

Control Number: 48491



Item Number: 21

Addendum StartPage: 0

DOCKET NO. 48491

2019 MAR 11 PM 1:24

**APPLICATION OF MSEC
ENTERPRISES, INC. TO AMEND
ITS WATER CERTIFICATE OF
CONVENIENCE AND NECESSITY
IN MONTGOMERY COUNTY** §
§
§
§
§

**BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS**

FILED CLERK

**JOINT MOTION TO ADMIT EVIDENCE AND ADOPT PROPOSED
NOTICE OF APPROVAL**

COMES NOW, MSEC Enterprises, Inc. (MSEC) and Staff of the Public Utility Commission of Texas (Commission Staff) representing the public interest, (collectively, the Parties), and file this Joint Motion to Admit Evidence and Adopt Proposed Notice of Approval. In support thereof, the Parties show the following:

I. BACKGROUND

On June 26, 2018, MSEC filed an application to amend its water Certificate of Convenience and Necessity (CCN) No. 12887 in Montgomery County.

Commission Staff filed a final recommendation of approval on March 4, 2019. Pursuant to Order No. 4, the Parties timely file this joint motion to admit evidence and adopt proposed notice of approval.

II. JOINT MOTION TO ADMIT EVIDENCE

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

1. MSEC's application for a CCN amendment, filed June 26, 2018;
2. The affidavits and notice filed November 9, 2018;
3. The supplemental affidavits and notice filed November 16, 2018;
4. The signed consent forms to the final map and certificate filed February 25, 2019; and
5. Commission Staff's final recommendation of approval of the application filed March 4, 2019.

III. JOINT PROPOSED NOTICE OF APPROVAL

The attached Joint Proposed Notice of Approval would grant MSEC's Application to Amend Water CCN No. 12887 in Montgomery County.

21

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: March 11, 2019

Respectfully Submitted,

**LLOYD GOSSELINK ROCHELLE &
TOWNSEND, P.C.**

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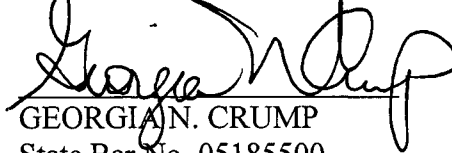
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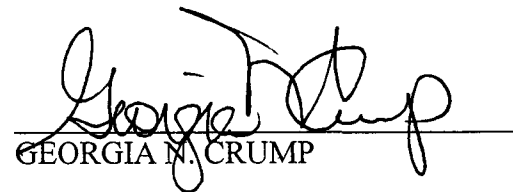
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ATTORNEYS FOR MSEC ENTERPRISES, INC.

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on March 11, 2019, in accordance with 16 TAC § 22.74.



GEORGIA N. CRUMP

DOCKET NO. 48491

APPLICATION OF MSEC § BEFORE THE
ENTERPRISES, INC. TO AMEND §
ITS WATER CERTIFICATE OF § PUBLIC UTILITY COMMISSION
CONVENIENCE AND NECESSITY §
IN MONTGOMERY COUNTY § OF TEXAS

JOINT PROPOSED NOTICE OF APPROVAL

This Joint Proposed Notice of Approval addresses the application of MSEC Enterprises, Inc. (MSEC) to amend water certificate of convenience and necessity (CCN) No. 12887 in Montgomery County. The Commission approves the application, as amended.

The Commission adopts the following findings of fact and conclusions of law:

I. FINDINGS OF FACT

Applicant

1. MSEC is an investor owned utility serving over 5,000 customers in Montgomery and Grimes Counties.
2. MSEC holds CCN No. 12887 and is currently requesting to serve a new service area of approximately 40 acres.

Application

3. On June 26, 2018, MSEC filed an application to amend its water CCN number 12887 in Montgomery County.
4. MSEC seeks to add new service area in central Montgomery County to its CCN. The proposed amendment adds 40 acres and 0 current customers.
5. In Order No. 2, issued on July 27, 2018, the administrative law judge (ALJ) found the application administratively complete.
6. On February 25, 2019, MSEC filed a signed consent form concurring with the CCN service area map, certificate, and tariff prepared by Commission Staff.

Adequacy of Service

7. MSEC currently serves over 5,000 customers in other nearby areas and its existing facilities have no unresolved violations. MSEC has a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under Public Water System (PWS) Identification No. 1700638.

Need for Service

8. MSEC's proposed customers in the requested area will need water service as no other providers in the area are available. BB & RR Sand and Clay LLC has requested water service from the Applicant.

Effect of Granting the Retail Public Utility Amendment

9. No other retail providers are available for the requested area. The amendment will have no effect on any other retail public utility servicing the approximate area.

Ability to Provide Adequate Service

10. MSEC has a TCEQ approved Public Water System, which will allow MSEC to provide adequate service. MSEC has been providing water service since 1997, serving over 5,000 customers in 18 different neighborhoods in Montgomery and Grimes counties.

Feasibility of Obtaining Service from Adjacent Retail Public Utility

11. No other adjacent retail utilities exist or are able to service the requested area.

Financial Ability to Pay for Facilities and Financial Stability

12. MSEC has met the leverage test with a debt service coverage ratio of 1.54, which is greater than 1.25.

Environmental Integrity

13. The Applicant expects that developers of the areas adjacent to the requested area will request service in the near future.

Effect on the Land

14. The land is being developed as an industrial/commercial park. The utilities being constructed to serve the development will not have a negative impact on the land.

Improvement of Service or Lowering of Costs

15. No improvement of service or lowering of cost to customers in that requested area will result from granting the amendment because MSEC will be serving new customers that have not been served previously.

Notice

16. Notice of the application appeared in the July 13, 2018, issue of the *Texas Register*.
17. On November 9, 2018, MSEC filed an affidavit of notice to current customers, landowners, neighboring utilities, and affected parties affirming that notice was mailed on October 2,

2018, and a publisher's affidavit affirming that notice was published in *The Houston Chronicle* in Harris County on October 5, 2018 and October 12, 2018.

18. On November 16, 2018, MSEC filed a revised affidavit of proof of notice to current customers, landowners, neighboring utilities, and affected parties affirming that notice was mailed on October 2, 2018, and a publisher's affidavit affirming that notice was published in *The Houston Chronicle* in Harris County on October 5, 2018 and October 12, 2018.
19. In Order No. 4, issued November 28, 2018, the ALJ deemed notice sufficient.

Evidentiary Record

20. On March 11, 2019, Commission Staff and MSEC filed an agreed motion to admit certain evidence in this proceeding.
21. In Order No. ____, issued _____, the ALJ admitted the following evidence: (a) MSEC's application for a CCN amendment, filed June 26, 2018; (b) the affidavits and notice filed November 9, 2018; (c) the supplemental affidavits and notice filed November 16, 2018; (d) The signed consent forms to the final map and certificate, filed February 25, 2019; and (e) Commission Staff's final recommendation of approval of the application filed March 4, 2019.

Informal Disposition

22. More than 15 days have passed since the completion of the notice provided in this docket.
23. MSEC and Commission Staff are the only parties to this proceeding.
24. No protests, motions to intervene or requests for hearing were filed.
25. There are no disputed issues of fact; therefore, a hearing is not necessary.
26. On March 4, 2019, Commission Staff recommended approval of the application.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the application under Texas Water Code (TWC) §§ 13.241, 13.244 and 13.246.
2. MSEC is a retail public utility as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Notice of the application complies with TWC § 13.246 and 16 TAC § 24.235.

4. The application was processed in accordance with the TWC, the Administrative Procedure Act,¹ and Commission Rules.
5. MSEC 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 and 16 TAC § 24.227.
6. The amendment to CCN No. 12887 is necessary for the service, accommodation, convenience, or safety of the public as required by TWC § 13.246.
7. Under TWC § 13.257(r) and (s), MSEC is required to record a certified copy of the approved CCN and map, along with a boundary description of the 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.
8. 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 order:

1. The Commission approves the application as supplemented.
2. The Commission amends MSEC's CCN No. 12887 in accordance with this Notice.
3. The Commission approves MSEC's tariff in accordance with this Notice.
4. The Commission's official service area boundary maps for MSEC shall reflect this change as shown in the attached map.
5. MSEC must serve every customer and applicant for service within the area certificated under CCN No. 12887, and such service shall be continuous and adequate.
6. MSEC must comply with the recording requirements in TWC § 13.257(r) for the area in Montgomery County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.

¹ Tex. Gov't Code Ann. §§ 2001.001-.902.

7. The Commission denies all other motions and any requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the _____ day of _____, 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

MAYSON PEARSON
ADMINISTRATIVE LAW JUDGE