

Control Number: 48746



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APPLICATION OF THE CITY OF
MARSHALL TO AMEND ITS
WATER CERTIFICATE OF
CONVENIENCE AND NECESSITY
IN HARRISON COUNTY

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PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
FILING CLERK OF TEXAS

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

COMES NOW, the Staff of the Public Utility Commission of Texas (Staff) representing the public interest, and the City of Marshall (Applicant) (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 October 9, 2018, the City of Marshall (Applicant) filed an application to amend water certificate of convenience and necessity (CCN) number 11064 in Harrison County. Applicant proposes to amend its CCN to include its current customer base and extend its services outside its city limits. The requested service area consists of approximately 15,127 acres and 1,124 current customers.

Staff filed a final recommendation of approval on April 11, 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. Applicant's application for a CCN amendment, filed October 9, 2018;
2. The affidavits and notice, filed December 21, 2018;
3. The supplemental affidavits and notice, filed February 6, 2018;
4. The signed consent form to the final map and certificate, filed April 1, 2019; and
5. Commission Staff's final recommendation of approval of the application, filed April 11, 2019.

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III. JOINT PROPOSED NOTICE OF APPROVAL

The attached Joint Proposed Notice of Approval would grant Applicant's Application to Amend Water CCN No. 11064 in Harrison County.

IV. CONCLUSION

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

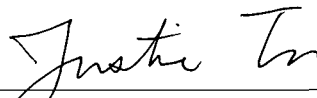
Dated: April 18, 2019

Respectfully Submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Margaret Uhlig Pemberton
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DOCKET NO. 48746

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on April 18, 2019, in accordance with 16 TAC § 22.74.



Justine Isabelle Caedo Tan

1020002, which is operating in compliance with TCEQ requirements and has licensed operators on staff.

Need for Service

8. The requested area of 15,157 acres, which includes 1,124 existing connections, is already being served by the Applicant. Therefore, there is a need for service in the requested area.

Effect of Granting the Retail Public Utility Amendment

9. The Applicant will benefit by adding the requested area and the additional connections. No other retail public utility is currently serving the requested area. Additionally, landowners within the requested area will continue to benefit from a safe and reliable water source and service.

Ability to Provide Adequate Service

10. Applicant has a TCEQ approved Public Water System, which allows Applicant to provide adequate service. Applicant currently provides service to the 1,124 existing connections in the requested area and has adequate production, storage, and distribution systems in place to provide service to the requested area.

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. Applicant has a debt to equity (net assets) ratio of 0.32, which meets the leverage test of less than one.
13. Applicant has met the operations test, demonstrating that it has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations.

Environmental Integrity and Effect on the Land

14. The environmental integrity of the land will not be affected as no additional construction is needed to provide service to the requested area.

Improvement of Service or Lowering of Costs

15. The customers' water rates will not be affected by the transaction because the requested area is already being served by the Applicant.

Notice

16. Notice of the application appeared in the October 15, 2018 issue of the *Texas Register*.

17. On November 9, 2018, Applicant filed an affidavit of notice to current customers, landowners, neighboring utilities, and affected parties, and a publisher's affidavit affirming that notice was published in *The Marshall News Messenger* in Harrison County on November 27, 2018 and December 4, 2018.
18. On November 16, 2018, Applicant filed a revised affidavit of proof of notice to current customers, landowners, neighboring utilities, and affected parties to indicate that notice was mailed on November 18, 2018.
18. In Order No. 4, issued February 20, 2019, the ALJ deemed notice sufficient.

Evidentiary Record

19. On April 18, 2019, Commission Staff and Applicant filed an agreed motion to admit certain evidence in this proceeding.
20. In Order No. ____, issued _____, the ALJ admitted the following evidence: (a) Applicant's application for a CCN amendment, filed October 9, 2018; (b) the affidavits and notice, filed December 21, 2018; (c) the supplemental affidavits and notice, filed February 6, 2018; (d) the signed consent form to the final map and certificate, filed April 1, 2019; and (e) Commission Staff's final recommendation of approval of the application, filed April 11, 2019.

Informal Disposition

21. More than 15 days have passed since the completion of the notice provided in this docket.
22. Applicant and Commission Staff are the only parties to this proceeding.
23. No protests, motions to intervene or requests for hearing were filed.
24. There are no disputed issues of fact; therefore, a hearing is not necessary.
25. On April 11, 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. Applicant 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. Applicant 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. 11064 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), Applicant 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.
2. The Commission amends Applicant's CCN No. 11064 in accordance with this Notice.
3. The Commission's official service area boundary maps for Applicant shall reflect this change as shown in the attached map.
4. Applicant must serve every customer and applicant for service within the area certificated under CCN No. 11064, and such service shall be continuous and adequate.
5. Applicant must comply with the recording requirements in TWC § 13.257(r) for the area in Harrison 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 requests for general or specific relief, if not expressly granted.

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

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

PUBLIC UTILITY COMMISSION OF TEXAS

MAYSON PEARSON
ADMINISTRATIVE LAW JUDGE