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DOCKET NO. 47523

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REMAND OF TCEQ APPLICATION NO. §  
37683-C (PETITION FROM TEXAS §  
GENERAL LAND OFFICE FOR §  
EXPEDITED RELEASE FROM §  
CERTIFICATE OF CONVENIENCE §  
AND NECESSITY (CCN) NO. 10293 §  
HELD BY MAXWELL WATER SUPPLY §  
CORPORATION IN HAYS COUNTY, §  
TEXAS) §

PUBLIC UTILITY COMMISSION  
FILING CLERK  
OF TEXAS

## COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Recommendation.

### I. BACKGROUND

On August 17, 2017, Maxwell Water Supply Corporation (Maxwell WSC) filed a petition (Petition) to implement an agreement to recertify certain areas that had previously been removed from Maxwell WSC's Certificate of Convenience and Necessity (CCN).<sup>1</sup> The Petition states that, in 2013, the Texas Commission on Environmental Quality had decertified a portion of Maxwell WSC's CCN.<sup>2</sup> That decision was appealed, and a settlement agreement (Contract) was reached on appeal.<sup>3</sup> The parties to the Contract include Maxwell WSC, the Texas General Land Office, Yarrington Partners, Ltd., Wisper Master Community, L.P., and the City of San Marcos.<sup>4</sup>

The Petition requests implementation of provisions of the Contract that contemplate that a portion of the decertified area be recertified as part of Maxwell WSC's CCN.<sup>5</sup> Maxwell WSC

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<sup>1</sup> Petition on Remand to Recertify Service Area Pursuant to Settlement Agreement (Aug. 17, 2017) (Petition).

<sup>2</sup> *Id.* at 1.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*, Exhibit A at 1.

<sup>5</sup> *Id.*

requests that this provision of the Contract be implemented using the authority in Tex. Water Code § 13.248 (West Supp. 2016) (TWC) and 16 Tex. Admin. Code § 24.117 (TAC), which state that contracts between retail public utilities designating areas to be served and customers to be served are valid and enforceable.<sup>6</sup>

On October 19, 2017, Maxwell WSC filed a consent form, indicating Maxwell WSC agrees with the draft map and certificate prepared by Commission Staff.<sup>7</sup>

On September 21, 2017, Order No. 1 was entered, requiring Staff to provide a recommendation by November 3, 2017.<sup>8</sup> This pleading is timely filed.

## **II. RECOMMENDATION**

Consistent with the attached memorandum of Sean Scaff and Kristy Nguyen, Water Utilities Division, Staff recommends that the application be approved. As discussed in further detail in the attached memorandum, the affected area, which was previously certificated to Maxwell WSC, was never incorporated in City of San Marcos's CCN and includes approximately 100 acres of land and zero customers. The Contract was entered into by all parties affected by the proposed transaction.

Staff also recommends that Maxwell WSC file copies of the CCN map along with a written description of the CCN service area in the county clerk's office in Hays County pursuant to Texas Water Code § 13.257(r) and (s).

Attached to this pleading are a draft map and certificate that would effectuate the proposed transfer.

## **V. CONCLUSION**

Pursuant to Order No. 2, proposed findings of fact and conclusions of law are due to be filed on November 10, 2017. Staff respectfully requests the entry of an order consistent with the parties' forthcoming proposed findings of fact and conclusions of law.

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<sup>6</sup> Tex. Water Code § 13.248 (West Supp. 2016) (TWC); 16 Tex. Admin. Code § 24.117(a) (TAC).

<sup>7</sup> Consent Form (Oct. 19, 2017).

<sup>8</sup> Order No. 2 (Sept. 21, 2017).

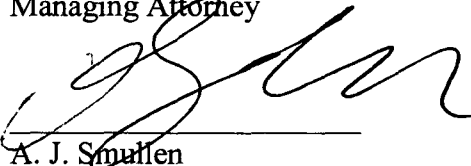
Date: November 3, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

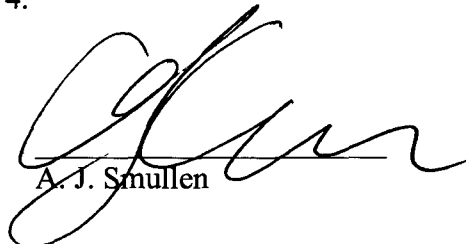
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CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on November 3, 2017 in accordance with 16 TAC § 22.74.



A. J. Smullen

## PUC Interoffice Memorandum

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**To:** AJ Smullen, Attorney  
Legal Division

**Through:** Tammy Benter, Director  
Water Utilities Division

**From:** Sean Scaff, Engineering Specialist  
Kristy Nguyen, GIS Specialist  
Water Utilities Division

**Date:** October 26, 2017

**Subject:** **Docket No. 47523:** *Remand of TCEQ Application No. 37683-C (Petition from Texas General Land Office for Expedited Release from Certificate of Convenience and Necessity (CCN) No. 10293 held by Maxwell Water Supply Corporation in Hays County, Texas*

On August 17, 2017, Maxwell Water Supply Corporation (WSC) filed a petition for approval of a contract to recertify service area back to Maxwell WSC in accordance with a settlement agreement reached by the parties and an agreed order issued by the 201<sup>st</sup> District Court of Travis County. The order remands the Texas Commission on Environmental Quality Application No. 37683-C, to the Public Utility Commission of Texas.

The WSC is requesting the subject property be recertified back into their existing CCN pursuant to the agreed order. The agreed order allows the WSC to recertify approximately 100 acres of land within the City limits of San Marcos, Texas. The land was never incorporated into San Marcos' CCN and has never received service.

The WSC filed adequate maps delineating the proposed service area with enough detail to confirm the accurate positioning of their digital data, pursuant to 16 Tex. Admin. Code § 24.113(r). Mapping Staff were able to confirm the acreage of the total property, which is approximately 100 total acres, with zero current customers.

The WSC also filed the signed settlement agreement between all affected parties including (Maxwell WSC, Yarrington Partners, Ltd., Texas General Land Office, Whisper Master Community, L.P., N.O.B. 2016 Holdings, Ltd., and the City of San Marcos), as well as the submission of board meeting notes approving the recertification from both Maxwell WSC and the City of San Marcos.

Based on Staff's review of the above referenced application, Staff recommends that the application be approved.

The WSC consented to the map and certificate on October 19, 2017.

Staff also recommends that the WSC file copies of the CCN map along with a written description of the CCN service area in the county clerk's office in Hays County pursuant to Texas Water Code § 13.257 (r) and (s).



# **Public Utility Commission of Texas**

**By These Presents Be It Known To All That**

## **Maxwell 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, Maxwell Water Supply Corporation is entitled to this

### **Certificate of Convenience and Necessity No. 10293**

to provide continuous and adequate water utility service to that service area or those service areas in Hays County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 47523 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 Maxwell 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 \_\_\_\_\_ day of \_\_\_\_\_ 2017.

Maxwell Water Supply Corporation  
Portion of Water CCN No. 10293  
PUC Docket No. 47523  
13.248 Agreement Amended CCN No. 10293 in Hays County



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

**Water CCN**

-  10293 - Maxwell WSC
-  10298 - City of San Marcos

0 350 700  
Feet



Map by: Komal Patel  
Date created: September 21, 2017  
Project Path: n:\finalmapping\47523MaxwellWSC.mxd