



Control Number: 48746



Item Number: 48

Addendum StartPage: 0



**DOCKET NO. 48746**

<b>APPLICATION OF THE CITY OF</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>MARSHALL TO AMEND ITS</b>	<b>§</b>	
<b>WATER CERTIFICATE OF</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CONVENIENCE AND NECESSITY</b>	<b>§</b>	
<b>IN HARRISON COUNTY</b>	<b>§</b>	

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

COMES NOW the Staff of the Public Utility Commission of Texas (Staff) and files this Agreed Motion to Admit Evidence and Proposed Notice of Approval, with agreement from the City of Marshall (Marshall) (together, the Parties). In support thereof, the Parties show the following:

**I. BACKGROUND**

On October 9, 2018, the City of Marshall (Marshall) filed an application to amend its water Certificate of Convenience and Necessity (CCN) No. 11064 in Harrison County, Texas pursuant to Texas Water Code (TWC) §§ 13.242 to 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237.

Staff recommended approval of the application on June 22, 2020. The procedural schedule adopted in Order No. 13 issued on May 18, 2020 set the deadline to file a motion to admit evidence and proposed notice of approval as July 5, 2020. This pleading is therefore timely filed.<sup>1</sup>

**II. AGREED MOTION TO ADMIT EVIDENCE**

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

- A. Marshall's Application to Obtain or Amend a Water or Sewer Certificate of Convenience and Necessity, filed on October 9, 2018 (AIS Item No. 1), and amended on April 15, 2020 (AIS Item No. 38), and May 15, 2020 (AIS Item No. 43);
- B. The notices, affidavits, and proof of notice, filed on December 21, 2018 (AIS Item No. 7) and February 6, 2019 (AIS Item No. 10);

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<sup>1</sup> The Commission is closed for business on Sunday, July 5, 2020; therefore, the deadline is July 6, 2020 under 16 TAC § 22.4(a).

- C. Marshall's Response to Staff's First Request for Information, filed on October 14, 2019 (AIS Item No. 20);
- D. Marshall's Response to Staff's Second Request for Information, filed on November 22, 2019 (AIS Item No. 25);
- E. Marshall's Response to Staff's Third Request for Information, filed on April 13, 2020 (AIS Item Nos. 36 and 37)
- F. Marshall's Response to Staff's Fourth Request for Information, filed on May 21, 2020 (AIS Item No. 45);
- G. The consent forms to the final map and certificate, filed on June 3, 2020 (AIS Item No. 46); and
- H. Commission Staff's Final Recommendation that the Application be approved, filed on June 22, 2020 (AIS Item No. 47).

### **III. PROPOSED NOTICE OF APPROVAL**

The Parties have agreed on the attached Proposed Notice of Approval to grant Marshall's Application to amend its water Certificate of Convenience and Necessity (CCN) No. 11064 in Harrison County, Texas. Also attached are the certificate and map from Staff's final recommendation.

### **IV. CONCLUSION**

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

**Dated: July 6, 2020**

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Rachelle Nicolette Robles  
Division Director

Eleanor D'Ambrosio  
Managing Attorney

/s/ John Harrison

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**DOCKET NO. 48746**

**CERTIFICATE OF SERVICE**

I hereby certify that, unless otherwise ordered by the presiding officer, a true and correct copy of the foregoing document was transmitted by electronic mail to the parties of record on July 6, 2020, in accordance with the Order Suspending Rules issued in Docket No. 50664.

/s/ John Harrison

John Harrison

**DOCKET NO. 48746**

<b>APPLICATION OF THE CITY OF</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>MARSHALL TO AMEND ITS</b>	<b>§</b>	
<b>WATER CERTIFICATE OF</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CONVENIENCE AND NECESSITY</b>	<b>§</b>	
<b>IN HARRISON COUNTY</b>	<b>§</b>	

**PROPOSED NOTICE OF APPROVAL**

This Proposed Notice of Approval addresses the application filed by the City of Marshall (Marshall) to amend water Certificate of Convenience and Necessity (CCN) number 11064 to add 11,858 acres of in Harrison County, which includes 1,320 existing customers. The Commission approves the application and amends Marshall's water CCN number 11064 to include the requested area.

**I. Findings of Fact**

The Commission makes the following findings of fact:

**Applicant**

1. Marshall is a home rule municipality that provides water service under CCN number 11064 in Harrison County.
2. Marshall owns and operates a water system registered with the Texas Commission on Environmental Quality (TCEQ) under public water system (PWS) identification number 1020002.

**Application**

3. On October 9, 2018, Marshall filed an application to amend its water CCN number 11064 in Harrison County to include its current customer base and extend service outside its city limits. The requested service area consisted of approximately 15,127 acres and 1,124 customers.
4. In Order No. 2 issued on November 14, 2018, the administrative law judge (ALJ) found the application administratively complete.
5. In Order No. 6 issued on August 29, 2019, the ALJ directed Marshall to provide sufficient evidence to enable the Commission to determine if Marshall had

demonstrated a need to provide service for the entire service area proposed in the application.

6. On April 15, 2020, Marshall filed an amendment to its application reducing the requested area.
7. On May 15, 2020, Marshall filed a second amendment to its application adjusting the boundaries of the requested area.
8. Following these modifications, Marshall's application seeks to conform the boundaries of its CCN to include existing Marshall customers and facilities. The amended requested area includes approximately 11,858 total acres and 1,320 current customers.
9. On June 3, 2020, Marshall filed signed consent forms agreeing with the CCN service area map and certificates prepared by Commission Staff.

#### **Notice of Application**

10. Notice of the application appeared in the October 26, 2018, issue of the *Texas Register*.
11. On December 21, 2018, Marshall filed a publisher's affidavit attesting to notice by publication in *The Marshall News Messenger*, a newspaper of general circulation in Harrison, Panola, Marion, and Cass Counties, and generally circulated in Harrison County on November 27, 2018 and December 4, 2018.
12. On February 6, 2019, Marshall filed the affidavit of Nancy Pasel, Assistant Director Services for Marshall, attesting that notice was mailed to current customers, landowners, neighboring utilities, and affected parties on November 19, 2018.
13. In Order No. 4 issued on February 20, 2019, the ALJ found the notice sufficient.

#### **Evidentiary Record**

14. On July 6, 2020, Commission Staff filed an agreed motion to admit evidence on behalf of itself and Marshall.
  - I. In Order No. 14 issued on \_\_\_\_\_, 2020, the ALJ admitted the following evidence into the record of this proceeding: (a) Marshall's Application to Obtain or Amend a Water or Sewer Certificate of Convenience and Necessity, filed on October 9, 2018, and amended on April 15, 2020 and May 51, 2020; (b) The notices, affidavits, and proof of notice, filed on December 21, 2018 and February 6, 2019; (c) Marshall's Response to Staff's First Request for Information, filed on October 14, 2019 (AIS Item

No. 20); (d) Marshall's Response to Staff's Second Request for Information, filed on November 22, 2019 (AIS Item No. 25); (e) Marshall's Response to Staff's Third Request for Information, filed on April 13, 2020; (f) Marshall's Response to Staff's Fourth Request for Information, filed on May 21, 2020; (g) The consent forms to the final map and certificate, filed on June 3, 2020; and (h) Commission Staff's Final Recommendation that the Application be approved, filed on June 22, 2020.

**Adequacy of Existing Service – TWC § 13.246(c)(1), 16 TAC § 24.227(e)(2)**

15. Marshall's PWS No. 1160042 is registered with the TCEQ.
16. The water system serving the requested area was approved by TCEQ and is currently in operation.

**Need for Additional Service – TWC § 13.246(c)(2), 16 TAC § 24.227(e)(2)**

17. There is a need for service as Marshall is currently providing service to 1,320 existing customers in the requested area.

**Effect of Granting the Amendment – TWC § 13.246(c)(3), 16 TAC § 24.227(e)(2)**

18. Marshall will benefit by adding the requested area and the additional connections, which is it already serving.
19. No other retail public utility is currently serving the requested area.
20. Landowners within the requested area will continue to benefit from a safe and reliable water source and service.

**Ability to Serve: Managerial and Technical – TWC §§ 13.246(c)(4), 13.241(a), (b); 16 TAC §§ 24.227(a), (e)(4)**

21. Marshall currently provides service to 1,320 current customers in the requested area.
22. The application does not indicate that additional connections will be added as a result of the CCN amendment; therefore, there are no additional facilities necessary and the adequacy of service should be unchanged by the CCN amendment.
23. Marshall has adequate production, storage, and distribution system in place to provide service to the requested area and its PWS is in compliance with TCEQ requirements.
24. Marshall employs an adequate number of TCEQ-licensed operators to operate and maintain its PWS.

25. Marshall has the managerial and technical capability to provide continuous and adequate service to the requested area.

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

26. Marshall satisfies the leverage test with a debt to equity ratio of 0.16, which is less than one
27. Marshall has a debt-service-coverage ratio of 0.32 and sufficient unrestricted cash available to cover two years of debt service.
28. Marshall has demonstrated sufficient cash is available to cover any projected operations and maintenance shortages in the next five years of operations.
29. Marshall has the financial ability and stability to pay for the facilities necessary to provide continuous and adequate service to the requested area.

**Financial Assurance – TWC § 13.246(d); 16 TAC § 24.227(e)**

30. There is no need to require Marshall to provide a bond or other financial assurance to ensure continuous and adequate service.

**Service from Other Utilities – TWC § 13.241(c)(5); 16 TAC § 24.227(e)(5)**

31. It is not feasible for an adjacent utility to provide service to the requested area because Marshall currently provides service in the areas requested using existing infrastructure.
32. Notice was provided to the neighboring retail public utilities and no protest or request for hearing was made.

**Regionalization or Consolidation – TWC §§ 13.241(d); 16 TAC § 24.227(b)**

33. Marshall provides service to 1,320 current customers from an existing PWS and will not need to construct a physically separate water system to serve the requested area; therefore, concerns of regionalization or consolidation are not applicable.

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

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

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

35. No improvement of service or lowering of cost to customers in that requested area will result from granting the amendment because Marshall will continue serving existing customers with existing facilities.

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

36. Marshall's service and rates provided to the requested area will not change.

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

37. There is no effect on the land in the requested area. Marshall does not propose to construct any new facilities but will continue to provide service with its existing facilities in the requested area.

**Certificate and Map**

38. On May 30, 2020, Commission Staff emailed its proposed map and certificate to Marshall.
39. On June 3, 2020, Marshall filed its consent to the proposed map and certificate.
40. On June 22, 2020, Staff filed the proposed map and certificate as an attachment to its final recommendation.

**Informal Disposition**

41. More than 15 days have passed since the completion of the notice provided in this docket.
42. Marshall and Commission Staff are the only parties to this proceeding.
43. No party requested a hearing and no hearing is needed.
44. This decision is not adverse to any party.
45. On June 22, 2020, Commission Staff recommended approval of the application.

**II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over the application under Texas Water Code (TWC) §§ 13.041, 13.241, 13.244 and 13.246.
2. Marshall is a retail public utility as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).

3. Notice of the application was provided in compliance with TWC § 13.246 and 16 TAC § 24.235.
4. The application was processed in accordance with the TWC, the Administrative Procedure Act,<sup>2</sup> and Commission Rules.
5. After consideration of the factors in TWC § 13.246(c) and 16 TAC § 24.227(e), Marshall has demonstrated the financial, managerial, and technical capability to provide continuous and adequate service to the requested area in Harrison County as required by TWC § 13.241 and 16 TAC § 24.227.
6. The amendment to CCN number 11064 will serve the public and is necessary for the service, accommodation, convenience, or safety of the public as required by TWC §§ 13.242 and 13.246
7. Under TWC § 13.257(r) and (s), Marshall must record a certified copy of the approved certificate and map, along with a boundary description of the service area, in the real property records of Harrison County within 31 days of receiving this Notice 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 orders:

1. The Commission amends Marshall's water CCN number 11064 in Harrison County to add the requested area as described in this Notice and shown on the map attached to this Notice.
2. The Commission grants the certificate and map attached to this Notice.
3. Marshall must serve every customer and applicant for service within the area certificated under CCN number 11064 who requests water service and meets the terms of Marshall's water service, and such service shall be continuous and adequate.

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<sup>2</sup> Tex. Gov't Code Ann. §§ 2001.001-.902.

4. Marshall must comply with the recording requirements of TWC § 13.257(r) and (s) for the area in Harrison County affected by the application.
5. Marshall must file in this docket proof of the recording required in ordering paragraph 4 not later than 45 days after the date of this Notice.
6. 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 \_\_\_\_\_, 2020.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**ADMINISTRATIVE LAW JUDGE**

## CONSENT FORM

**Docket 48746:** *Application of City of Marshall to Amend its Certificate of Convenience and Necessity (CCN) in Harrison County*

☐ I concur with the map and certificate transmitted by e-mail on **May 30, 2020**

☐ I do not concur with the map and certificate transmitted by e-mail on **May 30, 2020**

I understand that I have until **June 14, 2020** to provide my response.

I am authorized by City of Marshall to sign this form.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Relationship to Applicant: \_\_\_\_\_

Date signed: \_\_\_\_\_

Please mail the original and 10 copies to:  
Public Utility Commission of Texas  
Central Records  
P.O. Box 13326  
Austin, Texas 78711-3326

or for Shipping/Overnight Delivery:  
Public Utility Commission of Texas  
Central Records  
1701 N. Congress, Suite 8-100  
Austin, Texas 78701



# **Public Utility Commission Of Texas**

**By These Presents Be It Known To All That**

## **City of Marshall**

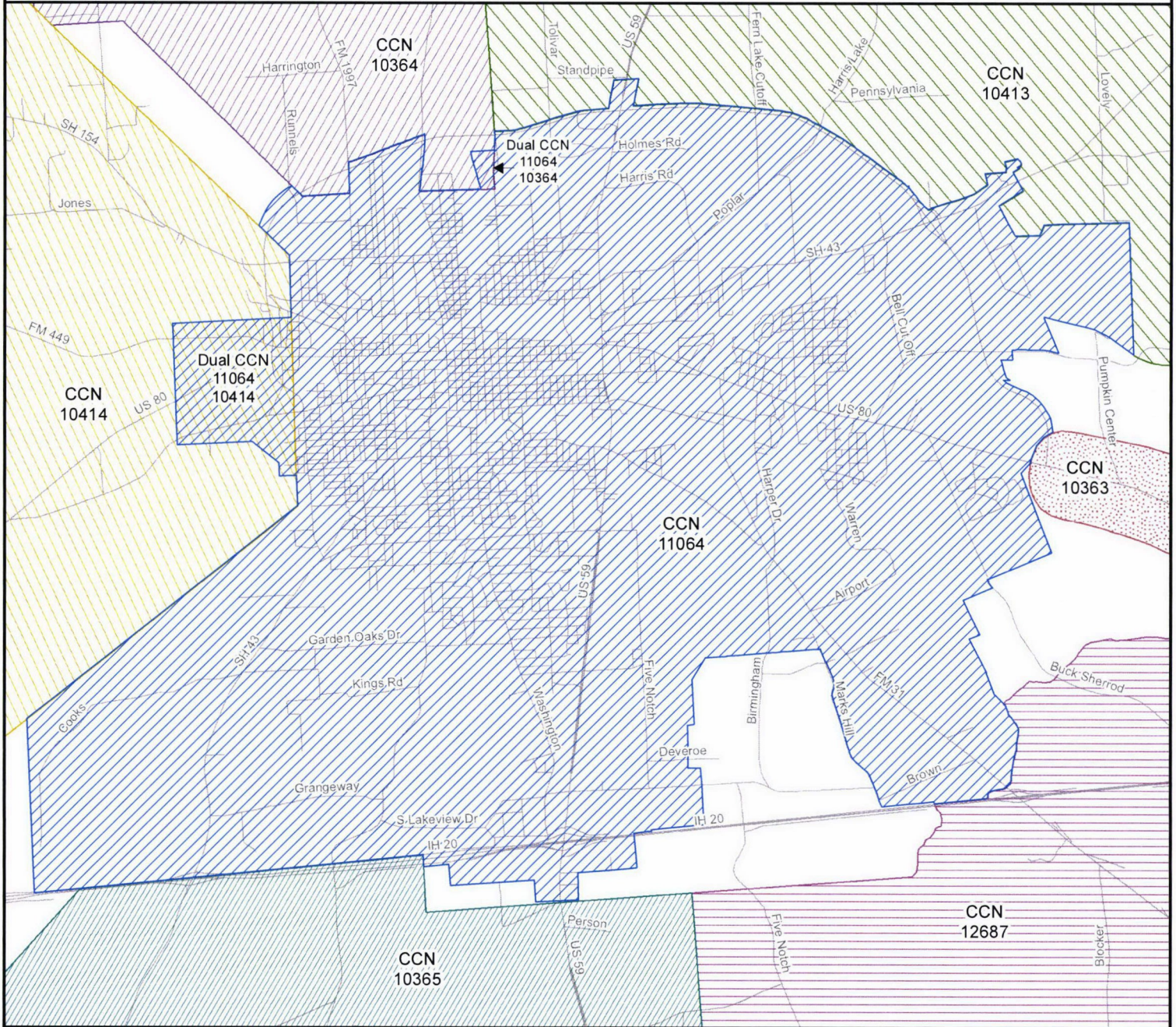
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Marshall is entitled to this

### **Certificate of Convenience and Necessity No. 11064**








to provide continuous and adequate water utility service to that service area or those service areas in Harrison County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48746 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 City of Marshall, 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 \_\_\_\_\_ 2019.

City of Marshall  
Water CCN No. 11064  
PUC Docket No. 48746  
Amended CCN No. 11064 in Harrison County



**Water CCN**

-  11064 - City of Marshall
-  10414 - Talley WSC
-  10364 - Cypress Valley WSC
-  10413 - Leigh WSC
-  10363 - City of Scottsville
-  12687 - Blocker-Crossroads WSC
-  10365 - Gill WSC

0 3,000 6,000  
Feet



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

Map by: Komal Patel  
Date created: March 15, 2019  
Date updated: May 13, 2020  
Project Path: n:\finalmapping\  
48746CityofMarshallUpdate.mxd