



Control Number: 47795



Item Number: 141

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**PUC DOCKET NO. 47795
SOAH DOCKET NO. 473-18-2486.WS**



**APPLICATION OF THE CITY OF
HUTTO TO AMEND A SEWER
CERTIFICATE OF CONVENIENCE
AND NECESSITY IN WILLIAMSON
COUNTY**

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**PUBLIC UTILITY COMMISSION

OF TEXAS**

ORDER

This Order addresses the application of the City of Hutto to amend its sewer certificate of convenience and necessity (CCN) number 20122 in Williamson and Travis Counties. The Commission amends CCN number 20122 to include the portion of the requested service area that is within Hutto's municipal boundaries to the extent provided in this Order.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant *TWC §§ 13.002(12), 13.244(a) and 16 TAC §§ 24.231, 24.233(a)*

1. Hutto is a municipality located in Williamson and Travis Counties, Texas.
2. Hutto is a retail public utility that provides sewer service to approximately 7,998 customers in Williamson and Travis Counties under CCN number 20122.
3. Hutto owns and operates for compensation two sewer systems in Williamson and Travis Counties permitted with the Texas Commission on Environmental Quality (TCEQ) under Texas Pollutant Discharge Elimination System permit numbers WQ0011324001 and WQ0011324002.

Application *TWC § 13.244 and 16 TAC §§ 24.233(a), 24.257*

4. On November 21, 2017, Hutto filed an application to amend its sewer CCN to add approximately 15,648 acres to its certificated service area.
5. In Order No. 2 filed on December 20, 2017, the Commission administrative law judge (ALJ) found the application administratively complete.

6. On February 7, 2018, Hutto amended its application by filing revised maps to modify the area originally requested.
7. On June 15, 2018, Hutto amended its application to remove parcels of land from the area originally requested.
8. On March 8, 2019, Hutto amended its application to exclude additional parcels of land from the area requested in accordance with an agreement with the Boehm Alliance (Dana R. Boehm, Emzy Boehm, Troy and Jennifer Bohem, Cynthia D. Krueger, Raymond Naviar, Diane Naviar, Terry Dolan, Wynette N. Lessner on behalf of Isaac W. Norman, and the Norman family).
9. Hutto's application, as amended, requests an area that is approximately 13,427 acres and has 2,606 potential future connections.
10. Hutto serves no customers within the 13,427-acre area it seeks to add to its CCN service area.
11. The requested service area is located approximately between three and 6.5 miles in all directions from downtown Hutto, and is generally bounded as follows:
 - a. On the north by University Boulevard and Chandler Road and State Highway 29;
 - b. On the east by County Road 101 and Farm-to-Market Road 3349;
 - c. On the south by US 79, County Road 138, and a line approximately one mile south of and parallel to County Road 132; and
 - d. On the west by County Road 100, County Road 110, Hutto Road, and Dana Drive.

Notice of the Application *TWC § 13.246(a)-(a-1) and 16 TAC § 24.235*

12. On April 6, 2018, Hutto filed the affidavit of David E. Magana, executive director of public works and engineering, testifying that notice was mailed to neighboring utilities, counties, cities, and affected parties on March 16, 2018.
13. On April 6, 2018, Hutto filed the affidavit of publisher Richard Stone who testified that notice was published in the *Taylor Press*, a newspaper of general circulation in Williamson County, on March 10 and 25, 2018.

14. In Order No. 9 filed on June 16, 2020, the Commission ALJ found the notice of the application sufficient.

Exclusions from the Proposed CCN Amendment *TWC § 13 246(h) and 16 TAC § 24 227(h)*

15. The following are landowners with a tract of land that is at least 25 acres and that is wholly or partially located within the proposed service area: Dana R. Boehm; Emzy Boehm; Troy and Jennifer Boehm; Cynthia Cervenka; Michael Daffin; Helmer W. Dahl; Terry Dolan; Charles W. and Patricia A. Gantt; Robert and Bonnie Kaderka; Cynthia D. Krueger; Michael Krueger; Wynette N. Lessner; Sam McFarlin; Diane and Raymond Naviar; Christy Noren, individually and as trustee of the John W. Noren Family Trust; Isaac W. Norman; Juneva Randig; Robert and Donna Rienhart; Roselind Weiland; and Morgan and Teresa Wendland.
16. Except for Roselind Weiland, all of the landowners listed in finding of fact 15 provided the Commission with timely written notice of their election to exclude some or all of their property from the proposed service area.
17. On June 15, 2018, Hutto amended its application to exclude from the proposed CCN area land owned by Dana R. Bohem; Emzy Boehm; Troy and Jennifer Boehm; Cynthia Cervenka; Michael Daffin; Helmer W. Dahl; Terry Dolan; Charles W. and Patricia A. Gantt; Robert and Bonnie Kaderka; Cynthia Krueger; Michael Krueger; Wynette N. Lessner; Sam McFarlin; Diane and Raymond Naviar; Christy Noren, individually and as trustee of the John W. Noren Family Trust; Issac W. Norman; Juvena Randig; Robert and Donna Rienhart; Roselind Weiland; and Morgan and Teresa Wendland.
18. In State Office of Administrative Hearings (SOAH) Order No. 5 filed on August 23, 2018, the SOAH ALJ found that the notices of Dana R. Boehm; Emzy Boehm; Troy and Jennifer Boehm; Cynthia Cervenka; Helmer W. Dahl; Terry Dolan; Charles W. and Patricia A. Gantt; Robert and Bonnie Kaderka; Cynthia D. Krueger; Michael Krueger; Wynette N. Lessner; Sam McFarlin; Diane and Raymond Naviar; Christy Noren, individually and as trustee of the John W. Noren Family Trust; Isaac W. Norman; Juneva Randig; Robert and Donna Rienhart; Roselind Weiland; and Morgan and Teresa Wendland sought to exclude land outside of the proposed CCN area and were, therefore, moot.

Interventions *16 TAC §§ 22 103–22 105*

19. All motions to intervene in this proceeding were denied or withdrawn.

Referral to SOAH *16 TAC §§ 22 121, 24 237*

20. On February 27, 2018, the Commission referred the application to SOAH.
21. On August 2, 2018, the SOAH ALJ held a telephonic prehearing conference at which Hutto and the members of the Boehm Alliance agreed to refer the proceeding for mediation between Commission Staff, Hutto, and the Boehm Alliance to convene on August 20, 2018.
22. On August 20, 2018, a mediation was held between Hutto, Commission Staff, and the Boehm Alliance.
23. On or about February 20, 2019, Hutto reached an agreement with the Boehm Alliance.
24. On February 25, 2019, the Boehm Alliance filed a motion to withdraw the protests of its members that the SOAH ALJ granted on March 4, 2019 in SOAH Order No. 9.
25. On January 31, 2020, Commission Staff filed its final recommendation, with an attached final proposed map and certificate, recommending that the Commission amend Hutto's CCN to include the 13,427-acre requested service area.
26. In SOAH Order No. 19 filed on February 15, 2020, the SOAH ALJ remanded the proceeding to the Commission.

Return from SOAH

27. In Order No. 6 filed on April 28, 2020, the Commission ALJ requested clarification of Commission Staff's final recommendation.
28. On May 20, 2020, Commission Staff filed a response to Order No. 6 to which was attached a corrected version of an attachment that had been missing from Commission Staff's final recommendation and a corrected version of the memorandum that had misstated the acreage of the total requested service area. In its response, Commission Staff recommended that the entire 13,427-acre requested service area be granted.
29. On May 27, 2020, Hutto filed a response to Commission Staff's final recommendation in which it concurred with the recommendation made in Commission Staff's response to Order No. 6.

30. On June 17, 2020, the Commission ALJ filed a proposed order recommending that the Commission amend Hutto's CCN to include the 13,427-acre requested service area.
31. On July 16, 2020, the Commission determined that an amendment of Hutto's certificate is not necessary for the service, accommodation, convenience, or safety of the public, except for the portion of the requested service area that falls within Hutto's municipal boundaries.

Map and Certificate 16 TAC §§ 24 233(a)(16), 24 257

32. On August 17, 2020, Hutto filed mapping shapefiles and overlays relating to its municipal limits, sewer CCN service area, and requested areas of additional service approved by the Commission.
33. In Order No. 10 filed on August 18, 2020, the Commission ALJ addressed the information filed by Hutto on August 17, 2020 by directing Commission Staff to file a revised final map and certificate.
34. On September 21, 2020, Commission Staff filed a revised final map and certificate and Hutto's consent to the revised final map and certificate for the service areas approved by the Commission.

Evidentiary Record 16 TAC §§ 22 221–228

35. In Order No. 9 filed on June 16, 2020, the Commission ALJ admitted the following evidence into the record of this proceeding: (a) Hutto's application and attachments filed on November 21, 2017; (b) wholesale wastewater service agreement between the City of Hutto and Kelly Lane Utility Company filed on December 21, 2017; (c) revised map set filed on February 7, 2018; (d) Hutto's affidavits of proof of notice filed on April 6, 2018; (e) Hutto's response to Commission Staff's first request for information filed on April 16, 2018; (f) Hutto's amendment to the application filed on June 15, 2018; (g) the SOAH mediator's final report on mediation filed on February 6, 2019; (h) Hutto's amendment to the application, including the agreement filed on March 8, 2019; (i) Hutto's response to Commission Staff's second request for information filed on September 27, 2019; (j) Hutto's response to Commission Staff's third request for information filed on October 10, 2019; (k) Hutto's first supplemental response to Commission Staff's second request for information filed on October 22, 2019; (l) Hutto's

direct testimony of Samuel Ray, P.E. filed on January 23, 2020; and (m) Commission Staff's final recommendation filed on January 31, 2020.

36. In Order No. 11 filed on September 23, 2020, the Commission ALJ admitted Hutto's additional mapping shapefiles and overlays filed on August 17, 2020 and the revised final map, certificate, and Hutto's executed consent form filed on September 21, 2020.

Adequacy of Existing Service *TWC § 13 246(c)(1) and 16 TAC § 24 227(e)(1)*

37. No entity currently provides retail sewer service to the 1,634-acre portion of the requested service area that is within Hutto's municipal boundaries.

Need for Service *TWC § 13 246(c)(2) and 16 TAC § 24 227(e)(2)*

38. Hutto projected an increase in population in the near future.
39. Economic and environmental factors drive the need for additional sewer service in the 1,634-acre portion of the requested service area that is within Hutto's municipal boundaries.

Effect of Granting the Amendment *TWC § 13 246(c)(3) and 16 TAC § 24 227(d)(3)*

40. Granting the CCN amendment to the extent provided in this Order will obligate Hutto to provide sewer service to future customers in the 1,634-acre portion of the requested service area that is within Hutto's municipal boundaries.
41. No protests, adverse comments, or motions to intervene were filed by any adjacent retail public utility in this docket.
42. There will be no effect on any retail public utility serving the proximate area.

Ability to Serve: Managerial and Technical *TWC §§ 13 241(a),(c), 13 246(c)(4) and 16 TAC § 24 227(a), (e)(4)*

43. Hutto currently provides sewer service to 7,998 customers.
44. Hutto provides sewer service from two TCEQ-permitted sewer systems and employs TCEQ-licensed operators.
45. Hutto does not have any unresolved violations listed in the TCEQ's database associated with its sewer's collection system and sewer treatment.

46. Hutto's existing systems have adequate capacity to provide continuous and adequate service to the 1,634-acre portion of the requested service area within Hutto's municipal boundaries.
47. Hutto is capable of meeting the TCEQ's design criteria for sewer treatment plants and the requirements of chapter 13 of the Texas Water Code (TWC).
48. Hutto has the managerial and technical capability to provide continuous and adequate service to the 1,634-acre portion of the requested service area that is within Hutto's municipal boundaries.

Feasibility of Obtaining Service from Adjacent Utilities *TWC § 13 246(c)(5) and 16 TAC § 24 227(e)(5)*

49. It is not feasible to obtain service from an adjacent retail public utility.

Regionalization or Consolidation *TWC § 13 241(d) and 16 TAC § 24 227(b)*

50. Because construction of a physically separate sewer system is not necessary, concerns of regionalization or consolidation are not applicable.

Ability to Serve: Financial Ability and Stability *TWC §§ 13 241(a), 13 246(c)(6) and 16 TAC §§ 24 11(e), 24 227(a), (e)(6)*

51. Hutto has a debt-service-coverage ratio that is greater than 1.25 and has an investment-grade credit rating from Standard & Poor's Financial Services LLC, both of which satisfy the leverage test.
52. Hutto demonstrated it has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations after approval of the CCN amendment, satisfying the operations test.
53. Hutto demonstrated the financial ability and stability to provide continuous and adequate service to the 1,634-acre portion of the requested service area that is within Hutto's municipal boundaries.

Financial Assurance *TWC § 13 246(d) and 16 TAC § 24 227(e)*

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

Environmental Integrity *TWC § 13 246(c)(7) and 16 TAC § 24 227(e)(7)*

55. Future construction will be necessary for Hutto to serve the 1,634-acre portion of the requested service area that is within Hutto's municipal boundaries.
56. The environmental integrity of the 1,634-acre portion of the requested service area that is within Hutto's municipal boundaries will not be adversely affected to such a degree that the application should not be granted.

Effect on Land *TWC § 13 246(c)(9) and 16 TAC § 24 227(e)(9)*

57. There will be effects on the land with future growth and development due to the excavation needed to install sewer facilities, but the effects are not to such a degree that the application should not be granted.

Improvement in Service *TWC § 13 246(c)(8) and 16 TAC § 24 227(e)(8)*

58. Sewer service to the 1,634-acre portion of the requested service area that is within Hutto's municipal boundaries will improve because Hutto will be obligated to serve future customers in the requested service area.

Lowering of Cost *TWC § 13 246(c)(8) and 16 TAC § 24 227(e)(8)*

59. No lowering of cost to customers in the 1,634-acre portion of the requested service area within Hutto's municipal boundaries will result from granting the CCN amendment to the extent provided in this Order.

Informal Disposition *16 TAC § 22 35(a)*

60. More than 15 days have passed since the completion of notice provided in this docket.
61. All protests and all motions to intervene have been addressed or withdrawn.
62. Commission Staff and Hutto are the only parties to this proceeding.
63. All requests for hearing have been denied or withdrawn, and no hearing is needed.
64. 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 TWC §§ 13.241 and 13.246.

2. Hutto is a retail public utility as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. Hutto provided notice of the application that complies with TWC § 13.246(a) and (a-1) and 16 TAC § 24.235.
4. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,¹ the TWC, and Commission rules.
5. The application meets the requirements set forth in TWC § 13.244 and 16 TAC §§ 24.25 and 24.227.
6. After consideration of the factors in TWC § 13.246(c) and 16 TAC § 24.227(e), Hutto has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the 1,634-acre portion of the requested service area that is within Hutto's municipal boundaries and its current service area in Williamson and Travis Counties, as required by TWC § 13.241(a) and 16 TAC § 24.227.
7. It is not necessary for Hutto to provide a bond or other financial assurance under TWC § 13.246(d)
8. Hutto has demonstrated that the amendment of its sewer CCN number 20122 to include the 1,634-acre portion of the requested service area that is within Hutto's municipal boundaries will serve the public interest and is necessary for the service, accommodation, convenience, or safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(d).
9. Under TWC § 13.257(r) and (s), Hutto must record a certified copy of the approved certificate and maps, along with a boundary description of the service area, in the real property records of Williamson and Travis Counties within 30 days of this Order and must submit evidence of the recording to the Commission.
10. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

¹ Tex. Gov't Code §§ 2001.001–.902.

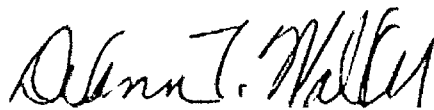
III. Ordering Paragraphs

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

1. The Commission amends Hutto's sewer CCN number 20122 to add the 1,634-acre portion of the requested service area described in this Order that is within Hutto's municipal boundaries and shown on the map attached to this Order.
2. The Commission approves the map and certificate attached to this Order.
3. Hutto must serve every customer and applicant for sewer service within the approved area under sewer CCN number 20122 who requests sewer service and meets the terms of Hutto's sewer service. Service must be continuous and adequate.
4. Hutto must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Williamson and Travis Counties affected by this application and file in this docket proof of the recording no later than 30 days after the date of this Order.
5. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas the 1st day of October 2020.

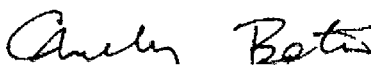
PUBLIC UTILITY COMMISSION OF TEXAS



DEANN T. WALKER, CHAIRMAN



ARTHUR C. D'ANDREA, COMMISSIONER



SHELLY BOTKIN, COMMISSIONER



Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Hutto

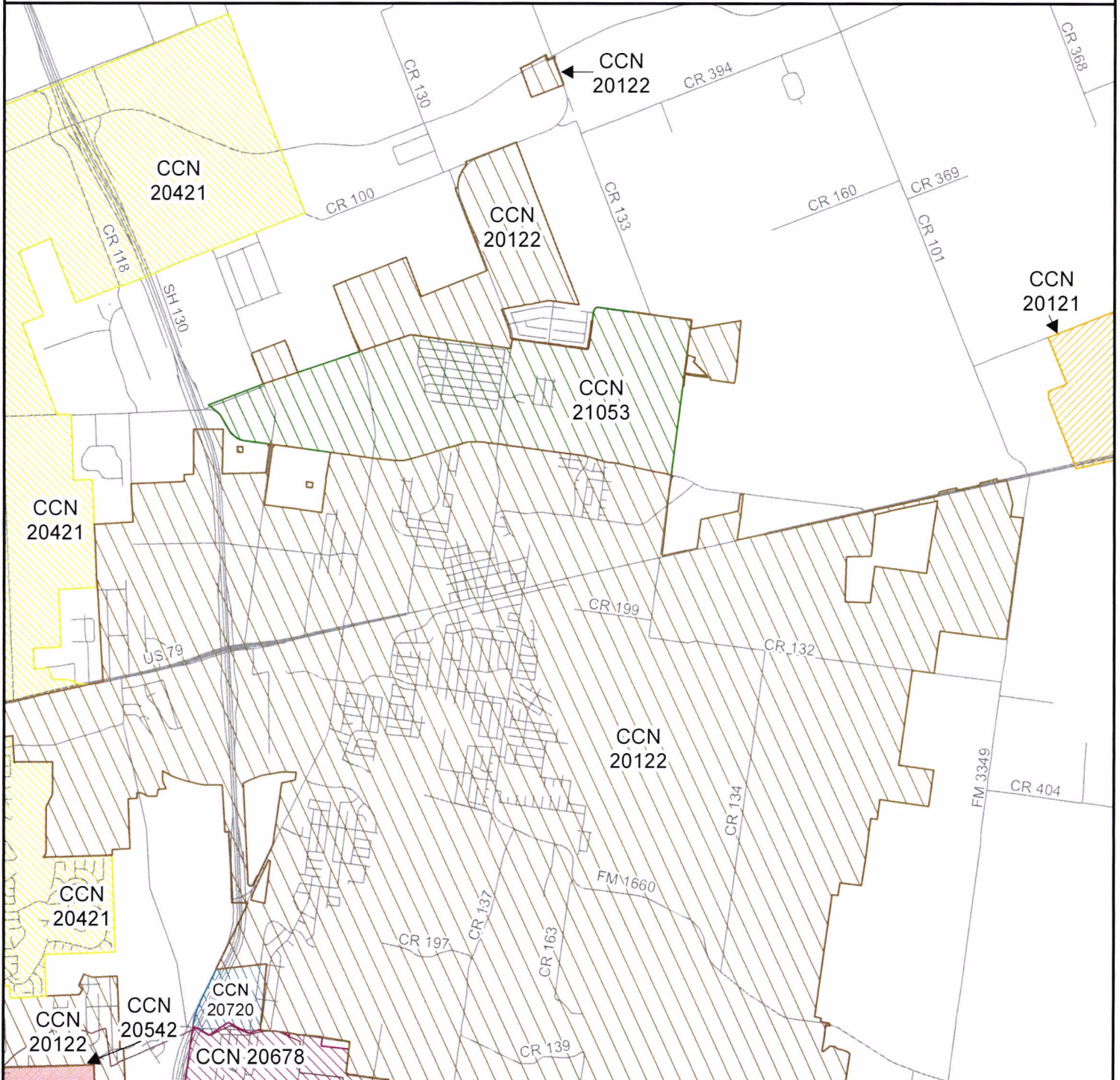
having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Hutto is entitled to this

Certificate of Convenience and Necessity No. 20122





to provide continuous and adequate sewer utility service to that service area or those service areas in Williamson and Travis Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 47795 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 City of Hutto, 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 1st day of October 2020.

City of Hutto
 Portion of Sewer CCN No. 20122
 PUC Docket No. 47795
 Amended CCN No. 20122 in Travis and Williamson Counties



Sewer CCN

-  20122 - City of Hutto
-  21053 - Jonah Water SUD
-  20121 - City of Taylor
-  20678 - City of Pflugerville

-  20720 - Kelly Lane Utility Co Inc
-  20421 - City of Round Rock
-  20542 - SWWC Utilities Inc

