



Control Number: 48328



Item Number: 12

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DOCKET NO. 48328

APPLICATION OF EL PASO WATER UTILITIES PUBLIC SERVICE BOARD TO DECERTIFY A PORTION OF ITS CERTIFICATES OF CONVENIENCE AND NECESSITY IN EL PASO COUNTY	§ § § § §	PUBLIC UTILITY COMMISSION OF TEXAS	2018 OCT -3 PM 2:29 RECEIVED FILING CLERK
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COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION

COMES NOW the Commission Staff of the Public Utility Commission of Texas (Commission), representing the public interest, and files this response to Order No. 3, Staff's Recommendation on Final Disposition. Staff recommends that the application be approved. In support thereof, Staff shows the following:

I. BACKGROUND

On May 1, 2018, El Paso Water Utilities Public Service Board (EPWU) filed an application with the Commission to amend its water certificate of convenience and necessity (CCN) No. 10211 and sewer CCN No. 21008 to decertify a portion of its service area in El Paso County, Texas. EPWU seeks to relinquish approximately 487 acres from its sewer CCN and 342 acres from its water CCN. EPWU is not currently providing water or sewer service within the subject areas.¹

On July 30, 2018, the Administrative Law Judge (ALJ) issued Order No. 3, finding EPWU's notice sufficient and ordering Commission Staff to send the final map and certificate to EPWU by September 14, 2018. Commission Staff sent the service area maps and certificates via email on September 11, 2018. EPWU filed its consent to those maps and certificates on September 25, 2018. Order No. 3 also included a deadline of October 5, 2018 for Commission Staff to file its recommendation on final disposition. Therefore, this pleading is timely filed.

II. APPROVAL RECOMMENDATION

As detailed in the attached memorandum of Emily Sears of the Water Utility Regulation Division (Attachment A), Commission Staff has reviewed EPWU's application to amend its

¹ Application at 29 (May 1, 2018).

water and sewer CCN service areas and determined that it meets the criteria established by Texas Water Code § 13.246(c) and 16 Texas Administrative Code (TAC) § 24.102. Therefore, Staff recommends that EPWU's application to relinquish identified portions of its water and sewer service areas be approved.

In accordance with this recommendation, the corresponding maps and certificates that EPWU consented to in its September 25, 2018 filing are attached as Attachments B, C, D, and E. As established by the procedural schedule in Order No. 3, the parties will jointly file proposed findings of fact and conclusions of law by October 12, 2018.

III. CONCLUSION

For the reasons stated above and indicated the attached memorandum of Ms. Sears, Commission Staff respectfully recommends that EPWU's application to amend water CCN No. 10211 and sewer CCN No. 21008 in order to decertify portions of those service areas be approved.

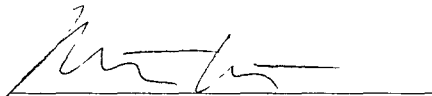
Dated: October 3, 2018

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Katherine Lengieza Gross
Managing Attorney

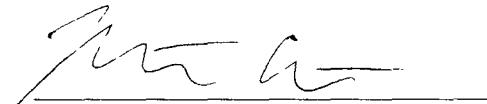


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CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record in this proceeding on October 3, 2018 in accordance with the requirements of 16 TAC § 22.74.


Matthew A. Arth

Attachment A

Staff Memorandum



PUC Interoffice Memorandum

To: Matthew Arth, Attorney
Legal Division

Thru: Tammy Benter, Director
Heidi Graham, Manager
Water Utility Regulation Division

From: Emily Sears, Financial Analyst
Water Utility Regulation Division

Date: October 1, 2018

Subject: **Docket 48328**, *Application of El Paso Water Utilities Public Service Board to Decertify a Portion of its Certificates of Convenience and Necessity (CCN) in El Paso County*

On May 1, 2018, El Paso Water Utilities Public Service Board (Applicant) filed with the Public Utility Commission of Texas (Commission) an application to amend its water Certificate of Convenience and Necessity (CCN) No. 10211 and sewer CCN No. 21008 in El Paso County, Texas pursuant to Texas Water Code (TWC) §§ 13.241 to 13.250 and the 16 Texas Administrative Code (TAC) §§ 24.101 to 24.107.

Background

The Applicant is seeking to decertify a portion of its water and sewer CCNs for the service areas containing approximately 342 and 487 acres respectively and 0 current customers.

Notice

The comment period ended July 16, 2018, and no protests or opt-out requests were received.

Criteria Considered

TWC § 13.246(c) requires the Commission to consider nine criteria when granting or amending a CCN. Therefore, the following criteria were considered:

TWC § 13.246(c)(1) requires the Commission to consider the adequacy of service currently provided to the requested area.

Staff did not consider this criteria since this application is a decertification request.

TWC § 13.246(c)(2) requires the Commission to consider the need for service in the requested area.

The area requested is being decertified, therefore, the need for service was not considered.

TWC § 13.246(c)(3) requires the Commission to consider the effect of granting an amendment on the recipient and on any other retail public utility servicing the proximate area.

The effect of granting this decertification will allow Horizon Regional Municipal Utility District to consider serving the released area, as it has received a request for service in the requested area.

TWC § 13.246(c)(4) requires the Commission to consider the ability of the Applicant to provide adequate service.

Staff did not review this criteria since this application is a decertification request.

TWC § 13.246(c)(5) requires the Commission to consider the feasibility of obtaining service from an adjacent retail public utility.

The area requested is being decertified, therefore, the feasibility of obtaining service from an adjacent retail public utility was not considered.

TWC § 13.246(c)(6) requires the Commission to consider the financial ability of the Applicant to pay for facilities necessary to provide continuous and adequate service.

16 TAC § 24.11 establishes criteria to demonstrate that an owner or operator of a retail public utility has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and requested utility service area. 16 TAC § 24.11(e) lists the financial tests. The Applicant did not file financial statements, however, Staff was able to find its most recent Comprehensive Audited Financial Report (CAFR) online.¹ The following shows that the Applicant meets three out of five leverage tests for which the Applicant is only required to meet one. The Applicant meets the leverage test with a debt to equity ratio of 0.41, which is less than one, a debt service coverage ratio of 2.18 times, which is more than 1.25 times, and is rated AA+ by Standard and Poor's and AA+ by Fitch (along with its Municipal Drainage Utility).

16 TAC § 24.11(e)(3) refers to the operations test which requires that the owner or operator must demonstrate that sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations. The Applicant is requesting decertification, and its CAFR shows no losses.

TWC §§ 13.246(c)(7) and (9) require the Commission to consider the environmental integrity and the effect on the land to be included in the certificate.

The environmental integrity of the land will not be effected since the requested area is being decertified.

TWC § 13.246(c)(8) requires the Commission to consider the probable improvement in service or lowering of cost to consumers.

The area requested is being decertified and has no current customers, therefore, the probable improvement in service or lowering of cost to customers was not considered.

The Applicant consented to the attached maps and certificates on September 25, 2018.

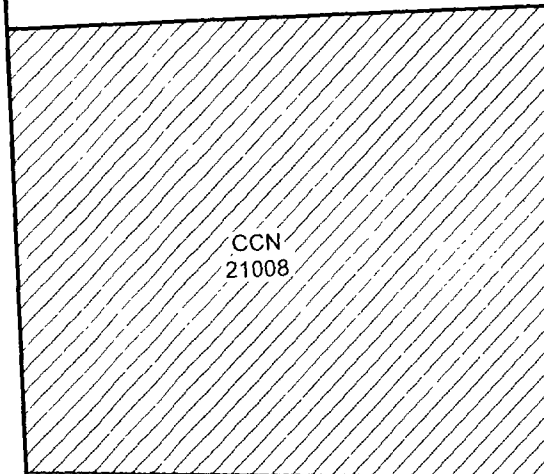
Based on the above information, Staff recommends that the Commission approve the application, issue an order, and provide the attached maps and certificates to the Applicant. Staff further recommends that the Applicant file certified copies of the CCN maps, along with a written description of the CCN service area, in the El Paso County Clerk's office pursuant to TWC §§ 13.257(r)-(s).

¹ https://www.epwater.org/UserFiles/Servers/Server_6843404/File/AboutUs/Financial/Reports/CAFR_FY17-18.pdf.
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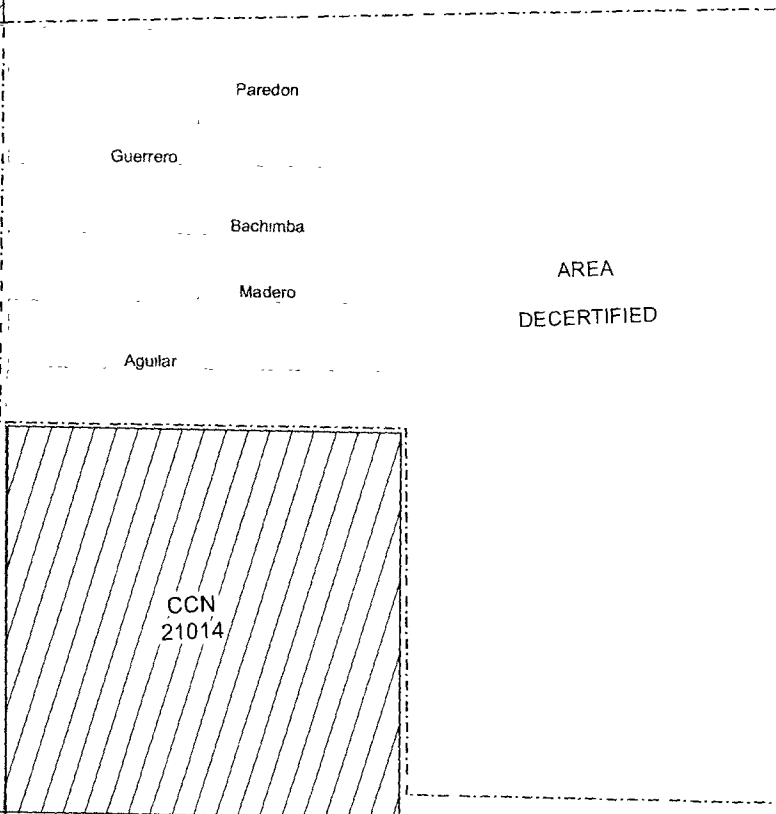
Attachment B

Map for Sewer CCN No. 21008

El Paso Water Utilities Public Service Board
Portion of Sewer CCN No. 21088
PUC Docket No. 48328
Amended CCN No. 21088 in El Paso County



CCN
21008



Paredon

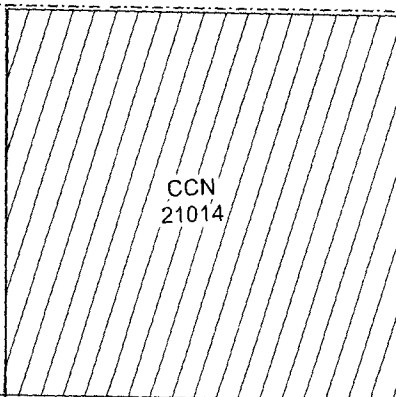
Guerrero

Bachimba

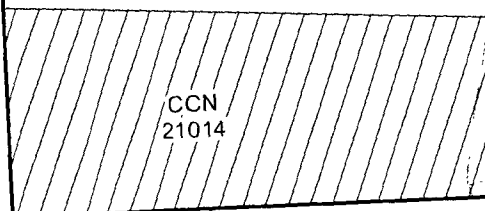
Madero

Aguilar

AREA
DECERTIFIED



CCN
21014



CCN
21014



Desert Sky Dr



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

Sewer CCN



21008 - El Paso Water Utilities PSB



21014 - Paseo Del Este MUD No 1

0 625 1,250
Feet



Map by Komal Patel
Date created August 24, 2018
Project Path n:\finalmapping\
48328ElPasoWaterUtilitiesSewer.mxd

Attachment C




Map for Water CCN No. 10211

El Paso Water Utilities Public Service Board
 Portion of Water CCN No. 10211
 PUC Docket No. 48328
 Amended CCN No. 10211 in El Paso County



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

Water CCN

-  10211 - El Paso Water Utilities PSB
-  12127 - El Paso County
-  13137 - Paseo Del Este MUD No 1

0 625 1,250
 Feet



Map by: Komal Patel
 Date created: August 24, 2018
 Project Path: n:\finalmapping\
 48328ElPasoWaterUtilitiesWater.mxd

Attachment D

Certificate for Sewer CCN No. 21008



Public Utility Commission of Texas

By These Presents Be It Known To All That

El Paso Water Utilities Public Service Board

having obtained certification to provide sewer 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, El Paso Water Utilities Public Service Board, is entitled to this

Certificate of Convenience and Necessity No. 21008

to provide continuous and adequate sewer utility service to that service area or those service areas in El Paso County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48328 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 El Paso Water Utilities Public Service Board, 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 _____ 2018.

Attachment E

Certificate for Water CCN No. 10211



Public Utility Commission of Texas

By These Presents Be It Known To All That

El Paso Water Utilities Public Service Board

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, El Paso Water Utilities Public Service Board, is entitled to this

Certificate of Convenience and Necessity No. 10211

to provide continuous and adequate water utility service to that service area or those service areas in El Paso County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48328 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 El Paso Water Utilities Public Service Board, 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 _____ 2018.