



Control Number: 47696



Item Number: 18

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DOCKET NO. 47696

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APPLICATION OF WINDTHORST §  
WATER SUPPLY CORPORATION TO §  
AMEND A WATER CERTIFICATE OF §  
CONVENIENCE AND NECESSITY IN §  
ARCHER COUNTY §

PUBLIC UTILITY COMMISSION  
PUBLIC UTILITY COMMISSION  
FILING CLERK  
OF TEXAS

**COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION ON  
ADMINISTRATIVE COMPLETENESS AND PROPOSED NOTICE**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and in response to Order No. 6, files this Supplemental Recommendation on Administrative Completeness and Proposed Notice. Staff recommends that the application be deemed sufficient for further review. In support thereof, Staff shows the following:

**I. BACKGROUND**

On October 16, 2017, Windthorst Water Supply Corporation (Windthorst) filed an application to amend its water Certificate of Convenience and Necessity (CCN) No. 11355 in Archer County. The service area being requested includes 3 separate areas totaling approximately 368 acres, with a total of 3 current customers.

On May 3, 2018, the Commission administrative law judge (ALJ) issued Order No. 6, finding that Windthorst's application remains deficient and requiring Windthorst to file a supplement by May 17, 2018. Windthorst filed a supplement to their application on May 17, 2018. Order No. 6 also required Staff to file a supplemental recommendation regarding the administrative completeness of the application by June 4, 2018. Therefore, this pleading is timely filed.

**II. ADMINISTRATIVE COMPLETENESS**

As further detailed in the attached memorandum of Jolie Mathis in the Commission's Water Utility Regulation Division, Staff has reviewed the application and recommends that it be found administratively complete and accepted for filing.

### III. NOTICE

As detailed in the attached memorandum, Staff recommends that Windthorst proceed with providing public notice and be directed to use the attached forms to provide such notice to the following persons, political subdivisions and other entities:

- a. cities, districts, and neighboring retail public utilities providing the same utility service whose corporate boundaries or certificated service area are located within two miles from the outer boundary of the requested area;
- b. the county judge of each county that is wholly or partially included in the requested area;
- c. each groundwater conservation district that is wholly or partially included in the requested area; and
- d. landowners who own a tract of land that is at least 25 acres and is wholly or partly located in the requested area to be certified. The landowner information may be obtained from the county appraisal district tax rolls for the county or counties in which the requested area is located;
- e. any affected customers, and other affected parties in the requested area; and
- f. publish notice once each week for two (2) consecutive weeks in a newspaper of general circulation in Archer County.

In addition, Staff recommends that Windthorst provide correct notice of the application to the following entities:

- City of Archer City
  - Red River Authority of Texas
  - Archer County
- 1) Provide an accurate map delineating the requested area with each individual notice to neighboring utilities, other affected parties, landowners and customers. Information related to districts including addresses can be obtained by Windthorst from the TCEQ's web site located at <http://www14.tceq.texas.gov/iwud/>
  - 2) Within 30 days of the date of the notice, file in the docket a map and copy of notice along with an affidavit specifying every person and entity to whom notice was provided, the date that the notice was provided, and the publisher's affidavit for proof of newspaper publication. It is recommended that Windthorst use the attached notices and affidavits to meet these requirements.

#### IV. PROCEDURAL SCHEDULE

Staff proposes the following procedural schedule:

Event	Date
Deadline for Windthorst to file with the Commission signed affidavits that the notice was given along with a copy of the notice sent to the affected parties and published in a newspaper of general circulation	July 19, 2018
Deadline for Staff to file a recommendation on sufficiency of notice and propose a supplemental procedural schedule	Within 10 days of Windthorst filing proof of completed notice with the Commission
Deadline to intervene	30 days after notice is issued

#### V. CONCLUSION

For the reasons discussed above, Staff recommends that the application be found administratively complete, that Windthorst be directed to provide notice as detailed above and in the attached memorandum, and that the procedural schedule be adopted.

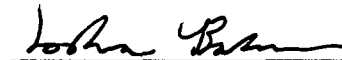
Dated: June 4, 2018

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Katherine Lengieza Gross  
Managing Attorney



Joshua Adam Barron  
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Austin, Texas 78711-3326  
(512) 936-7235  
(512) 936-7268 (facsimile)  
Joshua.Barron@puc.texas.gov

**DOCKET NO. 47696**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on June 4, 2018,  
in accordance with 16 TAC § 22.74.

  
\_\_\_\_\_  
Joshua Adam Barron

## PUC Interoffice Memorandum

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**To:** Joshua Barron, Attorney  
Legal Division

**Thru:** Lisa Fuentes, Manager  
Water Utility Regulation Division

**From:** Jolie Mathis, Staff Engineer  
Water Utility Regulation Division

**Date:** May 30, 2018

**Subject:** **Docket 47696**, *Application of Windthorst Water Supply Corporation to Amend a Water Certificate of Convenience and Necessity in Archer County*

On October 16, 2017, Windthorst Water Supply Corporation (Windthorst WSC or Applicant) filed with the Public Utility Commission of Texas (Commission) an application to amend its water Certificate of Convenience and Necessity (CCN) No. 11355 in Archer County, Texas pursuant to Texas Water Code Ann. (TWC) §§ 13.242 to 13.250 and the 16 Texas Administrative Code (TAC) §§ 24.101 to 24.107.

Staff has reviewed the additional information filed by the Applicant on May 17, 2018, and recommends that the application be deemed sufficient for filing and administratively complete. Staff further recommends the Applicant be ordered to do the following:

- 1) Provide notice of the application to the following:
  - a) cities, districts, and neighboring retail public utilities providing the same utility service whose corporate boundaries or certificated service area are located within two miles from the outer boundary of the requested area;
  - b) the county judge of each county that is wholly or partially included in the requested area;
  - c) each groundwater conservation district that is wholly or partially included in the requested area; and
  - d) landowners who own a tract of land that is at least 25 acres and is wholly or partly located in the requested area to be certified. The landowner information may be obtained from the county appraisal district tax rolls for the county or counties in which the requested area is located;
  - e) any affected customers, and other affected parties in the requested area; and
  - f) publish notice once each week for two (2) consecutive weeks in a newspaper of general circulation in Archer County.
- 2) Provide correct notice of the application to the following entities:
  - City of Archer City
  - Red River Authority of Texas
  - Archer County
- 3) Provide an accurate map delineating the requested area with each individual notice to neighboring utilities, other affected parties, landowners and customers. Information related to districts including addresses can be obtained by the Applicant from the TCEQ's web site located at <http://www14.tceq.texas.gov/iwud/>

- 4) File in the docket a map and copy of notice along with an affidavit specifying every person and entity to whom notice was provided, the date that the notice was provided, and the publisher's affidavit for proof of newspaper publication, within 30 days of the date of notice. It is recommended that the Applicant use the attached notices and affidavits to meet these requirements.

***Notice for Publication***

**NOTICE OF APPLICATION TO AMEND A CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE WATER UTILITY SERVICE IN ARCHER, TEXAS**

Windthorst Water Supply Corporation has filed an application with the Public Utility Commission of Texas to amend its Certificate of Convenience and Necessity (CCN) No. 11355 for the provision of retail water utility service in Archer County.

The three requested areas are located approximately between 9 miles west and 8 miles southwest of downtown Windthorst, Texas. The three requested areas are generally bounded on the north by the intersection of FM 172 and Peysen Road; on the east by US Hwy 281; on the south by the intersection of State Hwy 16 and Westfork Road; and on the west by Demoss Road. The requested areas include approximately 368 total acres and 3 current customers.

**A copy of the map showing the requested areas is available at:** Windthorst Water Supply Corporation, 202 Church Hilltop Dr., Windthorst, TX 76389, (940) 423-6685

*Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date.*

If a valid public hearing is requested, the Commission will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for a final decision. An evidentiary hearing is a legal proceeding similar to a civil trial in state district court.

A landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the requested area, may file a written request with the Commission to be excluded from the requested area ("opt out") within (30) days from the date that notice was provided by the Utility. All opt out requests must include a large scale map and a metes and bounds description of the landowner's tract of land.

Persons who wish to request this option should file the required documents with the:

Public Utility Commission of Texas  
Central Records  
1701 N. Congress, P. O. Box 13326  
Austin, TX 78711-3326

In addition, the landowner must also send a copy of the opt out request to the Utility. Staff may request additional information regarding your request.

Si desea información en español, puede llamar al 1-888-782-8477.



***Notice to Neighboring Systems, Landowners, Customers and Cities***  
**NOTICE OF APPLICATION TO AMEND A CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE WATER UTILITY SERVICE IN ARCHER COUNTY, TEXAS**

To: \_\_\_\_\_  
(Neighboring System, Landowner, Customer or City)

Date Notice Mailed: \_\_\_\_\_, 2018

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City State Zip)

Windthorst Water Supply Corporation has filed an application with the Public Utility Commission of Texas to amend its Certificate of Convenience and Necessity (CCN) No. 11355 for the provision of retail water utility service in Archer County.

The three requested areas are located approximately between 9 miles west and 8 miles southwest of downtown Windthorst, Texas. The three requested areas are generally bounded on the north by the intersection of FM 172 and Peysen Road; on the east by US Hwy 281; on the south by the intersection of State Hwy 16 and Westfork Road; and on the west by Demoss Road. The requested areas include approximately 368 total acres and 3 current customers. **See enclosed map showing the requested areas.**

*Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date.*

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In addition, the landowner must also send a copy of the opt out request to the Utility. Staff may request additional information regarding your request.

Si desea información en español, puede llamar al 1-888-782-8477.

# PUBLIC UTILITY COMMISSION



## AFFIDAVIT OF NOTICE TO CURRENT CUSTOMERS, LANDOWNERS, NEIGHBORING UTILITIES AND AFFECTED PARTIES DOCKET NO. 47696

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

\_\_\_\_\_ has provided individual  
notice to the following entities, landowners and customers:

DATE OF NOTICE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### OATH

I, \_\_\_\_\_, being duly sworn, file this form as  
\_\_\_\_\_ (indicate relationship to applicant, that is,  
owner, member of partnership, title of officer of corporation, or other authorized representative of  
applicant); that in such capacity, I am qualified and authorized to file and verify such form, am  
personally familiar with the notices given with this application, and have complied with all notice  
requirements in the application and application acceptance letter; and that all such statements made  
and matters set for therein are true and correct.

\_\_\_\_\_  
Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant,  
or its' attorney, a properly verified Power of Attorney must be enclosed.

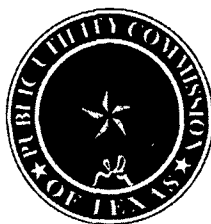
Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public

Commission Expires \_\_\_\_\_

# PUBLIC UTILITY COMMISSION



PUBLISHER'S AFFIDAVIT  
DOCKET NO. 47696

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_,  
who being by me duly sworn, deposes and that (s)he is the

\_\_\_\_\_ of the \_\_\_\_\_  
(TITLE) (NAME OF NEWSPAPER)

that said newspaper is regularly published in \_\_\_\_\_  
(COUNTY/COUNTIES)

and generally circulated in \_\_\_\_\_, Texas;  
(COUNTY/COUNTIES)

and that the attached notice was published in said newspaper on the following dates, to wit:

\_\_\_\_\_  
(DATES)

\_\_\_\_\_  
(SIGNATURE OF NEWSPAPER REPRESENTATIVE)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public

Commission Expires \_\_\_\_\_