplemented on June 29, 2017 and September 1, 2017 (Commission Interchange Item Nos. 1, 7, and 10 in this Docket);

2. Notice of the application (Commission Interchange Item No. 3 in this Docket);
3. Executed consent forms of Smithville and Aqua (Commission Interchange Item Nos. 13 and 14 in this Docket); and
4. Staff's final recommendation of approval of the application (Commission Interchange Item No. 15 in this Docket).

### **III. JOINT PROPOSED NOTICE OF APPROVAL**

The Notice of Approval, attached hereto as Attachment A and incorporated herein for all purposes, would approve Smithville and Aqua's service area contract and approve amendments to their respective water CCN Nos. 10946 and 10294 in Bastrop County, Texas.


### **IV. CONCLUSION**

The Parties respectfully request that the Commission grant the Joint Motion to Admit Evidence and adopt the attached Joint Proposed Notice of Approval.

Dated: January 17, 2018

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE  
& TOWNSEND, P.C.**  
816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
(512) 322-5800  
(512) 472-0532 (Fax)

 with permission  
Hannah Ging  
TY H. EMBREY  
State Bar No. 24025346  
tembrey@lglawfirm.com

ATTORNEY FOR AQUA WATER  
SUPPLY CORPORATION

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was transmitted by fax, hand-delivery and/or regular, first-class mail on this 17<sup>th</sup> day of January, 2018 to the parties of record, in accordance with 16 TAC § 22.74.

Ty Embrey with permission  
Ty H. Embrey Hannah Ging

ATTACHMENT A

DOCKET NO. 47173

APPLICATION OF AQUA WATER	§	PUBLIC UTILITY COMMISSION
SUPPLY CORPORATION AND CITY	§	
OF SMITHVILLE FOR APPROVAL OF	§	
A SERVICE AREA CONTRACT UNDER	§	
TEXAS WATER CODE § 13.248 AND TO	§	OF TEXAS
AMEND CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY IN	§	
BASTROP COUNTY	§	

**NOTICE OF APPROVAL**

This Notice of Approval addresses the application by the City of Smithville, Texas (“Smithville”) and Aqua Water Supply Corporation (“Aqua”) (collectively, the “Applicants”) for approval and enforcement of a service area contract that would amend their water certificates of convenience and necessity (“CCN”) Nos. 10946 and 10294, respectively, in Bastrop County, Texas, pursuant to Tex. Water Code (“TWC”) § 13.248 and 16 Tex. Admin. Code (“TAC”) § 24.117 (the “Application”). The Application requests the transfer of approximately 834 acres of land from Aqua’s water CCN boundaries to Smithville’s water CCN boundaries. The Public Utility Commission (“Commission”) Staff recommended approval of this Application. The Application, as supplemented, is approved. Accordingly, the Commission adopts the following Findings of Fact, Conclusions of Law, and Ordering Provisions:

**I. FINDINGS OF FACT**

**Procedural History and Background**

1. On May 16, 2017, Applicants filed an Application with the Commission for approval of a customer service agreement between Applicants under TWC § 13.248 and 16 TAC § 24.117 to transfer approximately 907 acres of Aqua’s water CCN No. 10294 to Smithville’s water CCN No. 10946 in Bastrop County, Texas.
2. On May 18, 2017, the Commission caused notice of the Application to be published in the June 2, 2017 issue of the *Texas Register*.

3. On June 29, 2017, Applicants supplemented the Application in response to Order No. 2 to revise the maps and digital data initially provided with the Application, slightly reducing the water CCN area to be transferred to acreage of approximately 834, and filing a revised agreement.
4. On September 1, 2017, Applicants supplemented the Application in response to Order No. 3 to revise the maps and digital data previously provided with the application.
5. On October 4, 2017, Order No. 4 was issued in this Docket, deeming the application sufficient and administratively complete.
6. On December 7, 2017, Staff provided final maps, certificates, and tariffs to Applicants for their review and consent.
7. On December 12, 2017, Smithville and Aqua each provided their consent to the Commission's draft CCN maps and certificates.
8. On January 9, 2018, Staff filed its Final Recommendation recommending that the Application be approved.
9. On January 17, 2018, Smithville, Aqua, and Staff filed a Joint Motion to Admit Evidence and Joint Notice of Approval with Findings of Fact, Conclusions of Law, Ordering Paragraphs. The maps and certificates discussed in Finding of Fact Nos. 6 and 7 are attached to this Notice of Approval.

#### **Notice**

10. On June 2, 2017, notice of this proceeding was published in the *Texas Register*
11. No additional notice of this application was required.

#### **Description of the Application**

12. Smithville and Aqua seek to transfer approximately 834 acres of land from Aqua's water CCN No. 10294 to Smithville's water CCN No. 10946 in Bastrop County, Texas.

#### **Evidentiary Record**

13. On \_\_\_\_\_, Order No. 5 was issued, admitting evidence into the record of this Docket.

### **Informal Disposition**

14. More than 15 days have passed since the completion of the notice provided in this docket.
15. There were no protests or hearing requests filed in response to the public notice.
16. The only parties to this proceeding are Smithville, Aqua, and Staff.
17. No issues of fact or law are in dispute by any party, and no hearing is necessary

### **II. CONCLUSIONS OF LAW**

1. The Commission has jurisdiction and authority over this Docket pursuant to TWC § 13.248 and 16 TAC § 24.117.
2. Smithville and Aqua are each, a “retail public utility,” as defined in TWC § 13.002(19) and 16 TAC § 24.3(59).
3. Public notice of the Application was provided in accordance with 16 TAC §§ 24.106 and 24.117.
4. Smithville and Aqua have demonstrated that the Application meets the requirements set forth in TWC § 13.248 and 16 TAC § 24.117 to be granted an amendment to their respective water CCNs.
5. Smithville and Aqua have demonstrated that transferring a portion of Aqua’s water CCN No. 10294 to Smithville’s water CCN No. 10946 is necessary for the service, accommodation, convenience, and safety of the public, as required under TWC § 13.246(b) and 16 TAC § 24.102(c).
6. The requirements for 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, as supplemented, is approved.
2. Smithville’s water CCN No. 10946 is hereby amended to reflect that a portion of approximately 834 acres of Aqua’s water CCN No. 10294 has been transferred to Smithville, consistent with this Notice. Aqua’s water CCN No. 10294 is hereby amended to reflect the removal of the same service area in Bastrop County.

3. Smithville shall serve every customer and applicant for water service within the area certified under CCN No. 10946 and such service shall be continuous and adequate.
4. Applicants shall comply with the recording requirements in TWC § 13.257(r) for the area in Bastrop 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 and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

**SIGNED AT AUSTIN, TEXAS on the \_\_\_\_\_ day of \_\_\_\_\_, 2018**

**\_\_\_\_\_  
PUBLIC UTILITY COMMISSION OF TEXAS  
ADMINISTRATIVE LAW JUDGE**