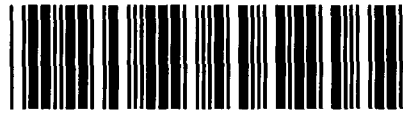


Control Number: 47854



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APPLICATION OF COUNTRYSIDE  
ACRES HOMEOWNERS  
ASSOCIATION, INC. FOR A WATER  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY IN MIDLAND  
COUNTY

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§

2019 JUL 18 BEFORE THE  
PUBLIC UTILITY COMMISSION  
PUBLIC UTILITY COMMISSION  
OF TEXAS

### JOINT MOTION TO ADMIT EVIDENCE

COMES NOW Countryside Homeowners Association, Inc. (Countryside HOA), together with the Staff of the Public Utility Commission of Texas (Staff), (collectively, Parties), and files this Joint Motion to Admit Evidence. In support thereof, the Parties show the following:

#### **I. BACKGROUND**

On December 12, 2017, Countryside Acres Homeowners Association, Inc. (Countryside HOA) filed a petition for a Certificate of Convenience and Necessity (CCN), in Midland County.

On June 19, 2019, Order No. 12 was issued, requiring Staff and Countryside HOA to file the joint proposed final order.

Therefore, this pleading is timely filed.

#### **II. JOINT MOTION TO ADMIT EVIDENCE**

The Parties respectfully request that the following documents be admitted into evidence in this proceeding for the purpose of supporting a Commission notice of approval or final order consistent with Staff's recommendation.

1. Countryside HOA's application and attachments filed on December 12, 2017
2. Countryside HOA's supplements to the application filed on February 12, 2018;
3. Countryside HOA's supplements to the application filed on March 23, 2018;
4. Countryside HOA's amendment to the application filed on April 13, 2018;
5. Countryside HOA's affidavits of proof of notice filed on November June 20, 2018;

6. Countryside HOA's response to Commission Staff's first request for information filed on July 20, 2018;
7. Countryside HOA's tariff and draft of Appendix A – Drought Contingency Plan (DCP) filed on September 7, 2018;
8. Countryside HOA's TCEQ DCP letter filed on October 22, 2018;
9. Countryside HOA's signed consent form filed on February 8, 2019;
10. Countryside HOA's TCEQ Conditional Approval Letter filed on May 13, 2019; and
11. Commission Staff's final recommendation and attachments filed on June 6, 2019.

### **III. CONCLUSION**

The Parties have agreed that Staff is authorized to file this pleading on their behalf. Therefore, the Parties respectfully request that the Commission grant the Joint Motion to Admit Evidence.

Dated: July 18, 2019.

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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**DOCKET NO. 47854**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on July 18, 2019, in accordance with 16 TAC § 22.74.



Rachelle Nicolette Robles

**PUC DOCKET NO. 47854**

<b>APPLICATION OF COUNTRYSIDE</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>ACRES HOMEOWNERS</b>	<b>§</b>	
<b>ASSOCIATION, INC. FOR A WATER</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CERTIFICATE OF CONVENIENCE</b>	<b>§</b>	
<b>AND NECESSITY IN MIDLAND</b>	<b>§</b>	
<b>COUNTY</b>		

**JOINT PROPOSED ORDER**

This Order addresses the application of the Countryside Homeowners Association, Inc. (Countryside HOA) to obtain a new water certificate of convenience and necessity (CCN) in Midland County. Commission Staff recommends approval of the application, as amended and supplemented. The Commission approves the application, as amended and supplemented, and grants water CCN number 13272, each including approximately 132 acres, to Countryside HOA in Midland County, to the extent provided in this Order.

**I. Findings of Fact**

The Commission adopts the following findings of facts.

**Applicant**

1. Countryside Acres Homeowners Association, Inc. (Countryside Acres HOA) is a retail public utility.
2. Countryside HOA operates under public water system identification number 1650174 issued by the Texas Commission on Environmental Quality (TCEQ).

**Application**

3. On December 12, 2017, Countryside HOA filed an application to obtain a water CCN to cover the area within the residential real estate subdivision it would service.
4. Countryside HOA's application included a proposed service area of approximately 132 acres, with 60 potential future customers.
5. The proposed service area is located approximately 14.5 miles east of Midland, Texas and is bounded to the north by FM 307, the east by CR 1040, the south by CR 120, and the west by CR 150.

6. No requests to be excluded from the proposed CCN were filed.
7. On March 23, 2018 and April 10, 2018, Countryside HOA filed amended maps and supplemental information.
8. On May 11, 2018, Commission Staff filed a recommendation to find the application administratively complete.
9. In Order No. 4 issued on May 14, 2018, the Commission administrative law judge (ALJ) found the application administratively complete.

**Notice of Application**

10. Notice of the application by publication appeared in the Midland Reporter Telegram, a newspaper of general circulation in Midland County, on May 25, 2018 and June 8, 2018.
11. On June 20, 2018, Countryside HOA filed the publisher's affidavits, which stated that the Midland Reporter Telegram, a newspaper of general circulation in Midland County, published notice of the application in that newspaper on May 25, 2018 and June 8, 2018.
12. On May 29, 2018, Countryside HOA mailed notice of the application to neighboring utilities, counties, cities, and affected parties.
13. On June 20, 2018, Countryside HOA filed an affidavit in which Paul D. Evans, President of Countryside HOA, attested that notice was provided to landowners and other affected parties by the United States Postal Service. Mr. Evans stated that Countryside HOA had provided notice to the following persons and entities: Jorge Athayde; KEA Construction; Wilmot Homes; Jace Brosig; The Honorable Mike Bradford, Midland County Judge; and Park Water Co.
14. In Order No. 6 issued on July 19, 2018, the ALJ found the notice of the application sufficient.

**Evidentiary Record**

15. On July 18, 2019, Commission Staff and Countryside HOA filed a motion to admit evidence.
16. In Order No. \_\_ issued on \_\_\_\_\_, the Commission ALJ admitted the following evidence into the record of the proceeding: (a) Countryside HOA's application and attachments filed

on December 12, 2017; (b) Countryside HOA's supplements to the application filed on February 12, 2018; (c) Countryside HOA's supplements to the application filed on March 23, 2018; (d) Countryside HOA's amendment to the application filed on April 13, 2018; (e) Countryside HOA's affidavits of proof of notice filed on November June 20, 2018; (f) Countryside HOA's response to Commission Staff's first request for information filed on July 20, 2018; (g) Countryside HOA's tariff and draft of Appendix A – Drought Contingency Plan (DCP) filed on September 7, 2018; Countryside HOA's TCEQ DCP letter filed on October 22, 2018; (h) Countryside HOA's signed consent form filed on February 8, 2019; (i) Countryside HOA's TCEQ Conditional Approval Letter filed on May 13, 2019; and (j) Commission Staff's final recommendation and attachments filed on June 6, 2019.

**Adequacy of Existing Service–TWC § 13.246(c)(1), 16 TAC § 24.227(d)(1)**

17. No water service is currently being provided to the area subject to this application.
18. Additional construction is necessary for Countryside HOA to serve the requested area.

**Need for Service–TWC § 13.246(c)(2), 16 TAC § 24.227(d)(2)**

19. The real estate developer, Texas 240 Partners, is an affiliate of Countryside HOA and proposes to develop the requested area into 60 single family homes, with each home on a two acre tract.
20. The development will be constructed in three phases.
21. The requested area generally encompasses the area of the subdivision.

**Effect of Granting the Certificates–TWC § 13.246(c)(3), 16 TAC § 24.227(d)(3)**

22. There will be no effect on any retail public utility servicing the proximate area as there are no other water providers within the requested area.
23. The Commission received no protests or concerns from any other adjacent retail public utility.
24. Granting Countryside HOA the certificate would enable Countryside HOA to provide water service to future residents of the subdivision.

**Ability to Serve: Managerial and Technical–TWC §§ 13.241(a), 13.246(c)(4), 16 TAC §§ 24.227(a), 24.227(d)(4)**

25. Countryside HOA's public water system (PWS) was conditionally approved for construction on April 5, 2019 by TCEQ and registered under PWS No. 1650174.
26. Countryside HOA filed the TCEQ construction conditional approval letter on May 13, 2019.
27. Countryside HOA will employ licensed water operators as soon as the construction of the water facilities has been completed.

**Ability to Serve: Financial Ability and Stability–TWC §§ 13.241(a), 13.246(c)(6), 16 TAC §§ 24.227(a), 24.227(d)(6), 24.11(e)**

28. Countryside HOA has a debt to equity ratio of 0.0, which is less than one because it does not have long-term debt.
29. Texas 240 Partners, Countryside HOA's affiliate, provided a guarantee to provide adequate funding for the water system infrastructure constructions, operations, and maintenance, as necessary.
30. Countryside HOA's projections did not show any operations and maintenance shortages for the next five years.
31. Countryside HOA has demonstrated that it has the financial ability to finance the facilities necessary to operate and manage the utility and to provide continuous and adequate service to the proposed service area.

**Financial Assurance–TWC § 13.246(d); 16 TAC § 24.227(e)**

32. There is no need to require Countryside HOA to provide financial assurances to ensure continuous and adequate utility service is provided.

**Ability to Serve: Water Utility Service–TWC § 13.241(b), 13.246(c)(4), 16 TAC 24.227(a)(1)**

33. Countryside HOA has been conditionally approved to construct three wells.

**Regionalization or Consolidation–TWC § 13.241(d), 16 TAC § 24.227(b)**

34. Countryside HOA intends to construct a new physically separate water system to serve the area.



**Service from Other Utilities–TWC § 13.246(c)(5), 16 TAC § 24.227(d)(5)**

35. Currently, there are no other water providers in the requested area.

**Environmental Integrity–TWC § 13.246(c)(7), 16 TAC § 24.227(d)(7)**

36. Granting Countryside HOA's CCN will minimally impact the environmental integrity of the requested area as the area is already developed.

**Improvement in Service–TWC § 13.246(c)(8), 16 TAC § 24.227(d)(8)**

37. Granting Countryside HOA a CCN will provide service to potential future customers, because there are currently no water providers in the requested area.

**Lowering of Cost–TWC § 13.246(c)(8), 16 TAC § 24.227(d)(8)**

38. This is not applicable because there are no current customers in the requested area.

**Effect on Land–TWC § 13.246(c)(9), 16 TAC § 24.227(d)(9).**

39. Additional construction is necessary to provide service in the requested area.

**Map and Certificate**

40. On February 4, 2019, Commission Staff emailed its proposed map and certificate to Countryside HOA.

41. On February 8, 2019, Countryside HOA filed its consent to the proposed map and certificate.

42. On June 6, 2019, Commission Staff filed the proposed map and certificate as an attachment to its recommendation.

**Informal Disposition**

43. More than 15 days have passed since the completion of notice provided in this docket.

44. Commission Staff and Countryside HOA are the only parties to this proceeding.

45. Commission Staff recommended approval of the application.

46. This decision is not adverse to any party.

**II. Conclusions of Law**

The Commission adopts the following conclusions of law.

1. The Commission has jurisdiction over the application under TWC §§ 13.241 and 13.246.

2. Countryside HOA is a retail public utility as defined in Texas Water Code (TWC) § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Notice of the application complies with TWC § 13.246 and 16 TAC § 24.235.
4. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,<sup>1</sup> the TWC, and Commission rules.
5. Countryside HOA possesses the financial, managerial, and technical capability to provide continuous and adequate service to the requested area as required by TWC § 13.241(a) and 16 TAC § 24.227.
6. After considering the factors in TWC § 13.246(c) and 16 TAC § 24.227(d), approval of the application is necessary for the service, accommodation, convenience, or safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(c).
7. Countryside HOA must record a certified copy of the approved map for the certificate amendment, along with a boundary description of the service area, in the real property records of Midland County within 31 days of receiving this Order and submit to the Commission evidence of the recording. TWC § 13.257(r), (s).
8. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

### **III. Ordering Paragraphs**

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

1. The Commission grants Countryside HOA water CCN number 13272 to include the requested area described in the Order and shown on the map attached to this Order.
2. The Commission grants the certificates attached to this Order.
3. Countryside HOA must serve every customer and applicant for service within the areas certificated under water CCN number 13272, and such service shall be continuous and adequate.

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<sup>1</sup> Tex. Gov't Code §§ 2001.001–.902.

4. Countryside HOA must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Midland County affected by the application.
5. Countryside HOA must file in this docket proof of the recording required in ordering paragraph 4 not later than 45 days after the date of this Order.
6. Countryside HOA must file a rate application in order to true-up the rates approved in this docket with the Commission within 18 months from the date service begins pursuant to 16 TAC § 24.25.(b)(1)(C).
7. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

**Signed at Austin, Texas the \_\_\_\_\_ day of June 2019.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**DEANN T. WALKER, CHAIRMAN**

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**ARTHUR C. D'ANDREA, COMMISSIONER**

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**SHELLY BOTKIN, COMMISSIONER**