



Control Number: 48104



Item Number: 28

Addendum StartPage: 0

2019 FEB -8 PM 2:46

**PUBLIC UTILITY COMMISSION**  
**OF TEXAS**

This Notice addresses the application of Rincon Water Supply Corporation to amend a water certificate of convenience and necessity (CCN) in San Patricio County. The Commission amends Rincon's CCN number 11440 to include approximately 123 acres.

## I. Findings of Fact

1. Rincon is a domestic nonprofit corporation registered with the Texas secretary of state on May 4, 1976, under corporation charter number 0038068201.
2. Rincon is authorized to provide water service under CCN number 11440 in San Patricio County.
3. Rincon serves 1,418 connections through the public water system that it owns and operates.

4. On February 26, 2018, Rincon filed an application to amend water CCN number 11440 to include an additional area in San Patricio County. The proposed service-area addition includes approximately 123 acres and has no current customers.
5. The proposed service-area addition is not within an incorporated city or district and is not inside another utility's CCN.
6. In Order No. 2 issued on March 29, 2018, the administrative law judge (ALJ) found Rincon's application administratively incomplete because of mapping deficiencies.
7. On April 6, 2018, Rincon amended its application to include revised maps.

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GRACIE ALANIZ-GONZALES, COUNTY CLERK  
SAN PATRICIO COUNTY, TEXAS  
BY Monica Diaz 2

8. The proposed service-area addition is located approximately three miles west of downtown Portland, Texas and is bounded to the north by CR 2202, the east by CR 3463, the south by Nueces Bay and the west by CR 2202. The proposed service-area addition contains 122.71 acres and is further identified by the maps submitted with the amended application.
9. In Order No. 2 issued on May 31, 2018, the ALJ found Rincon's application administratively complete.
10. On September 24, 2018, Rincon filed its consent to Commission Staff's map of the proposed service-area addition received by email on September 19, 2018.

**Notice**

11. Notice of the application appeared in the March 16, 2018 issue of the *Texas Register*.
12. Rincon mailed notice of the application to current customers, neighboring utilities, landowners, cities, and other affected parties on June 25, 2018.
13. On July 11, 2018, Rincon filed an affidavit in which Kenneth Johnson, Rincon General Manager, attested that Rincon had complied with all notice requirements in the application and application acceptance letter. Mr. Johnson attested that Rincon had provided notice to the following persons and entities on June 25, 2018: the City of Corpus Christi, the City of Portland, Corpus Christi Aquifer Storage & Recovery Conservation District, the Nueces River Authority, the Port of Corpus Christi, the San Patricio County Drainage District, the San Patricio County Groundwater Conservation District, San Patricio County Judge Terry Simpson, the San Patricio Municipal Water District, Marvin Berry, Jeffrey Davis Hunt, Maurice Roy, Abral Oil Company, Alta Mesa Resources, James Mikulencak, Terrell Allison, Ray Dubose, J.W. Richeson, and Jim Fay.
14. On August 1, 2018, Rincon filed the publisher's affidavit, which stated that the *Corpus Christi Caller-Times*, a newspaper of general circulation in San Patricio County, published notice of the application in that newspaper on July 12 and July 19, 2018.
15. In Order No. 5 issued on August 3, 2018, the ALJ found the notice of the application sufficient.
16. The Commission did not receive any protests or requests by landowners to opt out of the proposed service-area addition.

**Evidentiary Record**

17. On October 10, 2018, Commission Staff and Rincon filed their joint motion to admit evidence and proposed notice of approval.
18. In Order No. 6 issued on October 29, 2018, the ALJ admitted the following evidence into the record of this proceeding: (a) Rincon's application and attachments filed on February 26, 2018; (b) notice of the application published in the Texas Register on March 16, 2018; (c) Rincon's revised maps and all attachments filed on April 6, 2018; (d) Commission Staff's supplemental recommendation finding the application administratively complete filed on May 24, 2018; (e) the Kenneth Johnson affidavit of the June 25, 2018 notice to customers, landowners, neighboring utilities, and affected parties filed on July 11, 2018; (f) the affidavit of publication on July 12, 2018 and July 19, 2018 in the *Corpus Christi Caller-Times* filed on August 1, 2018; (g) Commission Staff's recommendation on sufficiency of notice filed on August 2, 2018; (h) Rincon's consent form filed on September 24, 2018; and (i) Commission Staff's final recommendation with attachments filed on October 3, 2018.
19. In Order No. 8 issued on February 7, 2019, the ALJ admitted as evidence Commission Staff's Response to Order No. 7 and attached supplemental memorandum filed on February 4, 2019:

**Adequacy of Existing Service**

20. Rincon has adequate production and storage, as well as a distribution system already in place to provide service in the requested area.
21. No component facility of Rincon's system operates at 85% or greater of minimum standard capacity.
22. Rincon's public water system number 2050078 is registered with the Texas Commission on Environmental Quality (TCEQ).
23. Rincon's water source is the San Patricio Municipal Water District.
24. Rincon currently provides water service to the proposed service-area addition with existing infrastructure under public water system number 2050078. No additional facilities need to be constructed to serve the proposed service-area addition.

25. Rincon's public water system number 2050078 is capable of providing drinking water that meets the requirements of Texas Health and Safety Code chapter 341 and TCEQ rules.

**Need for Service**

26. The area Rincon seeks to add to its CCN is undeveloped property west of the City of Portland. There is currently no service in the requested area, and there are no current customers.
27. There are presently no economic or environmental requirements for service in the area.
28. Rincon received a request from landowner Mr. Jim Fay asking for water service to his property for the purpose of residential development.

**Effect of Granting the CCN Amendment**

29. Rincon's application has no effect on any other retail public utility serving the surrounding area because there are no other retail public utilities in the area.

**Applicant's Ability to Provide Adequate Service**

30. Rincon maintains an active TCEQ public water system, registration number 2050078.
31. The proposed residential development for which the CCN amendment is sought will increase Rincon's total system demand by 14 connections with a project density of approximately one connection per 8.75 acres. This increase will have a minimal effect on the distribution system.
32. No construction is needed to provide water service to the proposed service area addition.

**Feasibility of Obtaining Service from an Adjacent Retail Public Utility**

33. Service from other providers to the proposed service-area addition is not presently available or economically feasible because there are no other retail public utilities in the area.

**Applicant's Financial Ability to Provide Adequate Service**

34. Commission rule 16 Texas Administrative Code (TAC) § 24.11(e) requires the owner or operator of a retail public utility to demonstrate financial assurance by satisfying the requirements of a financial test that includes a leverage and an operations test.

35. Under 16 TAC § 24.11(e)(2), the Commission's leverage test requires the owner or operator of a retail public utility to meet the requirements of one or more of the listed measures.
36. Rincon meets the requirements of two listed criteria of the Commission's leverage test: the debt-to-equity-ratio criterion and the debt-service-coverage-ratio criterion.
37. Rincon's balance sheet as of December 31, 2016 reflects a total long-term debt of \$123,741 and equity of \$3,680,272, yielding a debt-to-equity ratio of 0.03, which is less than one.
38. Rincon's January to December 2016 income statement reflects a net operating income of \$326,876. In the application, a promissory note to pay a Frost Bank loan indicates a debt service of \$2,329.59 per month or \$27,955 annually, yielding a debt-service-coverage ratio of 11.69, which is greater than 1.25.
39. Under 16 TAC § 24.11(e)(3), the Commission's operations test requires an owner or operator of a retail public utility to demonstrate sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of the operations.
40. Rincon did not submit projections of operations and maintenance expense or historical data, however, there are no cash shortages to cover these expenses, and should any shortage occur Rincon has the cash on hand to cover those shortages.
41. Rincon's balance sheet as of December 31, 2016 reflects cash on hand of \$789,047 and the January to December 2016 income statement reflects a net operating income of \$326,876 after expenses of \$974,719.
42. Rincon 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 addition.

**Applicant's Managerial Ability to Provide Adequate Service**

43. Rincon's general manager, Kenneth Johnson, is a currently licensed water-system operator.
44. Rincon maintains qualified personnel with the managerial abilities necessary to provide continuous and adequate service.

**Applicant's Technical Ability to Provide Adequate Service**

45. Rincon employs three water operators with current licenses including two class C operators and one class B operator.
46. Rincon maintains qualified personnel with the technical abilities necessary to provide continuous and adequate service.
47. Rincon has the technical capability to provide continuous and adequate service to the proposed service-area addition.

**Environmental Integrity and Effect on the Land to be Included in the Certificate**

48. Rincon's application will have no impact on the environmental integrity or effect on the land because no additional construction is needed to provide water service to the proposed service-area addition.

**Probable Improvement in Service or Lowering of Cost to Consumers**

49. Rincon will provide water service in the proposed service-area comparable to the services provided to its existing customers; therefore, it is likely that there will be minimal improvements in service or lowering of costs to consumers in the proposed service-area addition.

**Informal Disposition**

50. More than 15 days have passed since completion of all notice requirements.
51. In Order No. 4 issued on July 30, 2018, the ALJ granted Atlee Ray DuBose's motion to intervene.
52. In Order No. 5 issued on August 3, 2018, the ALJ established October 3, 2018 as the deadline to request a hearing on the merits.
53. Neither intervenor Atlee Ray DuBose nor any other party filed a request for hearing and a hearing is not necessary.
54. The decision reflected in this Notice is not adverse to any party.

## II. Conclusions of Law

1. Rincon is a retail public utility as defined in Texas Water Code (TWC) § 13.002(19) and 16 TAC § 24.3(59) and a water supply corporation as defined in TWC § 13.002(24) and 16 TAC § 24.3(77).
2. The Commission has jurisdiction over Rincon's application under TWC §§ 13.241, 13.242, 13.244, and 13.246.
3. Rincon provided notice of the application in compliance with TWC § 13.246 and 16 TAC § 24.235 (a) through (c).
4. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,<sup>1</sup> TWC, and Commission rules.
5. Rincon, as the applicant, has the burden of proof in this case under 16 TAC § 24.12 and 1 TAC § 155.427.
6. Rincon has adequate financial, managerial, and technical capability for providing continuous and adequate service to the proposed service-area addition and its current service area as required by TWC § 13.241 and 16 TAC §§ 24.11 and 24.227(a).
7. TCEQ has approved Rincon's public water system and determined that it is capable of providing drinking water that meets the requirements of chapter 341 of the Texas Health and Safety Code, TCEQ rules, and the requirements of TWC § 13.241(b)(1) and 16 TAC § 24.227(a)(1)(A).
8. Rincon has access to an adequate supply of water or a long-term contract for purchased water with an entity whose system meets the requirements of TWC § 13.241(b)(1) and 16 TAC § 24.227(a)(1)(A) as required by TWC § 13.241(b)(2) and 16 TAC § 24.227(a)(1)(B).
9. The application meets the requirements set forth in TWC §§ 13.241, 13.244, and 13.246 and 16 TAC §§ 24.225 through 24.227, and 24.233 to be granted an amendment to its CCN.

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<sup>1</sup> Administrative Procedure Act, Tex. Gov't Code §§ 20001.001-.902.



10. The amendment to CCN number 11440 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).
11. Under TWC § 13.257(r) and (s) and 16 TAC § 24.235(e), not later than 31 days after Rincon receives the final order amending its CCN, Rincon is required to record a certified copy of the approved CCN and map, along with a boundary description of the amended 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.
12. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

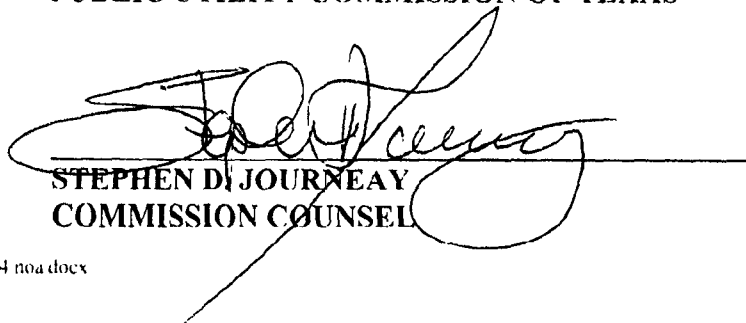
### **III. Ordering Paragraphs**

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

1. The Commission approves the application, as amended, to the extent provided by this Notice.
2. The Commission amends Rincon's CCN number 11440, as provided in this Notice, and a certificate is attached to this Notice.
3. Rincon must provide service to every customer and applicant for service within the area certified under CCN number 11440, shown on the map attached to this Notice, and such service must be continuous and adequate.
4. Rincon must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in San Patricio County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.
5. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 04<sup>th</sup> day of February 2019.

**PUBLIC UTILITY COMMISSION OF TEXAS**



STEPHEN D. JOURNEAY  
COMMISSION COUNSEL

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# **Public Utility Commission of Texas**

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

## **Rincon Water Supply Corporation**

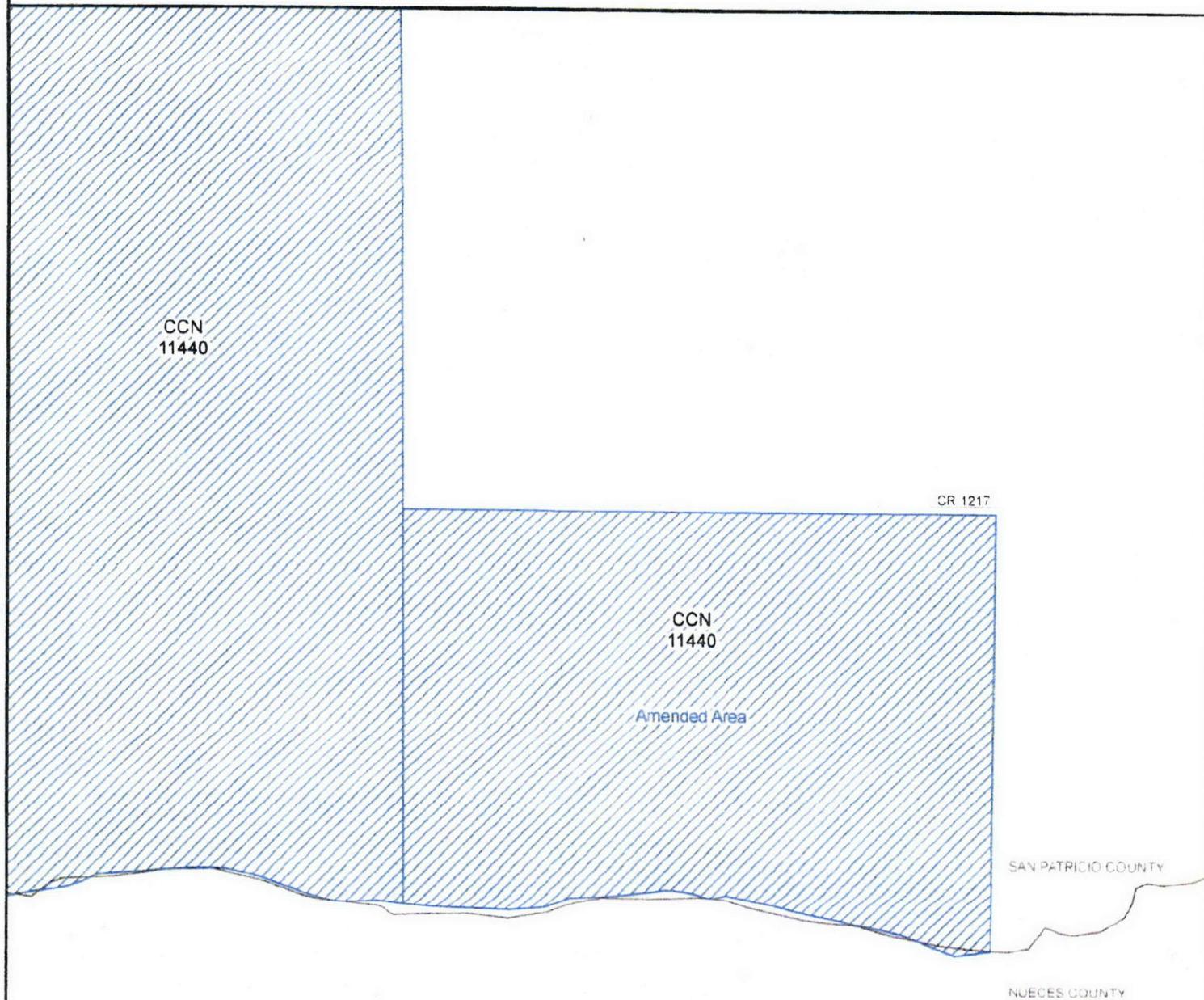
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Rincon Water Supply Corporation, is entitled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

### **Certificate of Convenience and Necessity No. 11440**

to provide continuous and adequate water utility service to that service area or those service areas in San Patricio County as by final Order duly entered by this Commission, which Order resulting from Docket No. 48104 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 Rincon Water Supply Corporation 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 24th day of FEBRUARY 2019.

Rincon Water Supply Corporation  
Portion Water CCN No. 11440  
PUC Docket No. 48104  
Amended CCN No. 11440 in San Patricio County



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

**Water CCN**

 11440 - Rincon WSC

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Feet



Map by: Komal Patel  
Date created: September 4, 2018  
Project Path: n:\finalmapping\  
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