



Control Number: 48296



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DOCKET NO. 48296

**APPLICATION OF CYNDIE PARK 2 §
 WATER SUPPLY CORPORATION §
 AND NUECES WATER SUPPLY §
 CORPORATION FOR SALE, §
 TRANSFER, OR MERGER OF §
 FACILITIES AND CERTIFICATE §
 RIGHTS IN NUECES COUNTY §**

PUBLIC UTILITY COMMISSION

OF TEXAS

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JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

COME NOW, Cyndie Park 2 Water Supply Corporation (“Cyndie Park 2”) and Nueces Water Supply Corporation (“Nueces WSC”) (collectively, “applicants”) together with the Staff of the Public Utility Commission of Texas (“Staff”), representing the public interest, (collectively, the “Parties”) and file this Joint Motion to Admit Evidence and Proposed Notice of Approval. In support thereof, the Parties show the following:

I. BACKGROUND

On April 18, 2018, Cyndie Park 2 and Nueces WSC filed an application for sale, transfer, or merger of facilities and certificate rights in Nueces County, Texas. Specifically, Cyndie Park 2 seeks to transfer its water service area and facilities under Certificate of Convenience and Necessity No. 12100 to Nueces WSC. The service area to be transferred includes 30.2 acres and 18 current customers. Order No. 7 issued on October 23, 2018, authorized the transaction to proceed, and required completion of the sale and transfer within 180 days. Proof of completion of the transaction was filed on April 17, 2019, and a supplemental statement regarding customer deposits was filed on May 28, 2019. Staff recommended on May 28, 2019 that the closing documents be deemed sufficient. Order No. 10 issued on May 29, 2019 found that the closing documents were sufficient, and required the submission of a consent form, which was filed by the applicant on July 10, 2019. Order No. 11 issued on July 23, 2019, set August 5, 2019 as the deadline for the Parties to jointly file detailed, legally sufficient findings of fact and conclusions of law that meet the components of Texas Water Code (TWC) § 13.246 and that support the relief requested. This pleading is therefore timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

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

- a) The applicants' application, filed on April 18, 2018 (PUC Interchange Item No. 1);
- b) The applicants' proof of notice documentation, filed on August 14, 2018 (PUC Interchange Item No. 11);
- c) Commission Staff's recommendation on sufficiency of notice, filed on August 24, 2018, recommending that the applicants' notice be found sufficient (PUC Interchange Item No. 12);
- d) Commission Staff's recommendation on approval of transaction, filed on October 22, 2018 (PUC Interchange Item No. 20);
- e) The applicants' transaction closing documentation, filed on May 15, 2019 (PUC Interchange Item No. 34);
- f) The applicants' Affidavit addressing customer deposits, filed on May 28, 2019 (PUC Interchange Item No. 35);
- g) Commission Staff's recommendation on the closing of the transaction, filed on May 28, 2019 (PUC Interchange Item No. 36); and
- h) The applicant consent form, filed on July 10, 2019 (PUC Interchange Item No. 38); and
- i) The final map and certificate filed on August 5, 2019, attached to the Joint Proposed Notice of Approval.

III. JOINT PROPOSED NOTICE OF APPROVAL

The attached Joint Proposed Notice of Approval would grant the approval of the sale to Nueces WSC of Cyndie Park 2's water system assets and service area of Cyndie Park 2's Certificate of Convenience and Necessity ("CCN") No. 12100. Also attached are the final map showing Nueces WSC's revised CCN area and the associated certificate.

IV. CONCLUSION

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

Dated August 5, 2019

Respectfully Submitted,

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ATTORNEYS FOR NUECES WATER SUPPLY
CORPORATION

PUC DOCKET NO. 48296

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on August 5, 2019, in accordance with 16 TAC § 22.74.


Bill Flickinger

DOCKET NO. 48296

APPLICATION OF CYNDIE PARK 2	§	PUBLIC UTILITY COMMISSION
WATER SUPPLY CORPORATION	§	
AND NUECES WATER SUPPLY	§	OF TEXAS
CORPORATION FOR SALE,	§	
TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS IN NUECES COUNTY	§	

JOINT PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of Cyndie Park 2 Water Supply Corporation (“Cyndie Park 2”) and Nueces Water Supply Corporation (“Nueces WSC”) for sale, transfer, or merger of facilities and certificate rights in Nueces County. Cyndie Park 2’s certificate of convenience and necessity (CCN) number 12100 will be transferred to Nueces WSC. The Commission approves the application.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Cyndie Park 2 is a domestic non-profit corporation registered with the Texas Secretary of State under file number 0126874901.
2. Cyndie Park 2 is a retail public utility that provides water service under CCN number 12100 in Nueces County.
3. Cyndie Park 2 owns and operates a public water system (PWS) in Nueces County registered with the Texas Commission on Environmental Quality (TCEQ) under PWS identification number 1780050.
4. Nueces WSC is a domestic non-profit corporation registered with the Texas Secretary of State under file number 0065134801.
5. Nueces WSC is a water supply corporation organized under Article 1434a of the Revised Civil Statutes of Texas of 1925, as amended, supplemented by the Texas Non-Profit Corporation Act, Article 1.01 et seq., as amended, under Charter No. 651348 as recorded with the Texas Secretary of State.

Application

6. On April 18, 2018, Cyndie Park 2 and Nueces WSC filed an application for approval of the sale of a portion of Cyndie Park 2's water system and transfer of all of Cyndie Park 2's CCN number 12100 service area to Nueces WSC. Additional documentation was filed on June 13, 2018 to supplement the application.
7. The total area affected by the transfer comprises approximately 30.2 acres and 18 current customers in Nueces County.
8. The requested area is located approximately thirteen (13) miles Northwest of downtown Robstown, Texas, and is generally bounded on the north by FM 1833, on the east by the Cyndie Park Subdivision property line, on the south by CR 48, and on the west by Ranch Road.
9. In Order No. 3 issued July 18, 2018, the administrative law judge (ALJ) found the application administratively complete.

Notice

10. On August 14, 2018, Nueces WSC filed an affidavit of Alice J. Black, Board President of Nueces WSC, attesting that mailed notice was provided to all current customers of Cyndie Park 2, districts, neighboring systems, counties, cities, affected parties, Nueces County Judge, Nueces River Authority, Port of Corpus Christi Authority, and South Texas Water Authority on July 30, 2018.
11. In Order No. 4 issued August 28, 2018, the ALJ found the notice sufficient.

Sale

12. In Order No. 7 issued October 23, 2018, the ALJ approved the transaction to proceed, and required completion of the sale and transfer within 180 days.
13. On May 15, 2019, the applicants filed documents of the sale, as well as a statement confirming that the transaction closed on April 3, 2019. On May 28, 2019, the applicants filed a supplemental Affidavit indicating that there were no customer deposits to address.
14. In Order No. 10 issued May 29, 2019, the ALJ found the closing documents sufficient.

Evidentiary Record

15. On August 5, 2019, the parties filed a joint motion to admit evidence and provided a proposed notice of approval.

16. In Order No. 12 issued on _____, 2019, the ALJ admitted the following evidence into the record: (a) the application of Cyndie Park 2 and Nueces WSC, filed April 18, 2018; (b) the applicants' proof of notice documentation, filed August 14, 2018; (c) Commission Staff's recommendation on sufficiency of notice, filed August 24, 2018, recommending that the applicants' notice be found sufficient; (d) Commission Staff's recommendation on approval of transaction, filed October 22, 2018; (e) Cyndie Park 2 and Nueces WSC's transaction closing documentation, filed May 15, 2019; (f) the applicants' Affidavit addressing customer deposits, filed May 28, 2019; (g) Commission Staff's recommendation on the closing of the transaction, filed May 28, 2019; (h) applicant consent form, filed July 10, 2019; and (i) the final map and certificate filed August 5, 2019, attached to the Joint Proposed Notice of Approval.

Compliance — Texas Water Code (TWC) § 13.301(e)(3)(A); 16 Texas Administrative Code (TAC) §§ 24.227(a), 24.239(j)(3)(A), (j)(5)(A)

17. Cyndie Park 2's water system operated under PWS number 1780050 does not meet the MCL for arsenic. A filtration system was installed to temporarily address the arsenic problem; however, the filtration system's media is costly and the small customer base of Cyndie Park 2 would be faced with high monthly minimums to afford changing out the media which has a limited life.
18. There are no outstanding violations reported for Nueces WSC's Water System Number 1780052 and that system is reported to be in compliance with the drinking water rules of TCEQ.
19. After the transaction is complete, Nueces WSC will provide a TCEQ-compliant treated surface water supply which it purchases from South Texas Water Authority. South Texas Water Authority purchases its supply from the City of Corpus Christi.
20. Nueces WSC, as a water supply corporation, received grants which have been used to construct a new distribution line and pump station for use in delivering a treated surface water supply to the Cyndie Park 2 customers.

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

21. Cyndie Park 2 has an inadequate water supply with existing violations for not meeting the MCL for arsenic.

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

22. Nueces WSC will service 18 current customers in the requested area.
23. Nueces WSC will provide Cyndie Park 2 customers with a more reliable, quality water supply.

Effect of Approving the Transaction and Granting the Amendment—TWC § 13.246(c)(3);

16 TAC §§ 24.227(d)(3), 24.239(j)(5)(D)

24. The applicants and landowners in the area are not adversely affected because Cyndie Park 2 is unable to remedy the excess arsenic issues and Nueces WSC will provide an adequate water supply to its customers.
25. Cyndie Park 2 customers will become Nueces WSC customers/members and will be charged the same rates as all of Nueces WSC's current customers.
26. There are no other neighboring active water utilities providing the same service within two (2) miles of the area affected by the proposed transaction.

Ability to Serve: Managerial and Technical—TWC §§ 13.241(a), 13.246(c)(4), 13.301(b), (e)(2);

16 TAC §§ 24.227(a), (d)(4), 24.239(g), (j)(5)(E)

27. Nueces WSC directors have experience with systems management and have a larger staff including operators that are on call around the clock.
28. The transfer will facilitate the PWS in being able to provide drinking water that meets the requirements of Texas Health and Safety Code Chapter 341, TCEQ rules, and the TWC.
29. Nueces WSC has the financial resources to operate and manage the PWS and the ability to provide continuous and adequate service to the requested area.
30. Nueces WSC has entered into a long-term contract for purchase of an adequate supply of water from South Texas Water Authority which also meets the requirements of Texas Health and Safety Code Chapter 341, TCEQ rules, and the TWC.

Ability to Serve: Financial Ability and Stability—TWC §§ 13.241(a), 13.246(c)(6), 13.301(b);

16 TAC §§ 24.11(e), 24.227(a), (d)(6), 24.239(g), (j)(5)(G)

31. Nueces WSC has a debt-to-equity ratio of less than one.
32. Nueces WSC meets the debt-service-coverage ratio requirement of more than 1.25.
33. Nueces WSC has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations.
34. Nueces WSC demonstrated adequate financial capability and stability to provide continuous and adequate service to the requested area.

Financial Assurance—TWC §§ 13.246(d), 13.301(c); 16 TAC §§ 24.227(e), 24.239(h)

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

Feasibility of Obtaining Service from Adjacent Retail Public Utility—TWC § 13.246(c)(5); 16 TAC §§ 24.227(d)(5), 24.239(1)(5)(F)

36. There are no other neighboring active water utilities providing the same service within two (2) miles of the area affected by the proposed transaction; therefore, it is not feasible to obtain service from another adjacent retail public utility.

Environmental Integrity—TWC § 13.246(c)(7); 16 TAC §§ 24.227(d)(7), 24.239(1)(5)(H)

37. The requested area will be served with new infrastructure, and the sale and transfer should have a minimal effect on the environmental integrity of the requested area.

Effect on Land—TWC § 13.246(c)(9); 16 TAC § 24.227(d)(9)

38. Granting the transaction will not adversely impact the integrity of the land because Nueces WSC will serve the requested area through new underground water lines which have been installed and the surface has been restored.

Improvement of Service or Lowering Cost to Consumers—TWC § 13.246(c)(8); 16 TAC §§ 24.227(d)(8), 24.239(1)(5)(I)

39. Nueces WSC will significantly improve customer service when the transaction is complete.
40. Granting the transaction for the requested area will provide Nueces WSC's customers with a financially stable water system.
41. Nueces WSC will charge Cyndie Park 2 customers the same rates as all of its current customers.

Certificate and Map

42. On July 1, 2019, Commission Staff emailed to Nueces WSC the proposed map and certificate related to this docket.
43. On July 10, 2019, the applicant filed a consent form concurring with the proposed map and certificate.
44. On August 5, 2019, the certificate and map were filed as an attachment to the joint motion to admit evidence.

Informal Disposition

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

46. No person filed a protest or motion to intervene.
47. Cyndie Park 2, Nueces WSC and Commission Staff are the only parties to this proceeding.
48. No party requested a hearing and no hearing is needed.
49. Commission Staff recommended that the ALJ find the closing documents sufficient.
50. 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 over this proceeding under TWC §§ 13.041, 13.241, 13.244, 13.246, 13.251, and 13.301.
2. Cyndie Park 2 and Nueces WSC are retail public utilities as defined by TWC § 13.002(19) and 16 TAC § 24.3(59).
3. Nueces WSC is a water supply corporation as defined in TWC § 13.002(24) and 16 TAC § 24.3(77).
4. Public notice of the application was provided as required by TWC § 13.301(a)(2) and 16 TAC § 24.239.
5. The Commission processed the application as required by the TWC, the Administrative Procedure Act¹, and Commission rules.
6. Cyndie Park 2 and Nueces WSC completed the sale within the time required by 16 TAC § 24.239(o).
7. After consideration of the factors in TWC § 13.246(c), Nueces WSC has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area. TWC §§ 13.301(b).
8. Cyndie Park 2 and Nueces WSC have demonstrated that the sale of Cyndie Park 2's water system will serve the public interest and is necessary for the service, accommodation, convenience, or safety of the public. TWC § 13.301(d), (e).
9. Nueces WSC must record a certified copy of the certificate granted and maps approved by this Notice of Approval, along with a boundary description of the service area, in the real property records of Nueces County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording. TWC § 13.257(r), (s).

¹ Tex. Gov't Code ch. 2001.

10. 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 approves Nueces WSC's purchase of Cyndie Park 2's PWS number 1780050 and the transfer of Cyndie Park 2's water CCN number 12100 to Nueces WSC.
2. The Commission grants the certificate attached to this Notice of Approval.
3. The Commission approves the map attached to the joint motion for adoption of Notice of Approval filed on August 5, 2019.
4. Nueces WSC must serve every customer and applicant for service within the approved area under water CCN number 12100 that requests water service and meets the terms of Nueces WSC's water service, and such service must be continuous and adequate.
5. Nueces WSC must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Nueces County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice of Approval.
6. 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 _____, 2019.

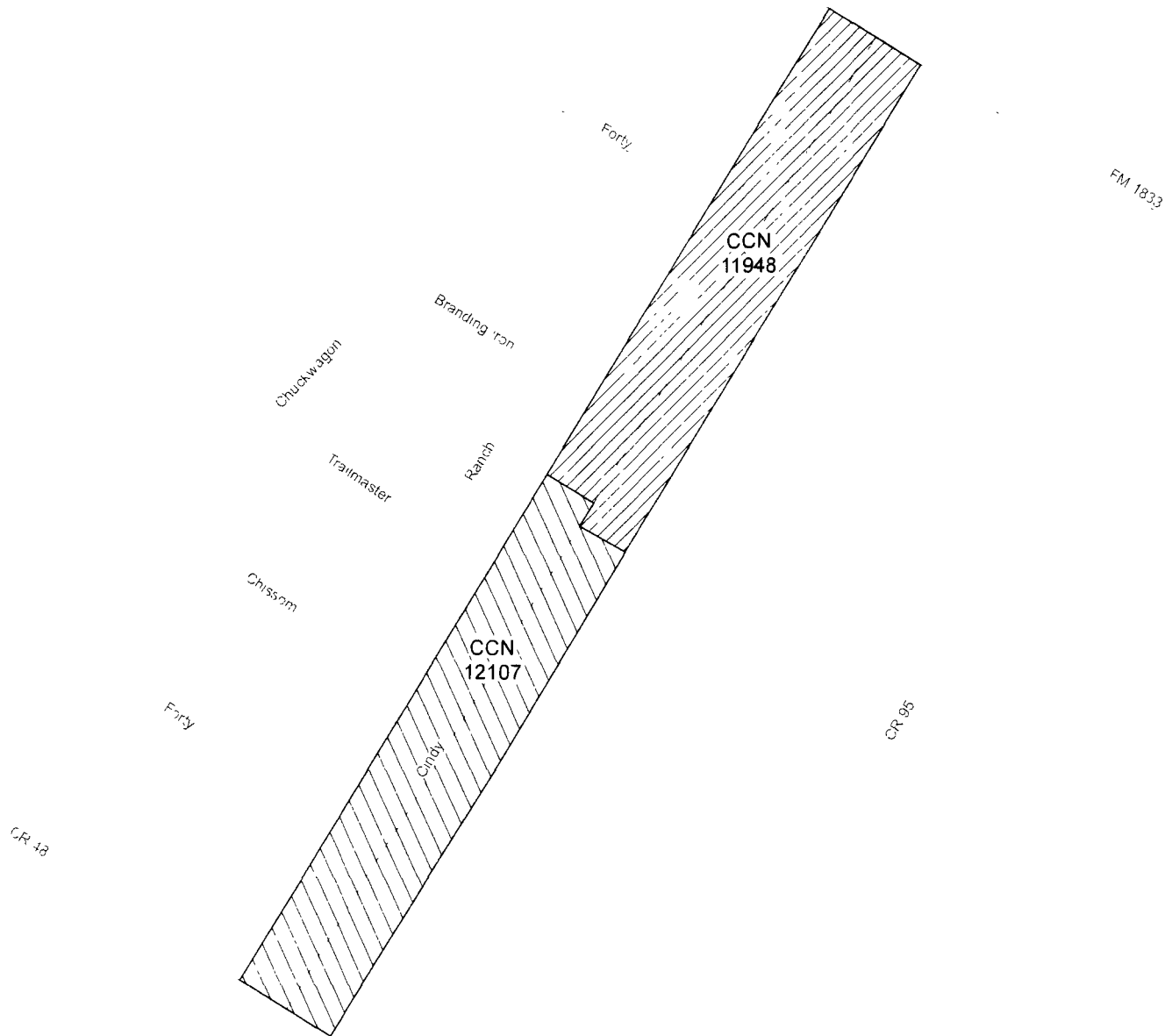
PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE

Nueces Water Supply Corporation
Portion of CCN No. 11948
PUC Docket No. 48296

11

Transferred all of Cyndie Park 2 Water Supply Corporation in Nueces County



Water CCN



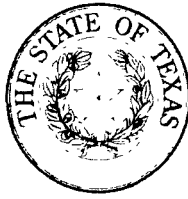
11948 - Nueces WSC



12107 - Cyndie Park Unit I Water Coop

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Public Utility Commission of Texas

By These Presents Be It Known To All That

Nueces 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, Nueces Water Supply Corporation, is entitled to this

Certificate of Convenience and Necessity No. 11948

to provide continuous and adequate water utility service to that service area or those service areas in Nueces County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48296 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 Nueces 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, this _____ day of _____ 2019.