



Control Number: 48491



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DOCKET NO. 48491

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

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2019 MAY 17
PUBLIC UTILITY COMMISSION
P.U.C.
STATE OF TEXAS

NOTICE OF APPROVAL

This Notice of Approval addresses the application of MSEC Enterprises, Inc. to amend its water certificate of convenience and necessity (CCN) number 12887 to include approximately 40 additional acres in Montgomery County. The Commission approves the application, as supplemented.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. MSEC is an investor owned utility serving over 5,000 customers in Montgomery and Grimes Counties under CCN number 12887.
2. MSEC is a domestic for-profit corporation formed on July 10, 1997, and registered with the Texas secretary of state under file number 145205000.

Application

3. On June 26, 2018, MSEC filed an application to amend water CCN number 12887 in Montgomery County.
4. MSEC seeks to add approximately 40 acres of land with no current customers.
5. The proposed service-area addition is located approximately seven miles west of downtown Conroe and is bounded on the north by a line 2200 feet north of and parallel to Farm-to-Market Road 2854; on the east by a line approximately 1300 feet west of and parallel to Misty Haven Drive; on the south by Farm-to-Market Road 2854; and on the west by a line 2200 feet west of and parallel to Misty Haven Drive.

6. On August 23, 2018, MSEC supplemented the application with corrected digital mapping data.
7. In Order No. 2 issued on October 1, 2018, the administrative law judge (ALJ) found the application administratively complete, as supplemented.
8. On December 21, 2018, MSEC supplemented the application with the total estimated cost to the utility of constructing on-site facilities, a description of the facilities and documents that supported the estimate.
9. No portion of the requested area is located within an incorporated city, a district, or the certificated service area of another utility.
10. On February 25, 2019, MSEC filed a signed consent from concurring with the proposed tariff, map, and certificate prepared by Commission Staff.

Notice of Application

11. Notice appeared in the July 13, 2018 issue of the *Texas Register*.
12. On October 2, 2018, MSEC mailed notice of the application to current customers, landowners, neighboring utilities, and affected parties.
13. On October 5, 2018, and October 12, 2018, MSEC caused notice of the application to be published in *The Houston Chronicle*, a newspaper of general circulation in Montgomery County.
14. On November 9, 2018, MSEC filed the affidavit of Michael Long, attesting to mailed notice.
15. On November 16, 2018, MSEC filed a revised affidavit of proof of notice.
16. In Order No. 4 issued on November 28, 2018, the ALJ found the notice sufficient.

Evidentiary Record

17. On March 11, 2019, Commission Staff and MSEC filed a joint motion to admit evidence.
18. In Order No. 7 issued on April 17, 2019, the ALJ admitted the following evidence into the record: (a) MSEC's application and attachments filed on June 26, 2018; (b) MSEC's affidavit and proof of notice filed on November 9, 2018; (c) MSEC's revised affidavit and proof of notice filed November 16, 2018; (d) MSEC's signed consent form to the final map

and certificate filed on February 25, 2019; (e) Commission Staff's recommendation on final disposition filed on March 4, 2019; and (f) the attached certificate and maps.

Adequacy of Existing Service—TWC § 13.246(c)(1), 16 TAC § 24.227(d)(1)

19. There are no customers in the requested area.
20. There is no water service in the requested area.
21. MSEC currently serves over 5,000 customers in other nearby areas. 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 Additional Service—TWC § 13.246(c)(2), 16 TAC § 24.227(d)(2)

22. The proposed service-area addition is currently undeveloped.
23. BB & RR Sand and Clay LLC has requested water service from MSEC.

Effect of Granting the Amendment—TWC § 13.246(c)(3), 16 TAC § 24.227(d)(3)

24. Granting the CCN amendment will enable MSEC to serve the requested area.
25. The Commission received no protests or concerns from any other adjacent retail public utility.

Ability to Serve: Managerial and Technical—TWC §§ 13.246(c)(4), 13.241(a), 16 TAC §§ 24.227(a), 24.227(d)(4)

26. MSEC has a TCEQ approved Public Water System (PWS) No. 1700638 (Montgomery Trace).
27. MSEC does not have any violations listed in the TCEQ database.

Ability to Serve: Financial Ability and Stability—TWC §§ 13.246(c)(6), 13.241(a), 16 TAC §§ 24.227(a), 24.227(d)(6), 24.11(e)

28. MSEC has the financial ability and financial stability necessary to provide continuous and adequate service to the proposed service-area addition.
29. MSEC has met the leverage test with a debt service coverage ratio of 1.54, which is greater than 1.25.
30. MSEC did not submit projections regarding operations and maintenance shortages in its application; however, based on their 2017 financial statements, MSEC had a net margin

(income) of \$1,325,726 and \$517,185 in cash. Additionally, MSEC will construct a transmission line to serve the proposed industrial/commercial park. The cost of this line will be shared between MSEC and the developer. MSEC will pay its share of costs from funds on hand. Thus, there are no shortages to cover.

Ability to Serve: Public Water System–TWC § 13.246(c)(4), 16 TAC § 24.227(a)(2)

31. MSEC'S public water system is permitted by the TCEQ under public water system identification number 1700638.
32. The anticipated number of connections in the proposed service-area addition is fifteen.
33. MSEC anticipates the installation of a 14-inch water transmission line to serve the requested area.

Service from Other Utilities–TWC § 13.246(c)(5), 16 TAC § 24.227(d)(5)

34. It is not feasible for an adjacent retail public utility to serve the proposed service-area addition because there are no other providers in the requested area.

Environmental Integrity–TWC § 13.246(c)(7), 16 TAC § 24.227(d)(7)

35. The environmental integrity of the land will not be negatively impacted or disrupted as a result of granting the amendment.

Effect on the Land–TWC § 13.246(c)(9), 16 TAC § 24.227(d)(9)

36. Approval of the proposed service-area addition will encourage development in the area,

Improvement in Service–TWC § 13.246(c)(8), 16 TAC § 24.227(d)(8)

37. Granting MSEC's CCN amendment for the service-area addition will enable MSEC to provide water service to the area where no water service is currently available.

Lowering of Cost–TWC § 13.246(c)(8), 16 TAC § 24.227(d)(8)

38. Because there is no existing service, cost will not be lowered.

Tariff, Map, and Certificate

39. On February 11, 2019, Commission Staff emailed its proposed tariff, map, and certificate to MSEC.
40. On February 25, 2019, MSEC filed its consent to the proposed tariff, map, and certificate.

41. On March 4, 2019, Commission Staff filed the proposed tariff, map, and certificate as an attachment to its recommendation.

Informal Disposition

42. More than 15 days have passed since completion of notice provided in this docket.
43. No person filed a protest or motion to intervene.
44. MSEC and Commission Staff are the only parties to the proceeding.
45. No party requested a hearing and no hearing is needed.
46. Commission Staff recommended approval of the application, as supplemented.
47. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this application under Texas Water Code (TWC) §§ 13.041, 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 Commission processed the application in accordance with the requirements of the Administrative Procedure Act,¹ TWC, and Commission rules.
5. MSEC possesses the financial, managerial, and technical capability to provide continuous and adequate service to the requested area as required by TWC § 13.241 and 16 TAC § 24.227.
6. The amendment to CCN number 12887 is required for the public convenience and necessity and is necessary for the service, accommodation, convenience, or safety of the public under TWC §§ 13.242 and 13.246.

¹ Administrative Procedure Act, Tex. Gov't Code §§ 2001.001–.902.

7. MSEC must serve every consumer within the added area under sewer CCN number 12887 and the service must be continuous and adequate under TWC § 13.250.
8. MSEC must record a certified copy of the approved map for the certificate amendment, along with a boundary description of the service area, in the real property records of Montgomery County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording in accordance with TWC § 13.257(r) and (s).
9. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

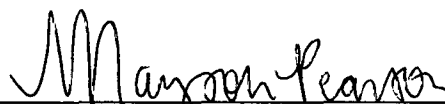
In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission amends MSEC's CCN number 12887 to include the area described by this Notice of Approval and shown on the map attached to this Notice of Approval.
2. The Commission grants the certificate attached to this Notice of Approval.
3. The Commission approves the tariff attached to Commission Staff's recommendation filed on March 4, 2019.
4. Within 10 days after the date of this Notice of Approval, Commission Staff must provide a clean copy of the tariff approved by this Notice of Approval to Central Records to be marked *Approved* and filed in the Commission's tariff book.
5. MSEC must serve every customer and applicant for service within the approved area under water CCN number 12887 that requests water service and meets the terms of MSEC's water service, and such service will be continuous and adequate.
6. MSEC must comply with the recording requirements of TWC § 13.257(r) and (s) for the area in Montgomery County affected by this application.
7. MSEC must file in this docket proof of the recording required in ordering paragraph 6 not later than 45 days after the date of this Notice of Approval.

8. The Commission denies all other motions and any other requests for general or specific that have not been expressly granted.

Signed at Austin, Texas the 17th day of May 2019.

PUBLIC UTILITY COMMISSION OF TEXAS



MAYSON PEARSON
ADMINISTRATIVE LAW JUDGE


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MSEC Enterprises, Inc.
Portion of Water CCN No. 12887
PUC Docket No. 48491
Amended CCN No. 12887 in Montgomery County



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

Water CCN

-  12887 - MSEC Enterprises Inc
-  12947 - Woodland Oaks Utility Co Inc

0 250 500
Feet



Map by: Komal Patel
Date created: January 23, 2019
Project Path: n:\finalmapping\
48491MSECEnterprises.mxd



Public Utility Commission Of Texas

By These Presents Be It Known To All That

MSEC Enterprises, Inc.

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, MSEC Enterprises, Inc., is entitled to this

Certificate of Convenience and Necessity No. 12887

to provide continuous and adequate water utility service to that service area or those service areas in Grimes and Montgomery Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48491 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 MSEC Enterprises, Inc., 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 17th day of May 2019.