



Control Number: 47176



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DOCKET NO. 47176

APPLICATION OF LIBERTY UTILITIES §
(WOODMARK SEWER) CORP. TO §
AMEND A SEWER CERTIFICATE OF §
CONVENIENCE AND NECESSITY IN §
SMITH COUNTY (BAKER PLANTATION) §

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PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
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OF TEXAS

NOTICE OF APPROVAL

This Notice addresses the application of Liberty Utilities (Woodmark Sewer) Corp. (Woodmark) to amend its sewer certificate of convenience and necessity (CCN) number 20679 to include approximately 51 acres of land in Smith County in which it serves 53 customers. The Commission amends Woodmark's CCN number 20679 to include the requested area as described in this Notice and shown on the map attached to this Notice.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Woodmark is a domestic for profit entity registered with the Texas secretary of state under file number 148556500.
2. Woodmark owns and operates facilities to provide sewer service in Smith County.
3. Woodmark is authorized to provide sewer service under Texas Commission on Environmental Quality (TCEQ) discharge permit number WQ0013168001 and Commission CCN number 20679.
4. Woodmark is a wholly owned subsidiary of Liberty Utilities (Sub) Corp., a Delaware corporation.
5. Liberty Utilities (Sub) Corp. is a wholly owned subsidiary of Liberty Utilities Company and an indirect subsidiary of Algonquin Power & Utilities Corp.

Application

6. On May 16, 2017, Woodmark filed an application to amend its sewer CCN number 20679 in Smith County.
7. Woodmark seeks to add an area known as Baker Plantation, which is approximately 51 acres of land in size. The area has 53 sewer service customers, which Woodmark serves.
8. The proposed area is approximately nine miles south of downtown Tyler and is generally bounded on the north by 217 feet north of Holcomb Drive on the east by 200 feet east of Holcomb Drive; on the south by 178 feet south of Holcomb Drive; and on the west by CR 122.
9. No portion of the service area is located within a municipality, a district, or the certificated service area of another utility.
10. Water service in the requested area is provided by Southern Utilities.
11. The requested amendment will correct the CCN boundary to reflect Woodmark's current service area.
12. In Order No. 3 issued on August 18, 2017, the administrative law judge (ALJ) deemed Woodmark's application administratively complete.
13. On July 19, 2018, Woodmark filed a consent form concurring with the revised map, tariff, and certificate as prepared by Commission Staff.
14. On February, 20, 2019 Woodmark filed an affidavit of Matthew Garlick attesting that the applicant's name is Liberty Utilities (Woodmark Sewer) Corp.

Notice of Application

15. Notice of the application appeared in the June 2, 2017 issue of the *Texas Register*.
16. On December 11, 2017, Woodmark filed a publisher's affidavit attesting notice by publication in the *Tyler Morning Telegraph*, a newspaper of general circulation in Smith County on November 30 and December 7, 2017.
17. On January 3, 2018 and February 6, 2018, Woodmark filed the affidavit of Steve Ruppenthal, Operations Manager, of Woodmark, attesting that notice was mailed to neighboring utilities, landowners, and cities on December 12, 2017.

18. On February 6, 2018, Woodmark file the affidavit of Steven Ruppenthal attesting that notice was provided to the Smith County Judge on January 24, 2018.
19. On February 6, 2018, Woodmark filed the affidavit of Steven Ruppenthal attesting that notice was provided to neighboring utilities, landowners, and cities on January 26, 2018.
20. In Order No. 8 issued on February 13, 2018, the ALJ found notice sufficient.

Evidentiary Record

21. On August 23, 2018, the parties filed a joint motion for admission of evidence.
22. In Order No. 11 issued on December 18, 2018, the ALJ admitted the following evidence into the record of this proceeding: (a) application of Liberty Utilities (Woodmark Sewer) Corp. filed on May 16, 2017; (b) supplement to the application filed on June 27, 2017; (c) notices and affidavits filed on: December 11, 2017; January 3, 2018, and February 6, 2018; (d) consent form filed on July 19, 2018; and (e) Commission Staff's recommendation on final disposition and supporting documentation filed on July 19, 2018.
23. In Order No. 12 issued on March 21, 2019, the ALJ admitted the following additional evidence into the record in this proceeding: letter from Mark H. Zeppa, filed on January 11, 2019.

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

24. Woodmark serves 53 customers in the requested area.
25. Woodmark's collection system and sewer treatment plant are adequate to serve the requested area.

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

26. Woodmark currently serves 53 customers in the requested area.
27. The requested area is a pre-platted subdivision is not anticipated to grow beyond the currently approved platted lots.

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

28. The Commission received no protests or concerns from any other adjacent retail public utility.

29. Granting Woodmark's CCN amendment will not adversely affect landowners in the area. Woodmark is an established utility and the proposed development will not affect current customers or any other retail public utility servicing the proximate area.

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

30. Woodmark has one class A certified sewer operator and two class D certified sewer operators.
31. The TCEQ database does not list any violations for permitted sewer facilities under number WQ0013168001.

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

32. Woodmark has the financial ability and financial stability to pay for facilities necessary to provide continuous and adequate service to the requested area.
33. Woodmark has a debt-to-equity ratio of less than one.
34. Woodmark submitted projections showing net losses over the first five years.
35. Liberty Utilities (Sub) Corp. has submitted a written guarantee of coverage of temporary cash shortages.
36. Liberty Utilities (Sub) Corp. has a debt-service coverage ratio of 0.27.
37. Liberty Utilities (Sub) Corp. has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations.

Financial Assurance—TWC § 13.246(d) and 16 TAC § 24.227(e)

38. There is no need to require Woodmark to provide a bond or other financial assurance to ensure continuous and adequate service.

Ability to Serve: Sewer Treatment Plant—TWC § 13.241(c)(4), 16 TAC § 24.227(a)(2)

39. Woodmark's sewer plant is permitted by the TCEQ under permit number WQ0013168001.

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

40. Woodmark will continue to serve customers in the requested area using its existing sewer system.

41. Liberty Utilities (Tall Timbers Sewer) Corp. and the City of Tyler both provide service within two miles of the requested area.
42. Tall Timbers is an affiliate of Tall Timbers and does not want to provide service in the requested area.
43. The City of Tyler has no sewer facilities in or around Woodmark's service area.
44. It would not be economical to build another sewer system in the requested area.

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

45. Woodmark does not anticipate building any new facilities to continue serving the area.

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

46. Granting Woodmark's CCN amendment will not adversely impact the environmental integrity of the requested area as no additional construction is needed to provide service to the requested area.

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

47. Granting Woodmark's CCN amendment will not affect service to customers, because Woodmark already serves the requested area.

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


48. Woodmark provides service to customers in the request area under its existing tariff.
49. Customers will continue to pay the rates under Woodmark's existing tariff.
50. Woodmark is seeking a rate increase in Docket No. 46256.¹

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

51. No additional construction is needed to provide service to the requested area.

Financial Ability to Pay for Facilities

53. Woodmark has the financial stability and financial ability to pay for facilities necessary to provide continuous and adequate service to the requested area.
54. Woodmark does not anticipate building any new facilities to continue serving the area.

 ¹ Application of Liberty Utilities (Woodmark Sewer) Corp., Liberty Utilities (Tall Timbers Sewer) Corp., and Liberty Utilities (Sub) Corp. for a Rate/Tariff Change, Docket No. 46256 (pending).

Tariff and Map

52. On June 22, 2018, Commission Staff emailed its proposed tariff, map, and certificate to Woodmark.
53. On July 19, 2018, Woodmark filed its consent to the proposed tariff, map, and certificate.
54. On July 19, 2018, Commission Staff filed the proposed tariff, map, and certificate as an attachment to its recommendation.

Informal Disposition

55. More than 15 days have passed since the completion of notice provided in this docket.
56. No person filed a protest or motion to intervene.
57. Woodmark and Commission Staff are the only parties to this proceeding.
58. No party requested a hearing and no hearing is needed.
59. Commission Staff recommended approval of the application.
60. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this application under Texas Water Code (TWC) §§ 13.041, 13.241, 13.244, and 13.246.
2. Woodmark is a retail public utility as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Notice of this application complies with TWC § 13.246 and 16 TAC § 24.235.
4. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,² the TWC, and Commission rules.
5. Woodmark 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.

² Administrative Procedure Act, Tex. Gov't Code §§ 2001.001–.902.

6. The amendment to CCN number 20679 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. Woodmark must serve every consumer within the added area under sewer CCN number 20694 and the service must be continuous and adequate service. TWC § 13.250.
8. Woodmark 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 Smith County within 31 days of receiving this Notice and submit to the Commission evidence of the recording. TWC § 13.257(r), (s).
9. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

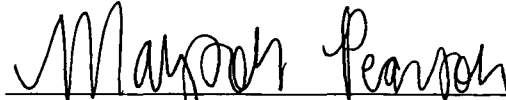
In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission amends Woodmark's CCN number 20679 to include the requested area as described in this Notice and shown on the map attached to this Notice.
2. The Commission grants the certificate attached to this Notice.
3. The Commission approves the tariff filed by Commission Staff on July 19, 2018.
4. Within ten days after the date of this Notice, Commission Staff must provide a clean copy of the tariff approved in this Notice to central records to be marked *Approved* and filed in the Commission's tariff book.
5. Woodmark must provide continuous and adequate service to every consumer within its certificated service area in accordance with its tariff.
6. Woodmark must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Smith County affected by the application.
7. Woodmark must file in this docket proof of the recording required in ordering paragraph 6 not later than 45 days after the date of this Notice.

8. The Commission denies all motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas the 22nd day of March 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

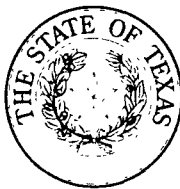
A handwritten signature in black ink, reading "Mayson Pearson", written over a horizontal line.

MAYSON PEARSON

ADMINISTRATIVE LAW JUDGE

W2013

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Public Utility Commission Of Texas

By These Presents Be It Known To All That

Liberty Utilities (Woodmark Sewer) Corp.

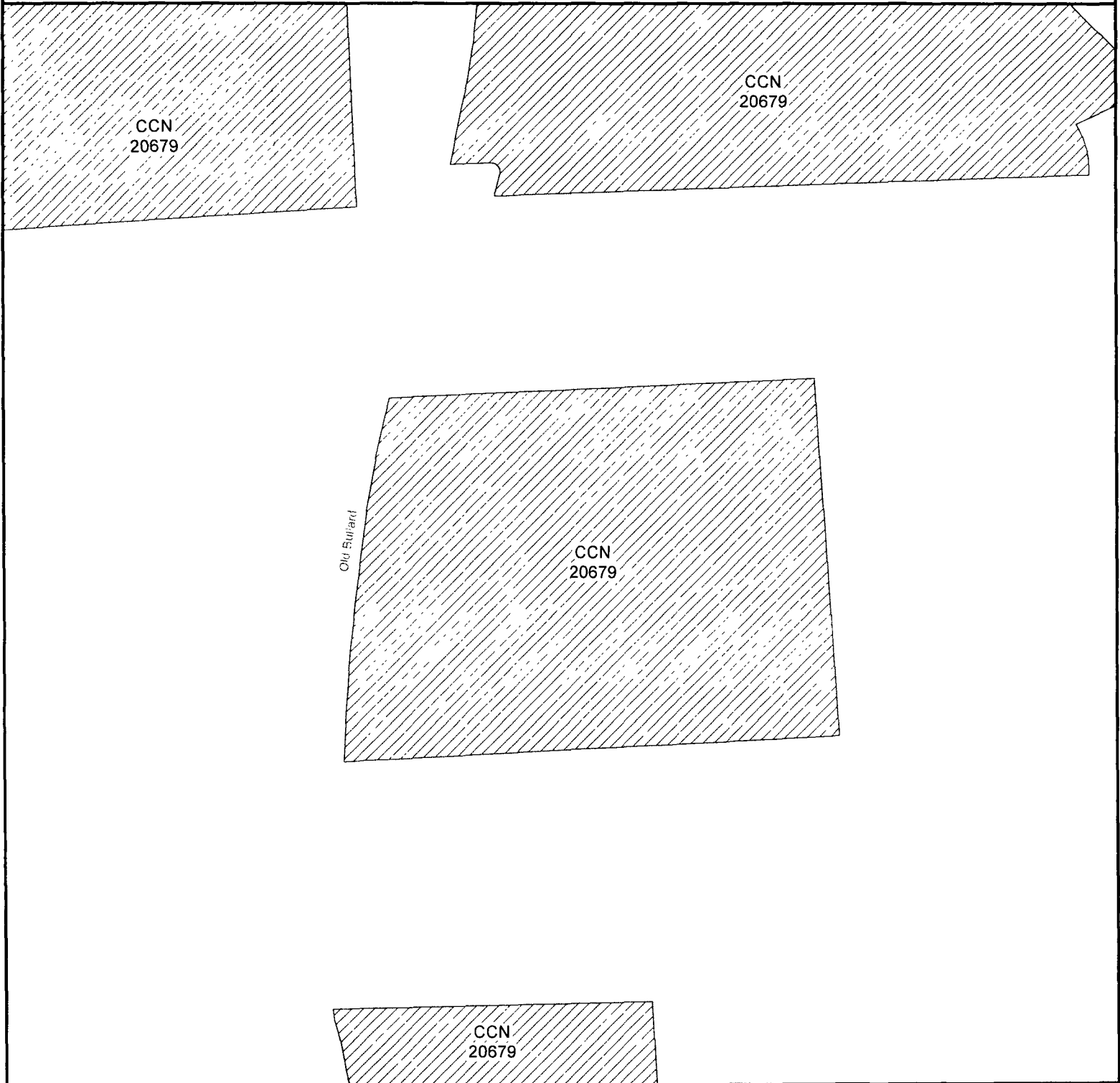
having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Liberty Utilities (Woodmark Sewer) Corp., is entitled to this

Certificate of Convenience and Necessity No. 20679

to provide continuous and adequate sewer utility service to that service area or those service areas in Smith County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 47176 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 Liberty Utilities (Woodmark Sewer) Corp., 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 22nd day of March 2019.

Liberty Utilities (Woodmark Sewer) Corp.
Portion of Sewer CCN No. 20679
PUC Docket No. 47176
Amended CCN No. 20679 in Smith County



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

Sewer CCN



20679 - Liberty Utilities (Woodmark Sewer) Corp

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Map by Komal Patel
Date created June 11, 2018
Project Path n:\finalmapping\
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