

Control Number: 48405



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APPLICATION OF CREST WATER §
COMPANY TO AMEND A §
CERTIFICATE OF CONVENIENCE AND §
NECESSITY IN JOHNSON COUNTY §

PUBLIC UTILITY COMMISSION
OF TEXAS

JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

COMES NOW applicant, James A. Dyche, d/b/a Crest Water Company (Crest), and Commission Staff (Staff) (collectively, the parties) to jointly file this Motion to Admit Evidence and Proposed Notice of Approval. The parties respectfully request that the specified evidence be admitted and that the attached Notice of Approval be adopted. In support thereof, the parties show the following:

I. BACKGROUND

On May 31, 2018, James A. Dyche, d/b/a Crest Water Company (Crest) filed an application to amend its water Certificate of Convenience and Necessity (CCN) No. 12037 in Johnson County. The total area being requested includes approximately 195 acres and zero current customers. On January 11, 2019, Staff filed its Recommendation on Final Disposition recommending that Crest’s application be approved.

On October 25, 2018, the administrative law judge (ALJ) issued Order No. 5, establishing a procedural schedule and requiring the parties to file joint proposed findings of fact, conclusions of law, and ordering paragraphs by January 18, 2019. Therefore, this pleading is timely filed.

II. MOTION TO ADMIT EVIDENCE

The parties jointly request that the following evidence be admitted into the record of this proceeding:

- Crest’s application filed May 31, 2018 (AIS Item No. 1);
- Notice of the application published in the Texas Register on June 22, 2018 (AIS Item No. 4);
- Response to Order No. 1 filed on July 2, 2018 (AIS Item No. 7);
- Amended Map Data filed on July 2, 2018 (AIS Item No. 8);
- Response to Order #2 filed on August 1, 2018 (AIS Item No. 10);

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Supplemental Information contained in a letter to Ms. Garcia filed on August 14, 2018 (AIS Item No. 11);

Crest's affidavits of proof of notice filed on September 14, 2018, September 17, 2018 (AIS Item Nos. 14 and 15);

Publisher's affidavit of notice of application filed on October 15, 2018 (AIS Item No. 18);

Crest's affidavit of firm capital commitments filed on November 9, 2018 (AIS Item No. 21);

Crest's consent to the final map and certificates filed January 2, 2019 (AIS Item No. 24); and,

Commission Staff's final recommendation filed on January 11, 2019, 2018 (AIS Item No. 25).

III. MOTION TO ADOPT PROPOSED NOTICE OF APPROVAL

The attached Notice of Approval would grant the application of Crest to amend CCN Nos. 12037 (water) service area in Johnson County, Texas. Staff and Crest have reviewed and agree to the attached Proposed Notice of Approval.

This docket was processed in accordance with applicable statutes and Commission rules. Notice of the application was issued pursuant to applicable Commission rules. Crest and Staff are the only parties to this proceeding. The parties jointly request that the attached Proposed Notice of Approval be adopted.

IV. CONCLUSION

The parties respectfully request that the Commission grant the admittance of the specified evidence and adopt the attached Proposed Notice of Approval.

Dated: January 29, 2019

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

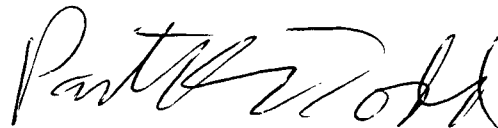
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**DOCKET NO. 48405
CERTIFICATE OF SERVICE**

I certify that a copy of this document was served on all parties of record on January 29, 2019, in accordance with the requirements of 16 TAC § 22.74.



Patrick Todd

DOCKET NO. 48405

APPLICATION OF CREST WATER § PUBLIC UTILITY COMMISSION
COMPANY TO AMEND A §
CERTIFICATE OF CONVENIENCE AND § OF TEXAS
NECESSITY IN JOHNSON COUNTY §

PROPOSED NOTICE OF APPROVAL

This Notice addresses the application of James A. Dyche, d/b/a Crest Water Company (Crest) for an amendment to its certificate of convenience and necessity (CCN) in Johnson County. The Commission approves Crest's supplemented application, and amends its CCN to add 195 acres.

I. FINDINGS OF FACT

Applicant

1. Crest is a d/b/a of James A. Dyche's sole proprietorship.
2. Crest provides water services to an area in Johnson County under water CCN No. 12037.

Application

3. On May 31, 2018, Crest filed an application to amend its CCN to add an area in a new development. The area to be added is composed of a 195-acre tract of land.
4. There is currently no water service in the requested area, and there are no current customers.
5. Carnegie Development has requested Crest to be the retail water utility service provider for the residential development project.
6. Crest has a Texas Commission on Environmental Quality approved public water system number 1260066, which will allow Crest to provide adequate service to the residential development project.
7. Service from other area providers for the 195-acre tract of land is not currently available.
8. Crest has the financial ability to pay for the facilities necessary to provide continuous and adequate service.
9. Crest has demonstrated adequate financial, managerial and technical capabilities to provide continuous and adequate service to the requested area.
10. The land in the requested area will benefit because of the centralized water system and the subsequent reduced need for individual wells.

11. In Order No. 3 issued on August 31, 2018, the administrative law judge (ALJ) deemed Crest's application administratively complete.
12. On July 2, 2018, August 1, 2018, and August 14, 2018, Crest filed additional information to supplement its application.
13. On January 2, 2019, Crest filed a form concurring with the maps, tariff, and certificate as prepared by Commission Staff.

Notice

14. On June 22, 2018, notice of the application appeared in the *Texas Register*.
15. Crest mailed notice of the application to neighboring utilities, counties, cities, landowners, and affected parties on September 12 and September 13, 2018.
16. On September 13, 2018 and September 20, 2018, notice of the application appeared in the *Cleburne Times Review*, a newspaper of general circulation in Johnson County.
17. On September 14, and September 17, 2018, Crest filed the affidavits of James A. Dyche attesting to the provision of notice to current landowners, neighboring utilities and other affected parties.
18. On October 15, 2018, Crest filed a Publisher's Affidavit dated September 24, 2018, attesting to publication on September 13 and 20, 2018, in the *Cleburne Times Review*, a newspaper of general circulation in Johnson County.
19. In Order No. 5 issued on October 25, 2018, the ALJ found the notice sufficient.

Evidentiary Record

20. On _____, Crest and Commission Staff filed a joint proposed order and request to admit evidence.
21. In Order No. 7 issued on _____, the ALJ admitted the following evidence into the record of this proceeding: Crest's application filed May 31, 2018 (AIS Item No. 1); Notice of the application published in the Texas Register on June 22, 2018 (AIS Item No. 4); Response to Order No. 1 filed on July 2, 2018 (AIS Item No. 7); Amended Map Data filed on July 2, 2018 (AIS Item No. 8); Response to Order #2 filed on August 1, 2018 (AIS Item No. 10); Supplemental Information contained in a letter to Ms. Garcia filed on August 14, 2018 (AIS Item No. 11); Crest's affidavits of proof of notice filed on September 14, 2018 and September 17, 2018 (AIS Item Nos. 14, 15); publisher's affidavit of notice of

application filed on October 15, 2018 (AIS Item No. 18); Crest's affidavit of firm capital commitments filed on November 9, 2018 (AIS Item No. 21); Crest's consent to the final map and certificates filed January 2, 2019 (AIS Item No. 24); and, Commission Staff's final recommendation filed on January 11, 2019, 2018 (AIS Item No. 25).

Informal Disposition

22. More than 15 days have passed since the completion of the notice provided in this docket.
23. Crest and Commission Staff are the only parties to this proceeding.
24. No party requested a hearing.
25. On September 12, 2018, Commission Staff recommended approval of the application.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the application filed in this docket under Texas Water Code (TWC) §§ 13.041, and 13.241 through 13.250.
2. Crest 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 in compliance with TWC § 13.246 and 16 TAC § 24.106.
4. The application was processed in accordance with the Administrative Procedure Act,¹ the Texas Water Code and Commission rules.
5. After considering the factors in TWC § 13.246(c), Crest has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and its current service area as required by TWC § 13.241(a).
6. The 195-acre tract of land is not receiving water service from any other utility, as that term has been defined by the courts, in accordance with TWC § 13.254.
7. Crest has demonstrated that the amendment to CCN No. 12037 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. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

¹ Tex. Gov't Code §§ 2001.001—.902.

III. ORDERING PARAGRAPHS

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

1. The Commission amends Crest's CCNs No. 12037.
2. The Commission approves the certificate and map attached to this Notice.
3. The Commission's official service area boundary map for Crest shall reflect the change as provided in the attached map.
4. Crest will serve every customer and applicant for service within the approved area under water CCN No. 12037 that requests water service and meets the terms of Crest's tariff to receive water service and such service will be continuous and adequate.
5. Crest is required to comply with the recording requirements of TWC § 13.257(r) and (s) for the area in Johnson County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.
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