



Control Number: 47696



Item Number: 25

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**DOCKET NO. 47696**

<b>APPLICATION OF WINDTHORST WATER SUPPLY CORPORATION TO AMEND A WATER CERTIFICATE OF CONVENIENCE AND NECESSITY IN ARCHER COUNTY</b>	§ § § § §	<div data-bbox="1024 276 1371 404">2018 OCT 28 AM 8:28 PUBLIC UTILITY COMMISSION OF TEXAS CLERA</div> <b>PUBLIC UTILITY COMMISSION OF TEXAS</b>
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**JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL**

**COMES NOW** the Staff (Staff) of the Public Utility Commission of Texas (Commission) and Windthorst Water Supply Corporation (Windthorst) (together, the Parties), and files this Joint Motion to Admit Evidence and Proposed Notice of Approval. In support thereof, the Parties show 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 total area being requested includes 3 separate areas totaling approximately 368 acres, with a total of 3 current customers.

On July 13, 2018 Order No. 8 was issued establishing a deadline of October 29, 2018 for parties to file a joint proposed findings of fact, corresponding conclusions of law, and ordering paragraphs. Therefore, this pleading is timely filed.

**II. JOINT MOTION TO ADMIT EVIDENCE**

The parties move to admit the following into the record of evidence of this proceeding:

1. The application, filed on October 16, 2017.
2. Texas Registrar Notice, filed on October 23, 2017.
3. Windthorst's first supplement to the application, filed on January 5, 2018.
4. Windthorst's second supplement to the application, filed on January 26, 2018.
5. Windthorst's third supplement to the application, filed on May 17, 2018.
6. Commission Staff's recommendation finding the application administratively complete, filed on June 4, 2018.

7. An affidavit of notice and publisher's affidavit filed on July 5, 2018.
8. Commission Staff's recommendation finding notice sufficient, filed on July 11, 2018.
9. Windthorst's executed consent form filed October 9, 2018.
10. Commission Staff's Recommendation on Final Disposition filed October 22, 2018 and attached Final Map and Certificate of Convenience.

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

The attached Joint Proposed Notice of Approval would grant approval to Windthorst to amend its water Certificate of Convenience and Necessity (CCN) No. 11355 in Archer County.

### **IV. CONCLUSION**

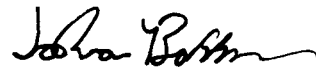
The parties respectfully request that the Commission grant the Motion to Admit Evidence and adopt the attached Joint Proposed Notice of Approval.

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF  
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

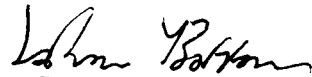
Katherine Lengieza Gross  
Managing Attorney



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P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7235  
(512) 936-7268 (facsimile)  
Joshua.Barron@puc.texas.gov

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on October 29, 2018 in accordance with 16 TAC § 22.74.



Joshua Adam Barron

**DOCKET NO. 47696**

<b>APPLICATION OF WINDTHORST WATER SUPPLY CORPORATION TO AMEND A WATER CERTIFICATE OF CONVENIENCE AND NECESSITY IN ARCHER COUNTY</b>	<b>§ § § § §</b>	<b>PUBLIC UTILITY COMMISSION  OF TEXAS</b>
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**JOINT PROPOSED NOTICE OF APPROVAL**

This Joint Proposed Notice of Approval addresses the application of Windthorst Water Supply Corporation (Windthorst) for approval to amend its water Certificate of Convenience and Necessity (CCN) No. 11355 in Archer County. The Public Utility Commission of Texas (Commission) staff (Staff) recommended approval of the Application. The Application is approved. The Commission adopts the following findings of fact and conclusions of law:

**I. FINDINGS OF FACT**

*Applicant*

1. Windthorst is a Water Supply Corporation, providing retail water service under CCN No. 11355 in Archer County.

*Application*

1. Windthorst filed an application for approval to amend its CCN No. 11355 in Archer County.
2. The total area requested includes 3 separate areas totaling approximately 368 acres with a total of 3 current customers.
3. Windthorst has financial stability and the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and proposed utility service area.
4. Windthorst has demonstrated adequate financial, managerial, and technical capabilities to provide service to the requested area.
5. Approval of the application will not adversely impact the environmental integrity of the land included in the requested area.
6. Windthorst is capable of providing continuous and adequate service to the requested area.

7. The transaction will serve the public interest.

*Notice*

8. Notice of the application appeared in the November 3, 2017, issue of the *Texas Register*.

9. On June 13, 2018 Windthorst provided notice to:

Charlie McMurtry  
James McMurtry  
Scott Berend  
James Lindemann  
J.S. Bridwell  
James Ostermann  
Jose Sanchez  
Dorothy Davis  
Raymond Hoffman Jr.  
Jerry Vieth  
William Abernathy  
Greg and Misty Lindley  
Richard Hoffman Jr.  
Archer City  
Archer County  
Red River Authority of Texas

10. On July 5, 2018 Windthorst filed proof of mailed notice.
11. On July 5, 2018, Windthorst filed a publisher's affidavit affirming publication of notice in the Archer County News on June 21, 2018 and June 28, 2018.

*Procedural History*

1. On October 16, 2017, Windthorst filed an application seeking approval to amend its water 11355 in Archer County.
2. In Order No. 1, issued on October 19, 2018, the Administrative Law Judge (ALJ) required Commission Staff to provide comments on the administrative completeness of the application and proposed notice.
3. On November 14, 2018, Commission Staff recommended that the ALJ find the application deficient.
4. In Order No. 2, issued on November 15, 2018, the ALJ found the application incomplete and established a deadline for Windthorst to cure.
5. On January 5, 2018 Windthorst supplemented the application.
6. On January 11, 2018, Commission Staff recommended that the ALJ find the application deficient.

7. In Order No. 3, issued on January 12, 2018, the ALJ found the application incomplete and established a deadline for Windthorst to cure.
8. On January 26, 2018, Windthorst supplemented the application.
9. On March 1, 2018, Commission Staff recommended that the ALJ find the application deficient.
10. In Order No. 4, issued on March 5, 2018, the ALJ found the application incomplete and established a deadline for Windthorst to cure.
11. On April 20, 2018, Commission Staff recommended that the ALJ find the application deficient.
12. In Order No. 5, issued on April 20, 2018, the ALJ found the application incomplete and established a deadline for Windthorst to cure.
13. On April 26, 2018, Windthorst filed a Request for Extension.
14. On May 3, 2018, the ALJ granted the Request for Extension.
15. On May 17, 2018, Windthorst supplemented the application.
16. On June 4, 2018, Commission Staff recommended that the ALJ find the application sufficient.
17. In Order No. 7, issued on June 11, 2018, the ALJ found the application administratively complete and required Windthorst to provide notice and established a procedural schedule for continued processing.
18. On July 5, 2018, Windthorst filed proof of notice and proof of publication affidavits.
19. On July 19, 2018, Commission Staff recommended the ALJ find notice sufficient.
20. In Order No. 8, issued on July 13, 2018, the ALJ found notice to be sufficient and established a procedural schedule.
21. On October 9, 2018, Windthorst filed a consent form concurring with the final map and certificate as prepared by Commission Staff.
22. On October 22, 2018, Staff filed a final recommendation, recommending that the application be approved.
23. On October 29, 2018, the parties filed a joint motion to admit evidence into the record.
24. In Order No. 9, issued on \_\_\_, the ALJ admitted evidence into the record.

## **II. Conclusions of Law**

1. The Commission has jurisdiction under Texas Water Code (TWC) §§ 13.041, 13.241, 13.244, and 13.246.
2. Windthorst is a retail public utility as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Public notice of the application was provided in compliance with TWC § 13.246 and 16 TAC § 24.235.
4. The application was processed in accordance with the TWC, Administrative Procedure Act<sup>1</sup>, and Commission Rules.
5. After considering the factors in TWC § 13.246(c), Windthorst has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and its current service area.
6. Approval of the application is necessary for the service, accommodation, convenience, and safety of the public, as required under TWC § 13.246(b).
7. Under TWC § 13.257(r) and (s), Windthorst is required to record a certified copy of the approved CCN 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 portion of the service area is located and submit to the Commission evidence of the recording.
8. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

## **III. Ordering Paragraphs**

1. The Commission approves the application, as supplemented.
2. The Commission amends Windthorst's CCN Number 11355.
3. The Commission approves the certificate and map attached to this Notice.
4. The Commission's official service area boundary map for Windthorst shall reflect the change as provided in the attached map.
5. Windthorst shall serve every customer and applicant for water service within the approved area that request water service and meet the terms of Windthorst's regulations to receive water service and such service shall be continuous and adequate.

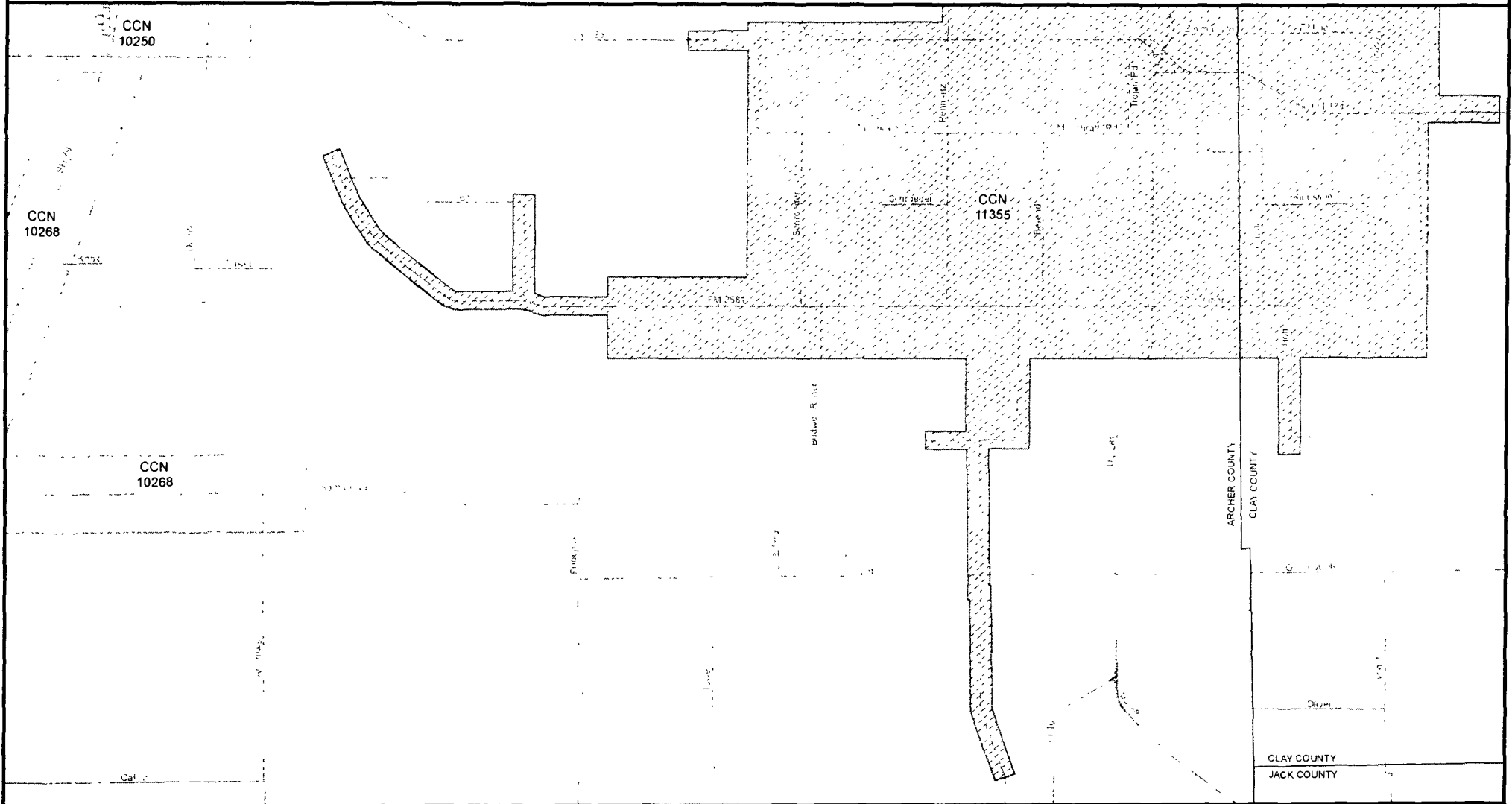
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<sup>1</sup> Administrative Procedure Act. Tex. Gov't Code Ann. §§ 2001.001-902 (West 2016 & Supp. 2017).






6. Windthorst shall comply with the recording requirements of TWC § 13.257(r) and (s) for the area in Archer County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this notice.
7. All other motions and any other requests for general or specific relief, if not expressly granted, are denied.

Windthorst Water Supply Corporation  
 Portion of Water CCN No. 11355  
 PUC Docket No. 47696  
 Amended CCN No. 11355 in Archer County



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

**Water CCN**

-  11355 - Windthorst WSC
-  10268 - Wichita Valley WSC
-  10250 - City of Archer City

0 4,000 8,000  
 Feet



Map by Komal Patel  
 Date created September 24, 2018  
 Project Path n:\finalmapping\  
 47696WindthorstWSC.mxd



# **Public Utility Commission Of Texas**

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

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

### **Certificate of Convenience and Necessity No. 11355**

to provide continuous and adequate water utility service to that service area or those service areas in Archer and Clay Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 47696 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 Windthorst 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 \_\_\_\_\_ 2018.