



Control Number: 48020



Item Number: 16

Addendum StartPage: 0

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APPLICATION OF THE CITY OF FORT §  
 WORTH AND AQUA TEXAS, INC. §  
 FOR APPROVAL OF SERVICE AREA §  
 CONTRACT UNDER TEXAS WATER §  
 CODE §13.248 AND TO AMEND §  
 CERTIFICATES OF CONVENIENCE §  
 AND NECESSITY IN DENTON AND §  
 WISE COUNTIES §

BEFORE THE  
 PUBLIC UTILITY COMMISSION  
 FILING CLERK

**JOINT PROPOSED NOTICE OF APPROVAL AND MOTION TO ADMIT EVIDENCE**

COMES NOW the City of Fort Worth (Fort Worth), Aqua Texas, Inc. (Aqua Texas), together with the Staff of the Public Utility Commission of Texas (Staff), representing the public interest (collectively, the Parties), and files this Joint Proposed Notice of Approval and Motion to Admit Evidence. Counsel for Staff has reviewed this motion and consents to its filing. In support thereof, the Parties show the following:

**I. BACKGROUND**

On February 5, 2018, Fort Worth and Aqua Texas (collectively, Applicants) filed an application to amend, by a water service area contract, the Fort Worth and Aqua Texas water certificates of convenience and necessity (CCNs) in Denton and Wise Counties under Texas Water Code (TWC) § 13.248 (Application). Applicants amended the Application on April 30, 2018. The area being transferred from Aqua Texas, under CCN No. 13201, is in Fort Worth's extraterritorial jurisdiction and has no current customers or facilities that will be transferred to Fort Worth. On September 20, 2018, Staff filed a final recommendation to approve the Application. Pursuant to Order No. 4, this Joint Proposed Motion to Admit Evidence and Notice of Approval is timely filed on or before September 28, 2018.

**II. MOTION TO ADMIT EVIDENCE**

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

- (a) Applicants' Application and all attachments thereto, filed on February 5, 2018 (AIS Item No. 1);
- (b) Fort Worth's Response to Commission's Order No. 3 to Cure Application, filed on April 30, 2018 (AIS Item No. 9);

- (c) Fort Worth's Consent Form, filed on August 20, 2018 (AIS Item No. 13);
- (d) Aqua Texas' Consent Form, filed on September 13, 2018 (AIS Item No. 14);
- (e) Commission Staff's Final Recommendation and supporting documentation, filed on September 20, 2018 (AIS Item No. 15); and
- (f) The attached CCN certificates (Attachment A) and final map (Attachment B).

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

The Parties have agreed on the attached Joint Proposed Notice of Approval (Attachment C), which would grant Fort Worth and Aqua Texas' Application to amend water CCN No. 12311 (Fort Worth) and water CCN No. 13201 (Aqua Texas) in Denton and Wise Counties.

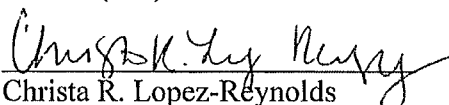
### **IV. CONCLUSION**

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

Respectfully submitted,

**City of Fort Worth**

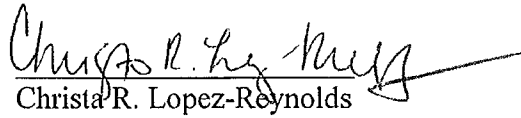
200 Texas Street  
Fort Worth, Texas 76102  
Telephone: (817) 392-8984  
Facsimile: (817) 392-8359

By:   
Christa R. Lopez-Reynolds  
Sr. Assistant City Attorney  
State Bar No. 24013057

**DOCKET NO. 48020**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this the September 24, 2018 in accordance with 16 TAC § 22.74.

  
Christa R. Lopez-Reynolds

# ATTACHMENT A



# **Public Utility Commission of Texas**

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

**City of Fort Worth**

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, the City of Fort Worth is entitled to this

## **Certificate of Convenience and Necessity No. 12311**

to provide continuous and adequate water utility service to that service area or those service areas in Denton, Parker, Tarrant, and Wise Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48020 are on file at the Commission offices in Austin, Texas; and are a matter 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 Fort Worth 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, the \_\_\_\_\_ day of \_\_\_\_\_ 2018.



# **Public Utility Commission of Texas**

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

**Aqua Texas, Inc.**

having duly 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, Aqua Texas, Inc., is entitled to this

## **Certificate of Convenience and Necessity No. 13201**

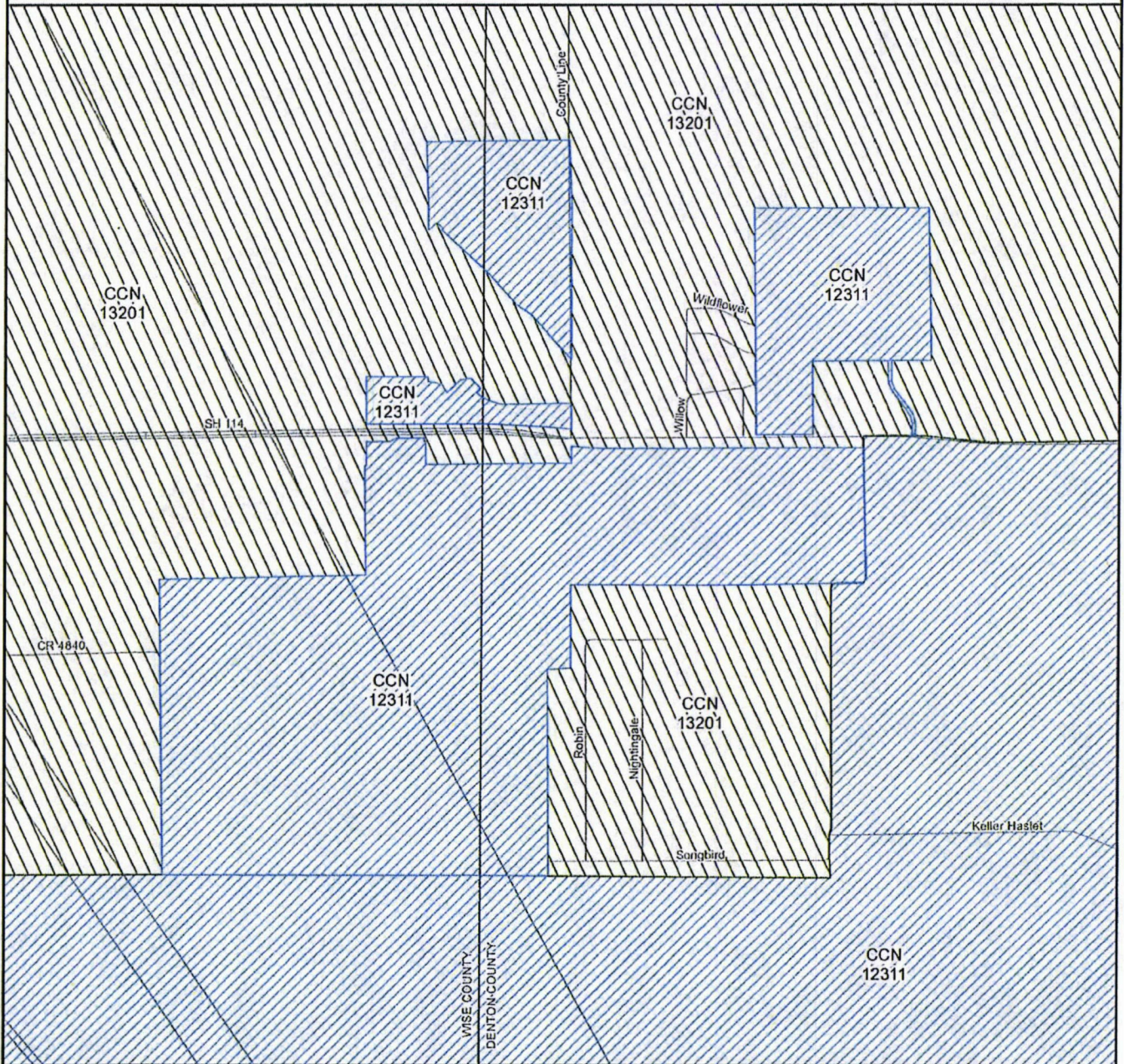
to provide continuous and adequate water utility service to that service area or those service areas in Anderson, Bosque, Camp, Cherokee, Collin, Cooke, Denton, Erath, Grayson, Gregg, Henderson, Hood, Hunt, Johnson, Kaufman, Marion, McLennan, Parker, Smith, Somervell, Tarrant, Taylor, Wise, and Wood Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48020 are on file at the Commission offices in Austin, Texas; and are a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of Aqua Texas, 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, the \_\_\_\_\_ day of \_\_\_\_\_ 2018.

# ATTACHMENT B





City of Fort Worth  
 Portion of Water CCN No. 12311  
 PUC Docket No. 48020  
 13.248 Agreement Amended CCN No. 12311 and  
 Decertified a Portion of Aqua Texas, Inc., CCN No. 13201 in Denton and Wise Counties



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

**Water CCN**

-  12311 - City of Fort Worth
-  13201 - Aqua Texas Inc

0 1,250 2,500  
 Feet



Map by: Koral Patel  
 Date created: July 16, 2018  
 Project Path: n:\vinalmapping\  
 48020CityofFortWorth.mxd



**PUC DOCKET NO. 48020**

<b>APPLICATION OF CITY OF FORT</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>WORTH AND AQUA TEXAS INC.</b>	<b>§</b>	
<b>FOR APPROVAL OF SERVICE AREA</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CONTRACT UNDER TEXAS WATER</b>	<b>§</b>	
<b>CODE § 13.248 AND TO AMEND</b>	<b>§</b>	
<b>CERTIFICATES OF CONVENIENCE</b>	<b>§</b>	
<b>AND NECESSITY IN DENTON AND</b>	<b>§</b>	
<b>WISE COUNTIES</b>	<b>§</b>	

**JOINT PROPOSED NOTICE OF APPROVAL**

This Joint Proposed Notice of Approval addresses the application of the City of Fort Worth (Fort Worth) and Aqua Texas, Inc. (Aqua Texas) (collectively, Applicants) to amend, by water service area contract, the Fort Worth and Aqua Texas water certificates of convenience and necessity (CCNs) in Denton and Wise Counties under Texas Water Code (TWC) § 13.248. The area being transferred from Aqua Texas, under CCN No. 13201, is in Fort Worth's extraterritorial jurisdiction and has no current customers or facilities that will be transferred to Fort Worth. The Public Utility Commission Staff (Commission Staff) recommended approval of this application. The application is approved.

The Commission adopts the following findings of fact and conclusions of law:

**I. FINDINGS OF FACT**

**Procedural History, Description, and Background**

1. On February 5, 2018, Fort Worth and Aqua Texas filed an application with the Commission for approval of a service area contract under TWC § 13.248 to amend their respective CCNs in Denton and Wise Counties.
2. On February 14, 2018, Order No. 1 was issued, requiring comments or a recommendation by the Commission Staff and a proposed procedural schedule.
3. On March 1, 2018, Commission Staff filed a recommendation that the application be found administratively incomplete.
4. On March 8, 2018, Order No. 2 was issued, finding the application to be incomplete and deficient, and directing the Applicants to amend the application to cure deficiencies noted by Commission Staff.

5. On April 9, 2018, Fort Worth filed a request to extend the time to complete and cure the application's deficiencies.
6. On April 13, 2018, Order No. 3 was issued, granting Fort Worth's request for an extension of time to cure the application's deficiencies.
7. On April 30, 2018, Fort Worth filed its Response to Commission's Order No. 3 to Cure Application, including an amendment to the underlying service area contract.
8. On June 1, 2018, Commission Staff filed a recommendation on administrative completeness of the application recommending that the application and notice be found sufficient and proposing a procedural schedule.
9. On June 11, 2018, Order No. 4 was issued, finding the application to be administratively complete, the notice to be sufficient, and establishing a procedural schedule.
10. On August 20, 2018, Fort Worth filed a form consenting to the CCN service area map and CCN Certificate No. 12311 as transmitted by Commission Staff.
11. On September 13, 2018, Aqua Texas filed a form consenting to the CCN service area map and CCN Certificate No. 13201.
12. On September 20, 2018, Commission Staff filed a Final Recommendation, recommending that the application be approved.
13. The water CCN service area map and CCN certificates referenced in Finding of Fact Nos. 10 and 11 are attached to this Notice of Approval.
14. On September \_\_\_, 2018, the parties filed a Joint Motion to Admit Evidence and Proposed Notice of Approval.

#### **Notice**

15. On February 14, 2018, notice of the application was published in the *Texas Register*.

#### **Evidentiary Record**

16. On \_\_\_\_\_, 2018, Order No. 5 was issued, admitting evidence into the record of this proceeding.

#### **Description of the Application**

17. Fort Worth holds water CCN No. 12311.

18. Aqua Texas holds water CCN No. 13201.
19. On December 13, 2016, Fort Worth and Aqua Texas entered into a Water and Wastewater Utility Services Transfer Agreement (Service Area Contract) permitting Fort Worth to provide water services, under CCN No. 12311, to the area being transferred from Aqua Texas, under CCN No. 13201.
20. On March 28, 2018, the Service Area Contract was amended to correct the water CCN number identified in the initial agreement.
21. The CCN area being transferred under Aqua Texas' CCN is in Fort Worth's extraterritorial jurisdiction and has no current customers or facilities that will be transferred to Fort Worth.

**Informal Disposition**

22. More than 15 days have passed since the completion of the notice provided in this docket.
23. No protest was filed. As a result, Commission Staff, Fort Worth and Aqua Texas are the only parties to this proceeding.
24. No issues of fact or law remain disputed by any party.

**II. CONCLUSIONS OF LAW**

1. The Commission has jurisdiction and authority over this docket pursuant to TWC §§ 13.041 and 13.248.
2. Fort Worth is a municipal corporation and home-rule city, principally located in Tarrant County, Texas. Fort Worth is also a retail public utility as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Aqua Texas is a retail public utility as defined by TWC § 13.002(19) and 16 TAC § 24.3(59).
4. Public notice of the application was provided in compliance with TWC § 13.246 and 16 TAC § 24.106.
5. The application was processed in accordance with the TWC, the Administrative Procedure Act,<sup>1</sup> and Commission Rules.
6. After considering the factors in TWC § 13.246(c), Fort Worth and Aqua Texas are entitled to approval of their agreement to transfer areas within their respective certificates of convenience and necessity, having demonstrated adequate financial, managerial, and technical capability

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

for providing continuous and adequate service to the requested area and its current service area as required by TWC § 13.241(a).

7. 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 § 24.102(c).
8. Under TWC § 13.257(r) and (s), Applicants are 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.
9. 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. Consistent with Commission Staff's recommendation and this Notice, Fort Worth's application, as amended, is approved.
2. Fort Worth's water CCN No. 12311 is amended consistent with this Notice.
3. Aqua Texas' water CCN No. 13201 is amended consistent with this Notice.
4. Fort Worth shall serve every customer and applicant for service within the areas certificated under its water CCN No. 12311, and such service shall be continuous and adequate.
5. Aqua Texas shall serve every customer and applicant for service within the areas certificated under its water CCN No. 13201, and such service shall be continuous and adequate.
6. Fort Worth shall comply with the recording requirements in TAC § 13.257(r) and (s) for the area in Denton and Wise Counties 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.

**SIGNED AT AUSTIN, TEXAS** the \_\_\_\_\_ day of \_\_\_\_\_ 2018.

**PUBLIC UTILITY COMMISSION OF TEXAS**

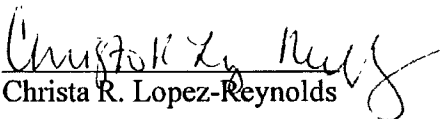
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**ADMINISTRATIVE LAW JUDGE**

**DOCKET NO. 48020**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this the September 24, 2018 in accordance with 16 TAC § 22.74.

  
Christa R. Lopez-Reynolds