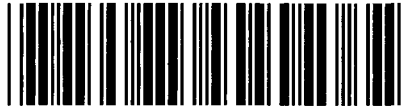




Control Number: 48746



Item Number: 53

Addendum StartPage: 0

DOCKET NO. 48746

RECEIVED
2021 JAN 14 PM 4: 01
FCC
PUBLIC UTILITY COMMISSION
OF TEXAS
FILED

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

§
§
§
§
§

PUBLIC UTILITY COMMISSION
OF TEXAS

ORDER

This Order addresses the application filed by the City of Marshall to amend its water certificate of convenience and necessity (CCN) number 11064 in Harrison County. The Commission amends CCN number 11064 to the extent provided in this Order.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant TWC §§ 13.002(12), 13.244(a) and 16 TAC §§ 24.231, 24.233(a)

1. Marshall is a home-rule municipality that provides water service under CCN number 11064 in Harrison County.
2. Marshall is a retail public utility that provides retail water service to approximately 11,091 customers in Harrison County.
3. Marshall owns and operates a water system registered with the Texas Commission on Environmental Quality (TCEQ) under public water system identification number 1020002.

Application TWC § 13.244 and 16 TAC §§ 24.233(a), 24.257

4. 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.
5. In Order No. 2 filed on November 14, 2018, the administrative law judge (ALJ) found the application administratively complete.
6. On April 14, 2019, Commission Staff filed a final recommendation, with an attached proposed map and certificate, recommending that the Commission amend Marshall's CCN to include the 15,127-acre requested area.

7. 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.
8. On April 15 and May 15, 2020, Marshall amended its application, reducing the size of the requested area.
9. The requested area, as amended, includes approximately 11,858 acres and 1,320 current customers.
10. The requested area, as amended, extends approximately one mile north, east, south, and west of downtown Marshall, Texas, and is generally bounded as follows:
 - a. on the north by Loop 360;
 - b. on the east by a line approximately 0.3 miles east of and parallel to County Road 2218;
 - c. on the south by a line approximately 0.5 miles south of and parallel to Interstate Highway 20;
 - d. and on the west by Cooks Road.
11. On June 22, 2020, Commission Staff filed a revised final recommendation, with an attached final proposed map and certificate, recommending that the Commission amend Marshall's CCN to include the 11,858-acre requested area.

Notice *TWC § 13 246(a)-(a-1) and 16 TAC § 24 235*

12. On December 21, 2018, Marshall filed the affidavit of J.C. Hughes, Marshall's public services director, testifying 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.
13. 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.

14. 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.
15. In Order No. 4 filed on February 20, 2019, the ALJ deemed notice sufficient.

Evidentiary Record *16 TAC §§ 22.221–228*

16. On April 18, 2019, the parties filed a joint motion to admit evidence.
17. 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) Marshall's first consent form filed on April 1, 2019; and (e) Commission Staff's first final recommendation on final disposition filed on April 11, 2019.
18. On July 6, 2020, the parties filed a second joint motion to admit evidence.
19. 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 forms to the final map and certificate filed on June 3, 2020; and (i) Commission Staff's second final recommendation on final disposition filed on June 22, 2020.

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

20. Marshall has a public water system registered with the TCEQ and is currently operating in compliance with TCEQ requirements.
21. Marshall is currently providing service in the requested area, and such service has been continuous and adequate.

Need for Service *TWC § 13 246(c)(2) and 16 TAC § 24 227(e)(2)*

22. Marshall is currently providing service to 1,320 existing customers in the requested area.
23. The application does not reflect that requests for additional service were received.
24. Marshall seeks to conform its CCN area to the areas it currently serves.

Effect of Granting the Amendment *TWC § 13 246(c)(3) and 16 TAC § 24.227(d)(3)*

25. 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.
26. No protests, adverse comments, or motions to intervene were filed by any adjacent retail public utility in this docket.
27. 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), 13 246(c)(4) and 16 TAC § 24 227(a), (e)(4)*

28. Marshall currently provides service to the 1,320 current customers in the requested area.
29. The application does not indicate that additional connections will be added as a result of the CCN amendment.
30. 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 Texas Health and Safety Code, the TWC, and the TCEQ's rules.
31. Marshall employs an adequate number of TCEQ-licensed operators to operate and maintain its public water system.
32. 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) and 16 TAC § 24 227(e)(5)*

33. Notice was provided to the neighboring retail public utilities and no protests or adverse comments were received.
34. 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) and 16 TAC §§ 24 11(e), 24 227(a)*

35. Marshall has a debt-to-equity ratio of less than one, satisfying the leverage test.
36. 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.
37. Marshall has the financial ability and stability to provide continuous and adequate service to the requested area.

Financial Assurance *TWC § 13 246(d) and 16 TAC § 24 227(e)*

38. 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 16 TAC § 24 227(e)(7), and TWC § 13 246(c)(9) and 16 TAC § 24 227(e)(9)*

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

Improvement in Service and Lowering of Cost *TWC § 13 246(c)(8) and 16 TAC § 24 227(e)(8)*

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

Regionalization or Consolidation *TWC § 13 241(d) and 16 TAC § 24 227(b)*

41. Marshall will not need to construct a physically separate water system to serve the requested area because it currently provides service to the requested area.

Map and Certificate *16 TAC §§ 24.233(a)(16), 24 257*

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

Informal Disposition 16 TAC § 22.35(a)

45. More than 15 days have passed since the completion of the notice provided in this docket.
46. No person filed a protest or motion to intervene.
47. Commission Staff and Marshall are the only parties to this proceeding.
48. No party requested a hearing, and no hearing is needed.
49. Commission Staff recommended approval of the amended application.
50. 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 §§ 13.241 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. Marshall provided notice of the application that complies with TWC § 13.246(a) and (a-1) and 16 TAC § 24.235.
4. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act¹, the TWC, and Commission rules.
5. This application meets the requirements set forth in TWC § 13.244(c) and (d) and 16 TAC § 24.227.
6. 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(a) and 16 TAC § 24.227.
7. Marshall has access to an adequate supply of water to serve the requested areas, and its public water system is capable of providing drinking water that meets the requirements of

¹ Tex. Gov't Code §§ 2001.001–.903.

chapter 341 of the Texas Health and Safety Code, the TWC, and the rules of the TCEQ in accordance with TWC § 13.241(b) and 16 TAC § 24.227(a)(1).

8. Regionalization and consolidation concerns under TWC § 13.241(d) do not apply in this proceeding because construction of a physically separate water system is not required.
9. 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).
10. Marshall has demonstrated that the amendment of its water CCN number 11064 to include the requested area will serve the public interest 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).
11. Under TWC § 13.257(r) and (s), Marshall must 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 must submit to the Commission evidence of the recording.
12. 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 Order and shown on the map attached to this Order.
2. The Commission approves the certificate and map attached to this Order.
3. Marshall must provide service to every customer and applicant for water 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.
4. 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.

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

Signed at Austin, Texas the 14th day of January 2021.

PUBLIC UTILITY COMMISSION OF TEXAS



DEANN T. WALKER, CHAIRMAN



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

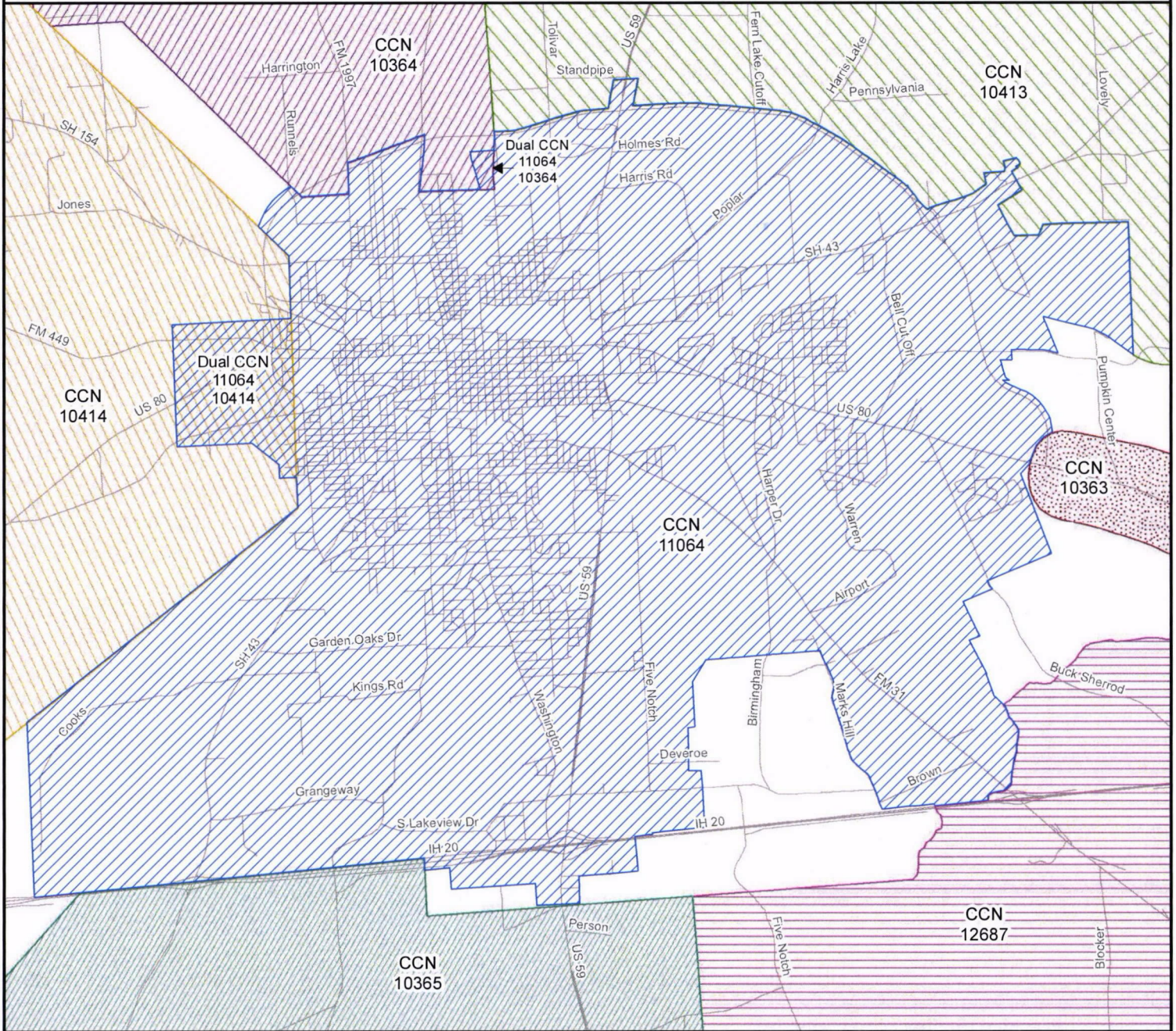
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Marshall is entitled to this

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 14th day of January 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

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