

Control Number: 47744



Item Number: 27

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<p>APPLICATION OF SHADY SHORES DEVELOPMENT D/B/A SHADY SHORES WATER SYSTEM AND DIANA SPECIAL UTILITY DISTRICT FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN MARION COUNTY</p>	<p>§ § § § § § § § §</p>	<p>PUBLIC UTILITY COMMISSION OF TEXAS</p> <p>FILING CLERK</p>
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AMENDED JOINT MOTION TO ADMIT EVIDENCE AND AMENDED PROPOSED NOTICE OF APPROVAL

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), Shady Shores Development d/b/a Shady Shores Water System Inc. (Shady Shores WS) and Diana Special Utility District (Diana SUD), (collectively, Applicants) (together, the Parties), and files this Amended Joint Motion to Admit Evidence and Amended Proposed Notice of Approval. In support thereof, the Parties show the following:

I. BACKGROUND

On October 31, 2017, Shady Shores Development d/b/a Shady Shores Water System (Shady Shores WS) and Diana Special Utility District (Diana SUD), (collectively, Applicants) filed an application for sale, transfer, or merger of facilities and certificate rights in Marion County, Texas. Specifically, Diana SUD seeks to acquire all of the water system assets and service area of Shady Shores WS held under water Certificate of Convenience and Necessity (CCN) No. 11173. The requested area includes approximately 250 acres and 153 current customers.

On June 14, 2018, the administrative law judge (ALJ) issued Order No. 7, which required the Parties to file a joint proposed notice of approval by August 3, 2018. On August 1, 2018, the Parties filed a Joint Proposed Notice of Approval and Joint Motion to Admit Evidence, but inadvertently forgot to attach the Final Map and Certificate of Convenience. This pleading rectifies that error.

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 31, 2017.

2. Texas Registrar Notice, filed on November 17, 2017.
3. The supplement to the application, filed on December 19, 2017.
4. Commission Staff's recommendation finding the application administratively complete, filed on January 25, 2018.
5. The affidavit of notice filed on February 13, 2018.
6. Commission Staff's recommendation finding notice sufficient, filed on February 16, 2018.
7. Diana SUD's response to Staff's 1st RFI, filed on March 19, 2018.
8. Commission Staff's recommendation regarding approval of sale to proceed, filed on April 6, 2018.
9. The Bill of Sale, filed on June 5, 2018.
10. The executed consent forms filed July 17, 2018.
11. The Final Map (attached).
12. Certificate of Convenience (attached).

III. AMENDED JOINT PROPOSED NOTICE OF APPROVAL

The attached Joint Proposed Notice of Approval would grant Diana SUD all of the water system assets and service area of Shady Shores WS held under water Certificate of Convenience and Necessity (CCN) No. 11173.

IV. CONCLUSION

The parties respectfully request that the Commission grant the Amended Motion to Admit Evidence and adopt the attached Amended 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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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on September 14, 2018 in accordance with 16 TAC § 22.74.



Joshua Adam Barron

DOCKET NO. 47744

APPLICATION OF SHADY SHORES DEVELOPMENT D/B/A SHADY SHORES WATER SYSTEM AND DIANA SPECIAL UTILITY DISTRICT FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN MARION COUNTY	§ § § § § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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AMENDED JOINT PROPOSED NOTICE OF APPROVAL

This Amended Joint Proposed Notice of Approval addresses the application of Shady Shores Development Inc. d/b/a Shady Shores Water System (Shady Shores WS) and Diana Special Utility District (Diana SUD), (collectively, Applicants) for approval of Diana SUD's purchase of all of the water system assets and service area of Shady Shores WS held under water Certificate of Convenience and Necessity (CCN) No. 11173. 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

Applicants

1. Shady Shores WS is a Class C utility, providing retail water service under CCN No. 11173 in Marion County.
2. Diana SUD is a Special Utility District providing retail water service under CCN No. 10425.

Application

3. Shady Shores WS is currently providing service to the certificated area.
4. The Applicants agreed to Diana SUD's purchase of all of the water system assets and service area of Shady Shores WS held under water CCN No. 11173.
5. The total area requested includes approximately 250 acres and 153 customers.
6. Diana SUD intends to integrate the acquired system into its overall system and intends to raise the water quality standards.

7. Diana SUD 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.
8. Diana SUD has demonstrated adequate financial, managerial, and technical capabilities to provide service to the requested area.
9. Approval of the application will not adversely impact the environmental integrity of the land included in the requested area since the area is currently receiving service.
10. The customers of Shady Shores WC will receive water from a stable water supply from a professionally operated and maintained system.
11. Diana SUD is capable of providing continuous and adequate service to the requested area.
12. The transaction will serve the public interest.

Notice

13. Notice of the application appeared in the November 17, 2017, issue of the *Texas Register*.
14. On February 13, 2018, Applicants filed an affidavit of proof of notice.

Informal Disposition

15. More than 15 days have passed since the completion of the notice provided in this docket.
16. Commission Staff, Shady Shores WS, and Diana SUD are the only parties to this proceeding.
17. No Parties filed protests, motions to intervene, or requests for a hearing: therefore, no hearing is necessary.

Procedural History

18. On October 31, 2017, the Applicants filed an application seeking approval of Diana SUD's purchase of all of the water system assets and service area of Shady Shores WS held under water CCN No. 11173.
19. In Order No. 1, issued on November 3, 2017, the administrative law judge (ALJ) required Commission Staff to provide comments and a recommendation on the application.
20. In Order No. 2, issued on December 5, 2017, the ALJ found the application incomplete and established a deadline for the Applicants to cure.
21. On December 19, 2017, Diana SUD supplemented the application with the executed agreement between Shady Shores WC and Diana SUD.

22. On January 25, 2018, Commission Staff recommended that the ALJ find the application administratively complete and require applicants to provide notice.
23. In Order No. 3, issued on February 6, 2018, the ALJ found the application administratively complete and required the Applicants to provide notice and an established a procedural schedule for continued processing.
24. On February 13, 2018, Diana SUD filed an affidavit regarding proof of notice provided to current customers and affected parties.
25. On February 16, 2018, Commission Staff recommended the ALJ find notice sufficient.
26. In Order No. 4, issued on February 20, 2018, the ALJ found notice to be sufficient and established a procedural schedule.
27. On March 6, 2018, Commission Staff sent its first Request for Information (RFI) to Diana SUD.
28. On March 19, 2018, Diana SUD responded to Staff's first RFI.
29. On April 6, 2018, Commission Staff recommended the ALJ authorize the applicants to proceed with the transaction.
30. In Order No. 5, issued on April 19, 2018, the ALJ approved the transaction to proceed.
31. On May 1, 2018, the Applicants submitted closing documents that were found insufficient by the ALJ in Order No. 6, issued May 14, 2018.
32. On June 5, 2018, Diana SUD filed documents addressing selling of assets and customer deposits.
33. On June 12, 2018, Commission Staff recommended the ALJ find closing documents sufficient.
34. In Order No. 7, issued on June 14, 2018, the ALJ found the closing documents sufficient and established a procedural schedule.
35. On July 17, 2018, Diana SUD and Shady Shores WSC filed consent forms concurring with the final map and certificates as prepared by Commission Staff.
36. On August 3, 2018, the parties filed a joint motion to admit evidence into the record.
37. On September 14, 2018, the parties filed an amended joint motion to admit evidence into the record.
38. In Order No. 8, 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, 13.251, and 13.301
2. The applicants are retail public utilities as defined in TWC § 13.002(19) and 16 TAC § 24.3(59).
3. Diana SUD provided notice of the application as required by TWC § 13.301(a)(2).
4. The Commission processed the application as required by the TWC, Administrative Procedure Act¹, and Commission Rules.
5. The 120-day deadline for Commission action on this application is consistent with the requirements of 16 TAC § 24.109(j).
6. The applicants completed the sale within 180 days from the date of the Commission's approval to proceed with the sale consistent with 16 TAC § 24.109(o).
7. After considering the factors in TWC § 13.246(c), Diana SUD has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and its current service area.
8. The applicants have demonstrated that the sale of service and CCN requested in this application is necessary for the service, accommodation, convenience, and safety of the public, as required under TWC § 13.246(b).
9. The applicants have demonstrated that the sale of service and CCN requested in this application will serve the public interest, as required under TAC § 24.109(i).
10. Under TWC § 13.257(r) and (s), Diana SUD 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.
11. 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 approves the certificate and map attached to this Notice.

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

3. The Commission approves Diana SUD's purchase of all of the water system assets and service area of Shady Shores WS held under CCN No. 11173.
4. The Commission transfers Shady Shores WS's CCN No. 11173 to Diana SUD.
5. The Commission's official service area boundary map for Diana SUD shall reflect the change as provided in the attached map.
6. Diana SUD shall serve every customer and applicant for water service within the approved area that request water service and meet the terms of Diana SUD's regulations to receive water service and such service shall be continuous and adequate.
7. Diana SUD shall comply with the recording requirements of TWC § 13.257(r) and (s) for the area in Marion County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this notice.
8. All other motions and any other requests for general or specific relief, if not expressly granted, are denied.

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Katherine Lengieza Gross
Managing Attorney



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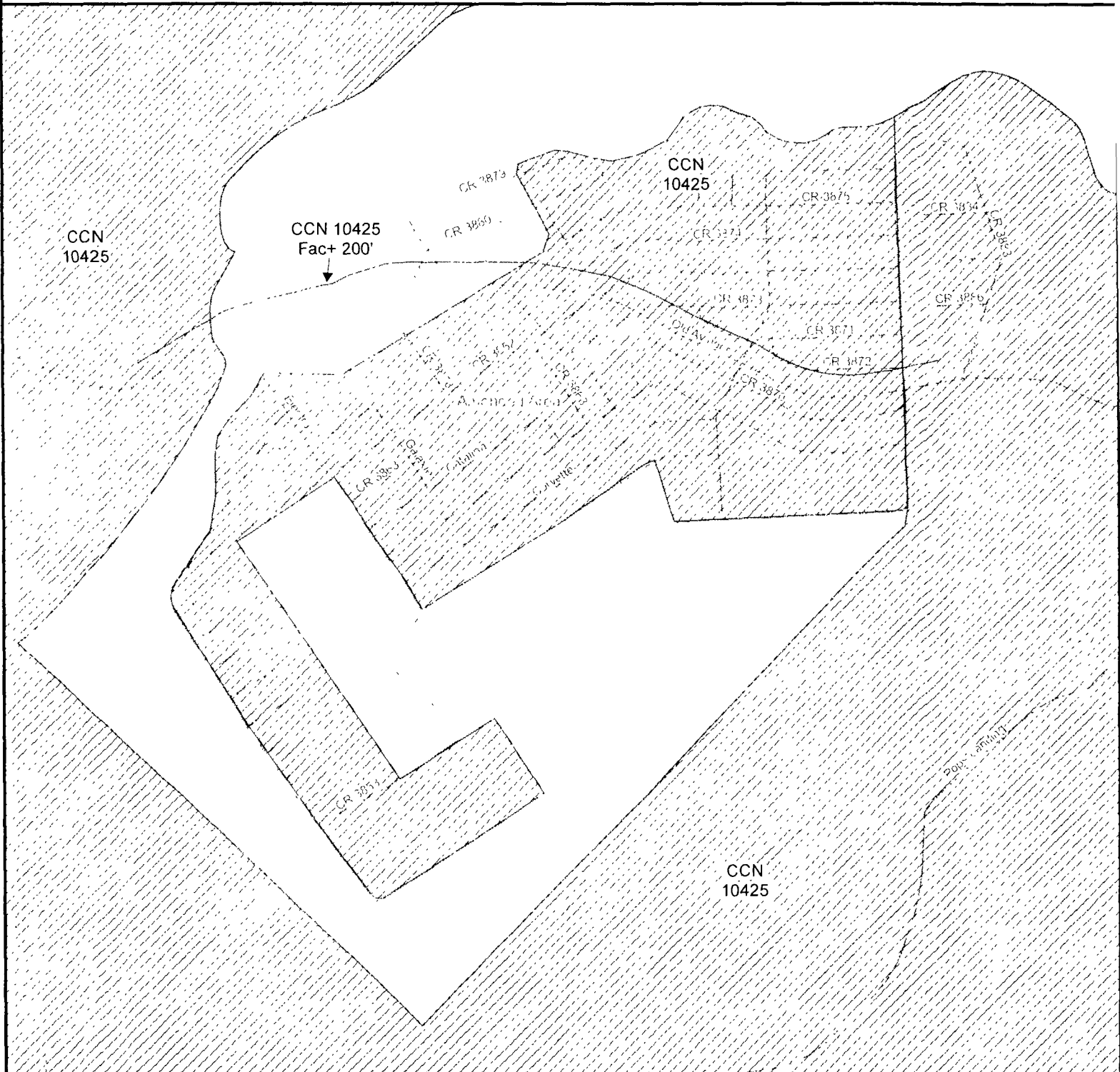
CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on September 14, 2018 in accordance with 16 TAC § 22.74.



Joshua Adam Barron

Diana Special Utility District
 Portion of Water CCN No. 10425
 PUC Docket No. 47744
 Transferred all of Shady Shores Water System, CCN No. 11173 in Marion County



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

Water CCN

10425 - Diana SUD

Water CCN Facilities +200'

10425 - Diana SUD

0 500 1,000
 Feet



Map by Komal Patel
 Date created June 27, 2018
 Project Path n:\finalmapping\
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Public Utility Commission Of Texas

By These Presents Be It Known To All That

Diana Special Utility District

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, Diana Special Utility District is entitled to this

Certificate of Convenience and Necessity No. 11173

to provide continuous and adequate water, utility service to that service area or those service areas in Marion County(ies) as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 47744 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 Diana Special Utility District, 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.