



Control Number: 47936



Item Number: 22

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APPLICATION OF MSEC §
ENTERPRISES, INC. TO AMEND A §
WATER CERTIFICATE OF §
CONVENIENCE AND NECESSITY IN §
MONTGOMERY COUNTY §

PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

NOTICE OF APPROVAL

This Notice addresses the application of MSEC Enterprises, Inc. to amend its water certificate of convenience and necessity (CCN) number 12887 to include seventy-nine acres of land in Montgomery County. The Commission amends MSEC’s water CCN number 12887 to include the requested area.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. MSEC Enterprises, Inc. (MSEC) is a domestic for-profit corporation registered with the Texas secretary of state under file number 0145205000.
2. MSEC owns and operates facilities for providing water service in Montgomery County.
3. MSEC is authorized to provide water service under Texas Commission on Environmental Quality (TCEQ) permitted public water system (PWS) identification number 1700638 and Commission water CCN number 12887.
4. MSEC is a wholly owned subsidiary of Mid-South Electric Cooperative Association a domestic nonprofit corporation.

Application

5. On January 9, 2018, MSEC filed an application to amend water CCN No. 12887 in Montgomery County.
6. MSEC seeks to add new service area in western Montgomery County to its CCN. The proposed amendment adds seventy-nine acres and one current customer.

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7. The requested area is located seven miles west of downtown Conroe and bounded on the north by Lake Forest Falls Subdivision, on the east by Old Texas Hwy 105, on the south by Farm to Market Road 2854, and on the west by McCaleb Road.
8. No portion of the service area is located within an incorporated city, a district, or the certificated service area of another utility.
9. Sewer service in the area is provided by on-site septic systems.
10. The requested amendment will change the CCN boundary to reflect MSEC's current service area.
11. In Order No. 3 issued April 9, 2018, the administrative law judge (ALJ) found the application administratively complete.
12. On September 4, 2018, MSEC filed a signed consent form agreeing to the map, tariff, and certificate as prepared by Commission Staff.

Notice of Application

13. Notice of the application appeared in the January 26, 2018 issue of the *Texas Register*.
14. On May 16, 2018, MSEC filed publisher's affidavits attesting to notice by publication in *The Courier*, a newspaper of general circulation in Montgomery County.
15. On May 16, 2018, MSEC filed an affidavit by Michael Long, Senior Manager of Water, attesting that notice was mailed to neighboring utilities, landowners, and county and city officials on May 8, 2018 and May 15, 2018.
16. On May 22, 2018, MSEC filed an affidavit by Mr. Long attesting that notice was mailed to Lake South WSC on May 22, 2018.
17. In Order No. 4 issued June 11, 2018, the ALJ found the notice sufficient.

Evidentiary Record

18. On September 19, 2018, Commission Staff and MSEC filed a joint motion to admit evidence and notice of approval.
19. In Order No. 5 issued October 15, 2018, the ALJ admitted the following evidence into the record of this proceeding: (a) MSEC's application filed January 9, 2018; (b) the affidavits and notice filed May 16, 2018; (c) supplemental affidavits and notice filed on

May 22, 2018; (d) supplemental application materials filed by MSEC on February 16, 2018 and July 3, 2018; (e) signed consent forms to the final map and certificate filed September 4, 2018; (f) Commission Staff's final recommendation filed September 12, 2018; and (g) Commission Staff's errata to its recommendation approving the application filed September 19, 2018.

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

20. MSEC provides service to one customer within a quarter mile of its existing CCN in Montgomery County.
21. MSEC's PWS has access to an adequate supply of water and has no unresolved TCEQ violations.

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

22. MSEC's proposed customers in the requested area will need water service as no other providers in the area are available.
23. Genesis Senior Care and Montgomery County Emergency Service District #3 have requested water service from the Applicant.

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

24. There are no other retail public utilities servicing the area.
25. MSEC is an established utility providing service with an existing water system and granting the amendment will allow it to make capital improvements to serve customer requests and future development.
26. Granting the requested amendment will bring MSEC into compliance with the certification requirements of the TWC.
27. The Commission received no protests or concerns from any other adjacent retail public utility.
28. Granting MSEC's CCN amendment will not affect landowners in the area.

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

29. MSEC has adequate production, storage, and a distribution system in place to provide service to the requested area.

30. MSEC's water system is operating below TCEQ's minimum standard capacity.
31. The TCEQ database does not list any violations for permitted water facilities under number 1700638.

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

32. MSEC has a debt-service-coverage ratio of 1.8.
33. MSEC has demonstrated sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operation.
34. Troy Morris, Senior Vice-President of MSEC, provided an affidavit signed on January 9, 2018, affirming to the maps and financial information and attesting that MSEC will provide continuous and adequate service to all customer and qualified applicants for service within its certificated service area.

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

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

Ability to Serve: Water Utility Service—TWC § 13.241(b), 16 TAC §§ 24.227(a)(1)

36. MSEC's public water system, Montgomery Trace (PWS No. 1700638), is in compliance with TCEQ requirements.

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

37. Notice was provided to the neighboring retail public utilities and no protest or request for hearing were made.

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

38. MSEC does anticipate building new facilities to continue serving the area in the future.

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

39. MSEC anticipates that developers in the areas adjacent to the requested area will request service in the near future.

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

40. Granting MSEC CCN amendment will not affect service to customers, because MSEC already serves the requested area.

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

41. MSEC's service and rates provided to the requested area will not change.
42. MSEC provides service to customers in the requested area under its existing tariff.
43. Customers will continue to pay the rates under MSEC existing tariff.

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

44. The land is being developed as a residential neighborhood. The utilities being constructed to serve the neighborhood will not have a negative impact on the land.

Tariff, Certificate, and Map

45. On August 21, 2018, Commission Staff emailed its proposed tariff, map, and certificate to MSEC.
46. On September 4, 2018, MSEC filed its consent to the proposed tariff, map, and certificate.
47. On September 12, 2018, Commission Staff filed the proposed tariff, map, and certificate as an attachment to its recommendation.

Informal Disposition

48. More than 15 days have passed since the completion of notice provided in this docket.
49. No person filed a protest or motion to intervene.
50. MSEC and Commission Staff are the only parties to this proceeding.
51. No party requested a hearing and no hearing is needed.
52. This decision is not adverse to any party.
53. On September 12, 2018, Commission Staff recommended approval of the application.

II. Conclusions of Law

1. The Commission has jurisdiction over the application under Texas Water Code (TWC) §§ 13.241, 13.244 and 13.246.
2. MSEC is a retail public utility as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Notice of the application was provided in compliance 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,¹ the TWC, and Commission rules.
5. MSEC possesses the financial, managerial, and technical capability to provide continuous and adequate service to the requested area in Montgomery County as required under TWC § 13.241(a) and 16 TAC § 24.227.
6. The amendment to CCN number 12887 is required for the public convenience and necessity and is necessary for the service, accommodation, convenience, and safety of the public under TWC §§ 13.242 and 13.246.
7. Under TWC § 13.257(r) and (s), MSEC must record a certified copy of the approved certificates and maps, along with a boundary description of the service areas, in the real property records of Montgomery County within 31 days of receiving this Notice 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

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


1. The Commission amends MSEC's water CCN number 12887 in Montgomery County to include the requested area as described in this Notice and shown on the map attached to this Notice.
2. The Commission grants the certificate attached to this Notice.
3. The Commission approves the tariff filed by Commission Staff on September 12, 2018.
4. Within ten days after the date of this Notice, Commission Staff must provide a clean copy of the tariff approved in this Notice to central records to be marked Approved and filed in the Commission's tariff book.

¹ Administrative Procedure Act, Tex. Gov't Code §§ 2001.001–.902.

5. MSEC must serve every customer and applicant for service within the added area under CCN number 12887 and the service must be continuous and adequate, under TWC § 13.250.
6. MSEC must comply with the recording requirements of TWC § 13.257(r) and (s) for the area in Montgomery County affected by the application.
7. MSEC must file in this docket proof of the recording required in ordering paragraph 6 not later than 45 days after the date of this Notice.
8. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 21st day of March 2019.

PUBLIC UTILITY COMMISSION OF TEXAS


MAYSON PEARSON

ADMINISTRATIVE LAW JUDGE

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Public Utility Commission Of Texas

By These Presents Be It Known To All That

MSEC Enterprises, Inc.

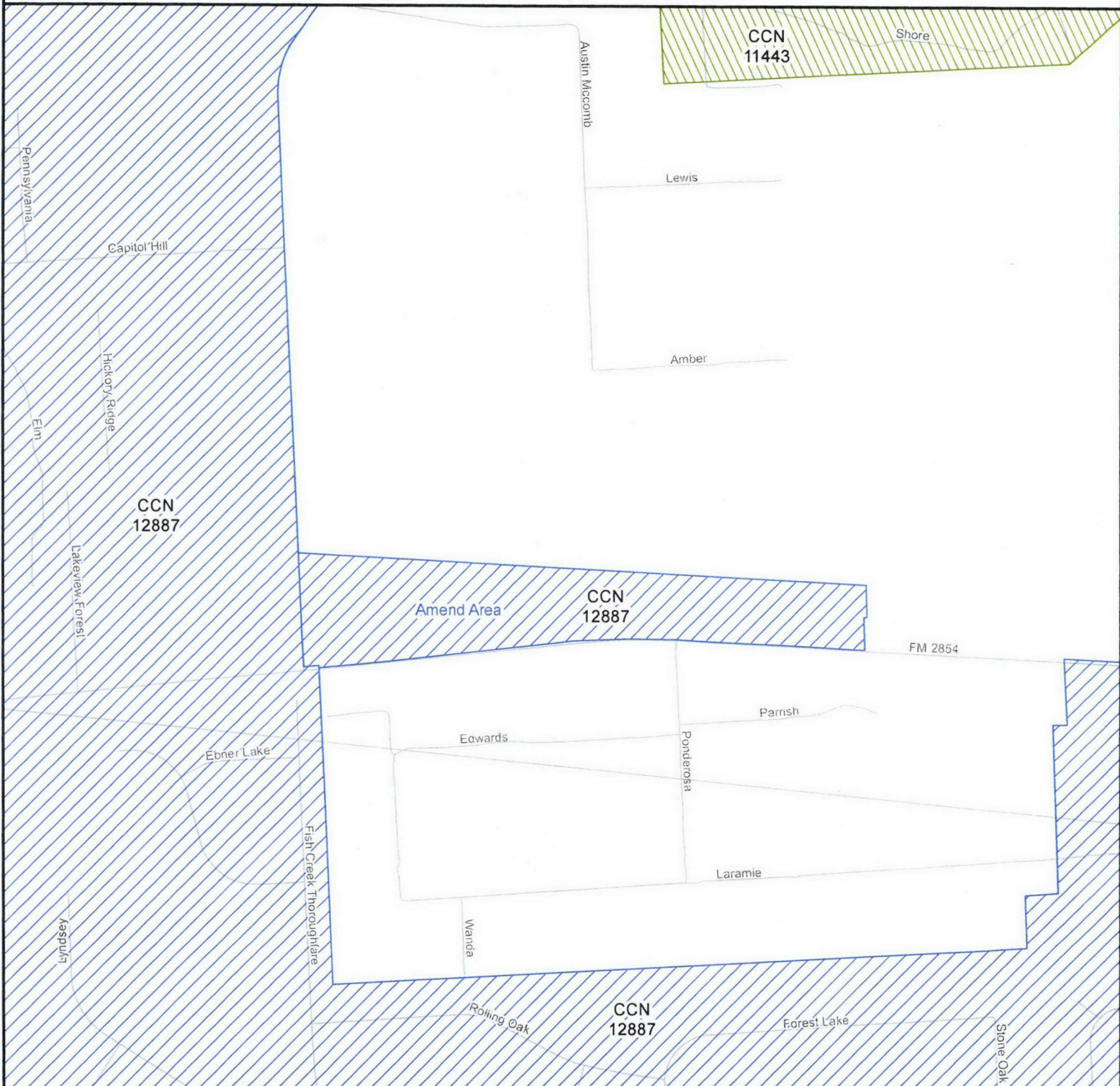
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, MSEC Enterprises, Inc., is entitled to this

Certificate of Convenience and Necessity No. 12887


to provide continuous and adequate water utility service to that service area or those service areas in Grimes and Montgomery Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 47936 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 MSEC Enterprises, Inc., 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 21st day of March 2019.

MSEC Enterprises, Inc.
 Portion of Water CCN No. 12887
 PUC Docket No. 47936
 Amended CCN No. 12887 in Montgomery County



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

- Water CCN**
-  12887 - MSEC Enterprises Inc
 -  11443 - Lake Forest Falls Inc



Map by: Komal Patel
 Date created: August 15, 2018
 Project Path: n:\finalmapping\
 47936MSECEnterprises.mxd

