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PUBLIC UTILITY COMMISSION  
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APPLICATION OF DJL VENTURES, §  
INC. DBA KAP WATER SUPPLY AND §  
SWWC UTILITIES, INC. DBA WATER §  
SERVICES, INC. FOR THE TRANSFER §  
OF SERVICE AREA RIGHTS IN §  
COMAL COUNTY §

**NOTICE OF APPROVAL**

This Notice addresses the application of DLJ Ventures, Inc. dba KAP Water Supply (KAP) and SWWC Utilities, Inc. dba Water Services, Inc. (SWWC) for the sale of water system and the amendment of SWWC’s certificate of convenience and necessity to include 14 acres that are served by that system. The Commission approves the transfer of all water service area rights held by KAP under exempt registration number N0064 to SWWC’s water certificate of convenience and necessity (CCN) number 11106 and the cancellation of exempt registration number N0064.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicants**

1. KAP is a not-for-profit corporation registered with the Texas secretary of state on February 1, 1989, under file number 110332600.
2. KAP has exempt utility registration number N0064.
3. SWWC Utilities, Inc. (SWWC) is a Delaware for-profit corporation registered with the Texas secretary of state on June 19, 2007, under file number 800832416.
4. SWWC filed an assumed name certificate for the name Water Services, Inc. with the Texas secretary of state on April 2, 2009.
5. SWWC holds CCN number 11106 and provides service under that certificate using the name Water Services, Inc.

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**Application**

6. On February 13, 2018, KAP and SWWC filed an application for approval to sell and transfer 14.961 acres of service area to SWWC's water CCN number 11106 from KAP's exempt utility registration number N0064 in Comal County.
7. The requested area is located approximately 2 miles north of downtown Bulverde and is generally bounded on the north by Flightline Drive, on the east by Aviator Pass, on the south by Windmill Mountain Road, and on the west by Ahern Creek Drive.
8. KAP is not providing service in the requested area and has no customers.
9. In Order No. 2 issued March 20, 2018, the administrative law judge (ALJ) found the application incomplete and deficient.
10. On April 11, 2018, SWWC filed a supplement to the application.
11. In Order No. 3 issued May 14, 2018, the ALJ found the application administratively complete.
12. In Order No. 5 issued August 13, 2018, the ALJ approved the transaction to proceed.
13. In Order No. 6 issued November 28, 2018, the ALJ found the closing documents sufficient.
14. On December 31, 2018, SWWC filed a consent form concurring with the final map and certificate as prepared by Commission Staff.
15. On January 14, 2019, KAP filed a consent form concurring with the final map and certificate as prepared by Commission Staff.
16. In the joint motion filed by Commission Staff and the applicants for adoption of a notice of approval, they requested that the requested area be placed in SWWC's CCN number 11106 and attached maps, certificate, and tariffs reflecting the areas that would be served under SWWC's CCN.

**Notice**

17. Notice of the application appeared in the March 2, 2018 issue of the *Texas Register*.
18. SWWC mailed notice of the application to neighboring utilities, counties, cities, and affected parties on May 8, 2018.

19. SWWC filed an affidavit on May 22, 2018, attesting to the provision of notice to landowners, neighboring utilities, and cities.
20. In Order No. 4 issued on June 5, 2018, the ALJ found the notice sufficient.

#### **Sale**

21. In Order No. 5 issued August 13, 2018, the ALJ authorized the sale to proceed and ordered the applicants to file proof that the sale had been completed and that customer deposits had been addressed.
22. On November 14, 2018, SWWC filed notice that the sale had closed on November 9, 2018 and attached a bill of sale signed by KAP and SWWC. The bill of sale was accompanied by a letter stating that there are no current customer deposits to return.
23. In Order No. 6 issued November 28, 2018, the ALJ found the closing documents sufficient and that the outstanding customer deposits were addressed.

#### **Evidentiary Record**

24. On January 22, 2019, the parties filed a joint motion to admit evidence and motion for adoption of notice of approval.
25. In Order No. 8 issued January 24, 2019, the ALJ admitted the following evidence into the record: (a) the application of KAP and SWWC, filed February 13, 2018; (b) Commission Staff's supplemental recommendations on administrative completeness, filed May 10, 2018; (c) SWWC's affidavit attesting to the provision of notice filed May 22, 2018; (d) Commission Staff's recommendation on approval of the transaction, filed June 18, 2018; (e) SWWC's letter regarding the bill of sale, filed November 14, 2018; (f) Commission Staff's recommendation on the sufficiency of closing document, filed November 15, 2018; and (f) SWWC and KAP's consent forms, filed December 31, 2018 and January 14, 2019.

#### **Compliance-TWC § 13.301(d), 16 TAC § 24.239(j)(5)(A)**

26. SWWC has not been subject to any enforcement action by the Commission, TCEQ, the Texas Department of Health, the Office of the Attorney General, or the United States Environmental Protection Agency.

#### **Adequacy of Existing Service-TWC § 13.301(d), 16 TAC § 24.239(j)(5)(B); TWC § 13.246(c)(1), 16 TAC § 24.227(d)(1)**

27. KAP does not provide service to the requested area, and there are no existing customers.

**Need for Additional Service-TWC § 13.301(d), 16 TAC § 24.239(j)(5)(C); TWC § 13.246(c)(2), 16 TAC § 24.227(d)(2)**

28. The requested area has been platted as four lots. The number of customer connections is estimated to not exceed four.

**Effect of Approving the Transaction and Granting the Amendment-TWC §13.301(d), 16 TAC § 24.239(j)(5)(D); TWC § 13.246(c)(3), 16 TAC § 24.227(d)(3)**

29. SWWC already has the facilities to accommodate the requested area, and the requested area is completely surrounded by SWWC's certificated service area.

30. There are no other retail public utilities providing water service that would be affected by the proposed transaction.

**Ability to Serve: Managerial and Technical-TWC §§ 13.301(b), 16 TAC § 24.239(g), (j)(5)(E); TWC §§ 13.246(c)(4), 13.241(a), 16 TAC §§ 24.227(a), 24.227(d)(4)**

31. SWWC has several approved Texas Commission on Environmental Quality (TCEQ) public water systems. The public water system is capable of providing drinking water that meets the requirements of Texas Health and Safety Code, chapter 341, and TCEQ rules and has access to an adequate supply of water.

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

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

**Service from Adjacent Retail Public Utility-TWC §§ 13.301(d), 16 TAC § 24.239(g), (j)(5)(F); TWC §§ 13.246(c)(5), § 24.227(d)(3)**

33. SWWC is currently serving customers surrounding the requested area and has sufficient capacity to serve these and future customers within the requested area.

34. Obtaining service from an adjacent retail public utility is not feasible since SWWC's CCN completely surrounds the requested area being transferred.

**Ability to Serve: Financial Ability and Stability-TWC §§ 13.301(b), 16 TAC § 24.239(g), (j)(5)(G); TWC §§ 13.246(c)(6), 13.241(a), 16 TAC §§ 227(a), 24.227(d)(6)**

35. SWWC has a debt-to-equity ratio of less than one.

36. SWWC meets the debt-service-coverage ratio requirement of more than 1.25.

37. SWWC has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations.
38. SWWC has demonstrated adequate financial, managerial, and technical capabilities to provide service to the requested area.
39. SWWC is capable of providing continuous and adequate service to the transferred area and the transaction will serve the public interest.

**Environmental Integrity-TWC § 13.301(d), 16 TAC § 24.239(j)(5)(H); TWC § 13.246(c)(7), 16 TAC § 24.227(d)(7)**

40. Approval of the application will not adversely impact the environmental integrity because SWWC will be serving the requested area through existing facilities.

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

41. Approval of the application will not adversely impact the effect on the land because SWWC will be serving the requested area through existing facilities.

**Improvement of Service-TWC § 13.301(d), 16 TAC § 24.239(j)(5)(I); TWC § 13.246(c)(8), 16 TAC § 24.227(d)(8)**

42. The transfer of the requested area to SWWC's CCN and cancel the exempt utility registration of KAP is necessary for the service, accommodation, convenience and safety the public.

**Lowering of Costs-TWC § 13.301(d), 16 TAC § 24.239(j)(5)(I); TWC § 13.246(c)(8), 16 TAC § 24.227(d)(8)**

43. Future customers will be charged rates and approved customer service fees under SWCC's tariff in effect at the time the application for service is made.

**Tariff and Maps**

44. On December 17, 2018, Commission Staff emailed to SWWC and KAP proposed maps, certificates, and tariffs related to this docket.
45. On December 31, 2018, SWWC filed a consent form concurring with the proposed maps certificates, and tariffs.
46. On January 14, 2019, KAP filed a consent form concurring with the proposed maps, certificates, and tariffs.

**Certificate**

47. All water service area rights held by KAP under exempt registration number N0064 has transferred to SWWC's water CCN.
48. KAP has no further need for exempt registration number N0064 and it should be cancelled.

**Informal Disposition**

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

**II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction under Texas Water Code (TWC) §§ 13.041, 13.241, 13.244, 13.246, 13.251, 13.254, and 13.301.
2. SWWC is a retail public utility as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Public notice of the application was provided as required by TWC § 13.301(a)(2) and 16 TAC § 24.239.
4. The Commission processed the application as required by the TWC, the Administrative Procedure Act<sup>1</sup>, and Commission rules.
5. KAP and SWWC completed the sale within the time required by 16 TAC § 24.239(o).
6. After considering the factors in TWC § 13.246(c), SWWC has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and its current service area.

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

7. KAP and SWWC have demonstrated that the sale of KAP's water system and the amendment of SWWC's CCN will service the public interest and are necessary for the service, accommodation, convenience, or safety of the public. TWC §§ 13.301(d), 13.246(b).
8. A sale not completed in accordance with TWC § 13.301 is void. TWC 13.301(h).
9. SWWC 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 Comal Counties within 31 days of receiving this Notice and submit to the Commission evidence of the recording. TWC § 13.257(r), (s).
10. 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:

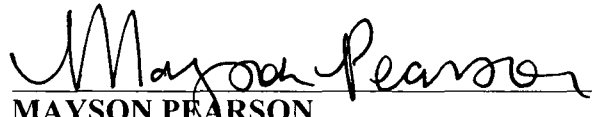
1. The Commission approves SWWC's purchase of KAP's water rights identified in this Notice and under exempt registration number N0064.
2. The Commission amends SWWC's CCN number 11106 to include the service area described by this Notice and shown on the maps attached to this Notice.
3. The Commission grants the certificate attached to this Notice.
4. The Commission cancels exempt registration number N0064.
5. The Commission approves the tariffs attached to the joint motion for adoption of notice of approval filed on January 22, 2019.
6. Within ten days of the date of this Notice, Commission Staff must provide a clean copy of the tariffs approved by this Notice to central records to be marked *Approved* and filed in the Commission's tariff books.
7. SWWC must serve every customer and applicant for water service within the approved area under water CCN number 11106 that request water service and meets the terms of SWWC's water service, and such service will be continuous and adequate.



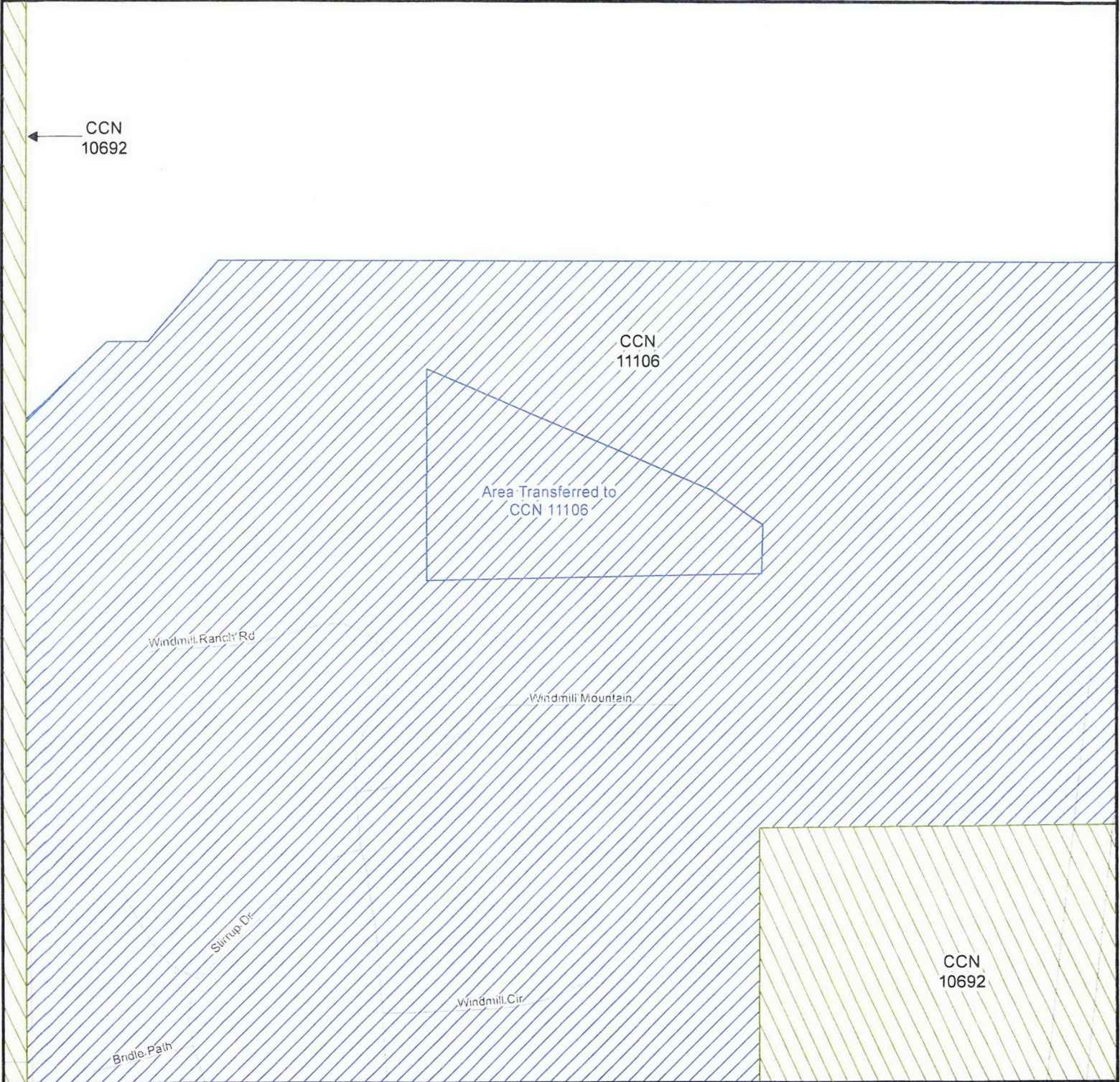
8. SWWC must comply with the recording requirements of TWC § 13.257(r) and (s) for the area in Comal County affected by the application.
9. SWWC must file in this docket proof of the recording required in ordering paragraph 8 not later than 45 days after the date of this Notice.
10. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 1st day of March 2019.

**PUBLIC UTILITY COMMISSION OF TEXAS**

  
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**MAYSON PEARSON**  
**ADMINISTRATIVE LAW JUDGE**

SWWC Utilities, Inc.  
Portion of Water CCN No. 11106  
PUC Docket No. 48060  
Transferred all of KAP Water Supply, Exempt Utility No. N0064 in Comal County



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

**Water CCN**

-  11106 - SWWC Utilities Inc
-  10692 - SJWTX Inc



Map by: Komal Patel  
Date created: December 4, 2018  
Project Path: n:\finalmapping\  
48060SWWCUtilities.mxd



# Public Utility Commission of Texas

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

**SWWC Utilities, 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, SWWC Utilities, Inc., is entitled to this

## **Certificate of Convenience and Necessity No. 11106**

to provide continuous and adequate water utility service to that service area or those service areas in Bandera, Bexar, Comal, Gillespie, Guadalupe, Hays, Kendall, Kerr, and Medina Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48060 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 SWWC Utilities, 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 1st day of March 2019.