



Control Number: 48746



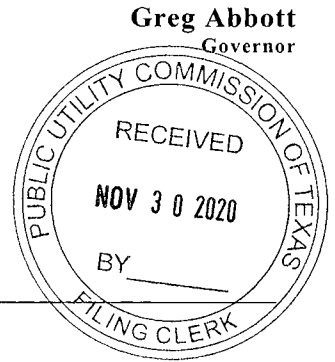
Item Number: 50

Addendum StartPage: 0

**DeAnn T. Walker**  
Chairman  
**Arthur C. D'Andrea**  
Commissioner  
**Shelly Botkin**  
Commissioner  
**John Paul Urban**  
Executive Director



*Public Utility Commission of Texas*



TO: DeAnn T. Walker, Chairman  
Arthur C. D'Andrea, Commissioner  
Shelly Botkin, Commissioner  
  
All Parties of Record

FROM: Steven Leary *SL*  
Administrative Law Judge

RE: **Open Meeting of January 14, 2021**  
**Docket No. 48746** – *Application of Marshall to Amend its Water Certificate of Convenience and Necessity in Harrison County*

DATE: November 30, 2020

**Because of the COVID-19 state of disaster, the Commission has moved to a work-at-home environment and is working to maintain operations as normally as possible. However, all known challenges have not yet been overcome and the dates provided in this notice are subject to change.**

Enclosed is a copy of the Proposed Order in the above-referenced docket. The Commission will consider this docket at an open meeting currently scheduled to begin at 9:30 a.m. on Thursday, January 14, 2021, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties must file corrections or exceptions to the Proposed Order on or before Monday, January 4, 2021.

**If there are no corrections or exceptions, no response is necessary.**

tha  
Q:\CADM\Docket Management\Water\CCN\48xxx\48746 PO Memo.docx



**DOCKET NO. 48746**

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

**PROPOSED ORDER**

This Order addresses the application filed by the City of Marshall for an amendment to its water certificate of convenience and necessity (CCN) number 11064 to add approximately 11,858 acres to its water service area in Harrison County. The Commission amends Marshall's water CCN to the extent provided in this Order.

**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 identification number 1020002.

**Application**

3. On October 9, 2018, Marshall filed an application to amend its water CCN number 11064 in Harrison County. In its initial application, Marshall requested to add approximately 15,127 acres containing 1,124 customers to its existing water service area.
4. In Order No. 2 filed on November 14, 2018, the administrative law judge (ALJ) found the application administratively complete.
5. In Order No. 6 filed on August 29, 2019, the ALJ directed Marshall to provide additional information to enable the Commission to determine if Marshall had demonstrated a need to provide service for the entire requested area.

6. On April 15 and May 15, 2020, amended its application, reducing size of the requested area.
7. The requested area, as amended, includes approximately 11,858 acres and 1,320 current customers.
8. The requested area, as amended, extends approximately one mile north, east, south, and west of downtown Marshall, Texas, and is generally bounded on the north by Loop 360; on the east by a line approximately 0.3 miles east of and parallel to County Road 2218; on the south by a line approximately 0.5 miles south of and parallel to Interstate Highway 20; and on the west by Cooks Road.

#### Notice

9. Notice of the application appeared in the October 26, 2018 issue of the *Texas Register*.
10. On December 21, 2018, Marshall filed the affidavit of J.C. Hughes, Marshall's public services director, attesting that notice of the application was mailed to current customers, landowners, neighboring utilities, and affected parties. The affidavit did not specify the date of mailing.
11. On December 21, 2018, Marshall filed a publisher's affidavit attesting that notice was published in the *Marshall News Messenger*, a newspaper of general circulation in Harrison County, on November 27 and December 4, 2018.
12. On February 6, 2019, Marshall filed the affidavit of Nancy Pasel, assistant director of 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 filed on February 20, 2019, the ALJ deemed notice sufficient.

#### Evidentiary Record

14. On April 18, 2019, the parties filed a joint motion to admit evidence.
15. In Order No. 5 filed on June 28, 2019, the ALJ admitted the following evidence into the record of this proceeding: (a) Marshall's application filed on October 9, 2018; (b) proof of mailed and published notice filed on December 21, 2018; (c) supplemental proof of notice filed on February 6, 2019; (d) consent form filed on April 1, 2019; and (e) Commission Staff's recommendation on final disposition filed on April 11, 2019.

16. On July 6, 2020, the parties filed a second joint motion to admit evidence.
17. In Order No. 14 filed on August 12, 2020, the ALJ admitted the following evidence into the record of this proceeding: (a) Marshall's application filed October 9, 2018, (b) application amendments filed on April 15 and May 15, 2020; (c) the notices, affidavits, and proof of notice, filed on December 21, 2018 and February 6, 2019; (d) Marshall's response to Commission Staff's first request for information filed on October 14, 2019; (e) Marshall's response to Commission Staff's second request for information filed on November 22, 2019; (f) Marshall's response to Commission Staff's third request for information filed on April 13, 2020; (g) Marshall's response to Commission Staff's fourth request for information, filed on May 21, 2020; (h) the consent form to the final map and certificate filed on June 3, 2020; and (i) Commission Staff's recommendation on final disposition filed on June 22, 2020.

**Adequacy of Existing Service—Texas Water Code (TWC) § 13.246(c)(1), 16 Texas Administrative Code (TAC) § 24.227(e)(1)**

18. Marshall has a public water system registered with the TCEQ and is currently operating in compliance with TCEQ requirements.
19. Marshall is currently providing service to 1,320 existing customers in the requested area and the quality of that service is adequate.

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

20. Marshall is currently providing service to 1,320 existing customers in the requested area; therefore, there is a continuing need for service.
21. The application does not reflect that requests for additional service were received.
22. Marshall seeks to conform its CCN area to the areas it currently serves.

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

23. Granting the CCN amendment will obligate Marshall to continue serving its 1,320 existing customers in the requested area and to provide service to future customers in the requested area.

24. Notice of the application was provided to neighboring retail public utilities and no protests or adverse comments were received; therefore, there is no evidence that there will be any adverse effect on any other retail public utility.
25. 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 §§ 13.241(a), (c), 13.246(c)(4); 16 TAC § 24.227(a), (e)(4)**

26. Marshall currently provides service to the 1,320 current customers in the requested area.
27. 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 will be unchanged by the CCN amendment.
28. Marshall has access to an adequate supply of water and is capable of providing drinking water that meets the requirements of chapter 341 of the Health and Safety Code, chapter 13 of the TWC, and the TCEQ's rules.
29. Marshall employs an adequate number of TCEQ-licensed operators to operate and maintain its public water system.
30. Marshall has the managerial and technical capability to provide continuous and adequate service to the requested area.

**Feasibility of Obtaining Service from Other Utilities—TWC § 13.246(c)(5), 16 TAC § 24.227(e)(5)**

31. Notice was provided to the neighboring retail public utilities and no protests or adverse comments were received.
32. It is not feasible for an adjacent utility to provide service to the requested area because Marshall currently provides service in the requested area.

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

33. Marshall has a debt-to-equity ratio of less than one, satisfying the leverage test.

34. Marshall has sufficient cash on hand to cover any projected operations and maintenance shortages in the first five years of operations following the granting of the requested amendment, satisfying the operations test.
35. Marshall has the financial ability and stability to provide continuous and adequate service to the requested area.

**Financial Assurance—TWC § 13.246(d); 16 TAC § 24.227(f)**

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

**Environmental Integrity and Effect on the Land—TWC § 13.246(c)(7) and (c)(9); 16 TAC § 24.227(e)(7) and (e)(9)**

37. The land and the environmental integrity of the area will not be affected by the granting the CCN amendment because no additional construction is needed to provide service to the requested area.

**Improvement in Service and Lowering Cost—TWC § 13.246(c)(8), 16 TAC § 24.227(e)(8)**

38. No improvement of service or lowering cost to customers in the requested area will result from granting the CCN amendment.

**Regionalization or Consolidation—TWC §§ 13.241(d), 16 TAC § 24.227(b)**

39. Marshall will not need to construct a physically separate water system to serve the requested area; therefore, concerns of regionalization or consolidation are not applicable.

**Map and Certificate**

40. On May 30, 2020, Commission Staff emailed its proposed map and certificate to Marshall.
41. On June 3, 2020, Marshall filed its signed consent form, concurring with the proposed map and certificate.
42. On June 22, 2020, Commission Staff filed the proposed map and certificate as an attachment to its final recommendation.

**Informal Disposition**

43. More than 15 days have passed since the completion of the notice provided in this docket.
44. No person filed a protest or motion to intervene.
45. Commission Staff and Marshall are the only parties to this proceeding.

46. No party requested a hearing and no hearing is needed.
47. Commission Staff recommended approval of the application.
48. This 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 the application under 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 TAC § 24.3(31).
3. Marshall provided notice of the application that 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<sup>1</sup>, the TWC, 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. It is not necessary for Marshall to provide a bond or other financial assurance under TWC § 13.246(d) or 16 TAC § 24.227(f).
7. 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 §§ 13.246(b) and 16 TAC § 24.227(d).
8. Marshall is required to record a certified copy of its approved map for the certificate amendments, along with a boundary description of its service areas, in the real property records of Harrison County within 31 days of receiving this Order and submit to the Commission evidence of the recording, as required by TWC § 13.257(r) and (s).

---

<sup>1</sup> Tex. Gov't Code §§ 2001.001–.903.



9. The requirements for informal disposition under 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 Order and shown on the map attached to this Order.
2. The Commission issues the certificate attached to this Order.
3. The Commission approves the map attached to this Order.
4. Marshall must provide service to 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 must be continuous and adequate.
5. Marshall must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Harrison County affected by this application and file evidence of the recording in this docket no later than 45 days after receipt of this Order.
6. The Commission denies all other motions any other requests for general or specific relief, not expressly granted.

Signed at Austin, Texas the \_\_\_\_\_ day of \_\_\_\_\_ 2021.

**PUBLIC UTILITY COMMISSION OF TEXAS**

---

**DEANN T. WALKER, CHARIMAN**

---

**ARTHUR C. D'ANDREA, COMMISSIONER**

---

**SHELLY BOTKIN, COMMISSIONER**



# **Public Utility Commission Of Texas**

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

## **City of Marshall**

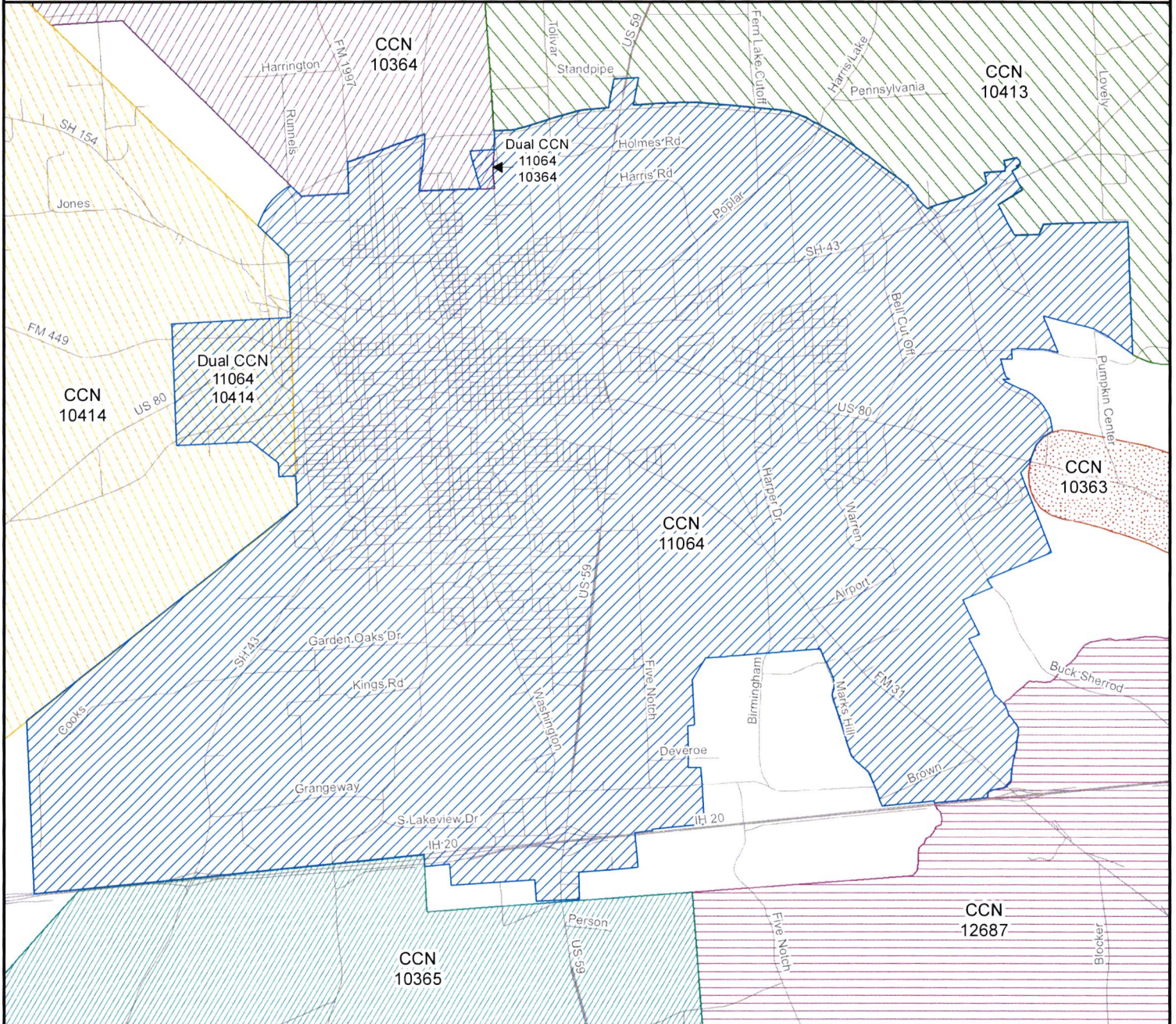
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Marshall is entitled to this

### **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 \_\_\_\_\_ 2021.

**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

