



Control Number: 48863



Item Number: 28

Addendum StartPage: 0

DOCKET NO. 48863

RECEIVED

2019 SEP 13 PM 1:19

APPLICATION OF CAMP JOY
WATER AND TEXAS WATER
SYSTEMS, INC. FOR SALE,
TRANSFER, OR MERGER OF
FACILITIES AND CERTIFICATE
RIGHTS IN UPSHUR COUNTY

§
§
§
§
§
§

PUBLIC UTILITY COMMISSION

OF TEXAS

FILING CLERK

NOTICE OF APPROVAL

This Notice of Approval addresses the application of Camp Joy Water Company and Texas Water Systems, Inc. (TWS), for the transfer of facilities and certificate rights in Upshur County. The proposed application requests the transfer all of Camp Joy's facilities and water service area under water certificate of convenience and necessity (CCN) number 12960 to TWS. The application is granted, for the reasons discussed in this Notice of Approval.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Camp Joy is an unincorporated business, operating as a sole proprietorship owned by the current seller.
2. Camp Joy operates, maintains, and controls facilities for providing water service under CCN number 12960 in Upshur County.
3. Camp Joy has a public water system (PWS) registered with the Texas Commission on Environmental Quality (TCEQ) under number 2300015.
4. TWS is a corporation registered with the Texas secretary of state on October 19, 1988, under file number 0109227500.
5. TWS operates, maintains, and controls facilities for providing water service under CCN number 12473 in Gregg, Henderson, Limestone, Smith and Upshur Counties.



00000001

Application

6. On November 9, 2018, Camp Joy and TWS requested approval to sell all of Camp Joy's water facilities and transfer all of Camp Joy's service area in Upshur County under CCN number 12960 to TWS's CCN number 12473, and to cancel Camp Joy's CCN number 12960.
7. The sale and transfer affects 119 existing customers with water service in Upshur County.
8. The requested area is located approximately 2 miles north-northeast of downtown Ore City, Texas, and is bounded on the north by a line approximately one-half mile south of and parallel to Upshur County Landing Road, on the east by Lake O' The Pines, on the south by the Upshur and Marion County Line, and on the west by North Front Street.
9. The applicants agreed to the sale and transfer of water service area under water CCN number 12960 to water CCN number 12473.
10. In Order No. 2 issued December 6, 2018, the administrative law judge (ALJ) found the application administratively complete.

Notice

11. Notice of the application appeared in the November 30, 2018 issue of the *Texas Register*.
12. On December 19, 2018, TWS provided the affidavit of James K. Brown, president of TWS, attesting that mailed notice was provided to all current customers, districts, neighboring systems, counties, cities, and affected parties on December 13, 2018.
13. On December 19, 2018, TWS also provided a publisher's affidavit, attesting to publication of notice of the application in the *Longview News-Journal* on December 13, 2018.
14. In Order No. 3 issued January 2, 2019, the ALJ found the notice of the application sufficient.

Evidentiary Record

15. On July 22, 2019, the parties filed a joint motion to admit evidence and proposed notice of approval.
16. In Order No. 8 issued on August 5, 2019, the ALJ admitted the following evidence into the record: (a) application for sale, transfer, or merger of a retail public utility, filed on

November 14, 2018; (b) notice of the application for sale, transfer, or merger for placement in the *Texas Register*, filed on November 14, 2018; (c) acknowledgement of receipt from the *Texas Register*, filed on November 16, 2018; (d) TWS's supplement to the application, including information related to legal name and form of business, filed on November 29, 2018; (e) applicants' affidavit and proof of notice, filed on December 19, 2018; (f) Commission Staff's recommendation on the transaction, filed on March 13, 2019; (g) applicants' closing documentation, filed May 13, 2019; (h) applicants' supplemental closing documentation, filed May 28, 2019; (i) Commission Staff's supplemental recommendation on sufficiency of closing documents, filed June 13, 2019; (j) Camp Joy's consent form for map, filed on July 8, 2019; (k) TWS's consent form for map, certificate, and tariff, filed on July 17, 2019; and (l) the final map, certificate, and tariff, attached to the Joint Motion to Admit Evidence and Proposed Notice of Approval, filed on July 22, 2019.

Sale

17. In Order No. 5 issued March 25, 2019, the ALJ approved the transaction to proceed and required Camp Joy and TWS to file proof that the transaction had closed and that customer deposits had been addressed.
18. On May 13, 2019, TWS filed notice that the sale had closed on April 16, 2019, and that the customer deposits held by Camp Joy had been transferred to TWS.
19. On May 23, 2019, the ALJ issued Order No. 6, finding the closing documentation insufficient and requiring the applicants to resubmit the Bill of Sale and Assignment and to submit outstanding customer deposit information.
20. On May 28, 2019, TWS filed additional documentation addressing the transfer of customer deposits following closure of the transaction and omissions in the initially submitted Bill of Sale and Assignment.
21. In Order No. 7 issued June 17, 2019, the ALJ found the closing documents sufficient.

System Compliance-Texas Water Code (TWC) § 13.301(e)(3)(A); 16 Texas Administrative Code (TAC) §§ 24.227(a), 24.239(j)(3)(A), (j)(5)(A)

22. The PWS being transferred by this application has been approved by the TCEQ and is registered under PWS ID No. 2300015.
23. Camp Joy's PWS has existing minor TCEQ violations that do not impact the adequacy of service provided in the requested area.

Adequacy of Existing Service-TWC § 13.301(d), 16 TAC § 24.239(j)(5)(B); TWC § 13.246(c)(1), 16 TAC § 24.227(d)(1)

24. TWS has been operating Camp Joy's water system for the past seven years, has access to an adequate supply of water, and currently provides adequate service to existing customers.

Need for Additional Service-TWC § 13.301(d), 16 TAC § 24.239(j)(5)(C); TWC § 13.246(c)(2), 16 TAC § 24.227(d)(2)

25. There are approximately 119 existing customers in the requested area; therefore, there is a need for service.

Effect of Approving the Transaction and Granting the Amendment-TWC § 13.301(d), 16 TAC § 24.239(j)(5)(D); TWC § 13.246(c)(3), 16 TAC § 24.227(d)(3)

26. TWS's water CCN will be amended to include Camp Joy's current water service area.
27. No other retail public utilities will be affected by the transaction.

Ability to Serve: Managerial and Technical-TWC §§ 13.301(b), 16 TAC § 24.239(g), (j)(5)(E); TWC §§ 13.246(c)(4), 13.241(a), 16 TAC §§ 24.227(a), 24.227(d)(4)

28. TWS has been operating Camp Joy's public water system for the past seven years.
29. TWS currently owns and operates a total of ten public water systems.
30. The TCEQ has issued violations to TWS for four of its public water systems for inadequate capacity of storage tanks. No TCEQ enforcement actions have been initiated for the storage capacity violations.
31. According to the TCEQ database, TWS has submitted plans and specifications to the TCEQ to resolve the violations at two of its public water systems.
32. TWS communicated to Commission Staff that bids are currently being accepted for engineering drawings to resolve the violations at its other two public waters systems.

33. TWS has demonstrated that it has taken action to achieve compliance with TCEQ's rules for the current storage capacity violations.
34. TWS has the managerial and technical capability to provide continuous and adequate service to the requested area.

Ability to Serve: Financial Ability and Stability—TWC §§ 13.301(b), 16 TAC § 24.239(g), (j)(5)(G); TWC §§ 13.246(c)(6), 13.241(a), 16 TAC §§ 24.227(a), 24.227(d)(6)

35. TWS has a debt to equity ratio of 0.65, which is less than one, thus meeting the leverage test.
36. TWS has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations, thus meeting the operations test.
37. TWS demonstrated adequate financial and managerial capability to provide continuous and adequate service to the requested area.

Financial Assurance—TWC §§ 13.246(d), 13.301(c); 16 TAC §§ 24.227(e), 24.239(h)

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

The Feasibility of Obtaining Service from Adjacent Retail Public Utility—TWC § 13.301(d), 16 TAC § 24.239(j)(5)(F); TWC § 13.246(c)(5), 16 TAC § 24.227(d)(5)

39. Because Camp Joy is adequately serving the existing customers and its facilities offer sufficient capacity, it is not feasible for an adjacent retail public utility to serve the requested area.

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

40. Because no new public water system is proposed to be constructed, concerns of regionalization or consolidation are not applicable.

Environmental Integrity—TWC § 13.301(d), 16 TAC § 24.239(j)(5)(H); TWC § 13.246(c)(7), 16 TAC § 24.227(d)(7)

41. Granting the transaction will not adversely impact the environmental integrity of the requested area because no additional construction is needed to service the requested area.

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

42. Granting the transaction will not adversely impact the integrity of the land because the requested area is already being served.

Improvement of Service or Lowering Cost to Consumers– TWC § 13.301(d), 16 TAC § 24.239(j)(5)(I); TWC § 13.246(c)(8), 16 TAC § 24.227(d)(8)

43. TWS, using the PWS already in place, will continue to provide water service to the existing customers in the area.

Tariff and Map

44. On June 27, 2019, Commission Staff emailed to Camp Joy a proposed final map related to this docket.
45. On June 27, 2019, Commission Staff emailed to TWS a proposed final map, certificate, and tariff related to this docket.
46. On July 8, 2019, Camp Joy filed a consent form concurring with the proposed final map.
47. On July 17, 2019, TWS filed a consent form concurring with the proposed final map, certificate, and tariff.
48. The final map, certificate, and tariff were filed as an attachment to the joint motion to admit evidence and proposed Notice of Approval.

Certificate

49. Camp Joy has sold and transferred all of its water service area under CCN number 12960 to TWS's CCN number 12473.

Informal Disposition

50. More than 15 days have passed since the completion of notice provided in this docket.
51. No person filed a protest or motion to intervene.
52. Camp Joy, TWS, and Commission Staff are the only parties to this proceeding.
53. No party requested a hearing and no hearing is needed.
54. Commission Staff recommended approval of the application.
55. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over this proceeding under TWC §§ 13.041, 13.241, 13.244, 13.246, 13.251, 13.254, and 13.301.
2. Camp Joy and TWS are retail public utilities as defined by TWC § 13.002(19) and 16 TAC § 24.3(59).
3. Public notice of the application was provided as required by TWC § 13.301(a)(2) and 16 TAC § 24.239(a) through (c).
4. The Commission processed the application as required by the TWC, the Administrative Procedure Act,¹ and Commission Rules.
5. Camp Joy and TWS completed the sale within the time required by 16 TAC § 24.239(o).
6. Camp Joy and TWS complied with the requirements of 16 TAC § 24.239(m) with respect to customer deposits.
7. After consideration of the factors in TWC § 13.246(c), TWS has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area. TWC § 13.301(b).
8. Camp Joy and TWS have demonstrated that the sale of Camp Joy's water system will serve the public interest and is necessary for the service, accommodation, convenience, or safety of the public. TWC §§ 13.301(d), 13.246(b).
9. A sale not completed in accordance with TWC § 13.301 is void. TWC 13.301(h).
10. TWS must record a certified copy of the certificate granted and map approved by this Notice of Approval, along with a boundary description of the service area, in the real property records of Upshur County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording. TWC § 13.257(r), (s).

¹ Tex. Gov't Code ch. 2001.

11. 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 approves TWS's purchase of Camp Joy's water system, the transfer of Camp Joy's water service area under CCN number 12960 to TWS's CCN number 12473, and the cancellation of Camp Joy's CCN number 12960, to the extent provided in this Notice of Approval.
2. The Commission approves the map, certificate, and tariff attached to the Joint Motion to Admit Evidence and Proposed Notice of Approval filed on July 22, 2019.
3. TWS must serve every customer and applicant for service within the approved area under water CCN number 12473 that requests water service and meets the terms of TWS's water service, and such service must be continuous and adequate.
4. TWS must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Upshur County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice of Approval.
5. Within ten days of 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 books.
6. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 13th day of September 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read 'S. Leary', is written over a horizontal line.

STEVEN LEARY
ADMINISTRATIVE LAW JUDGE

W2013

q:\cadm\doCKET management\water\stm\48xxx\48863 noa.docx



Public Utility Commission of Texas

By These Presents Be It Known To All That
Texas Water Systems, Inc.

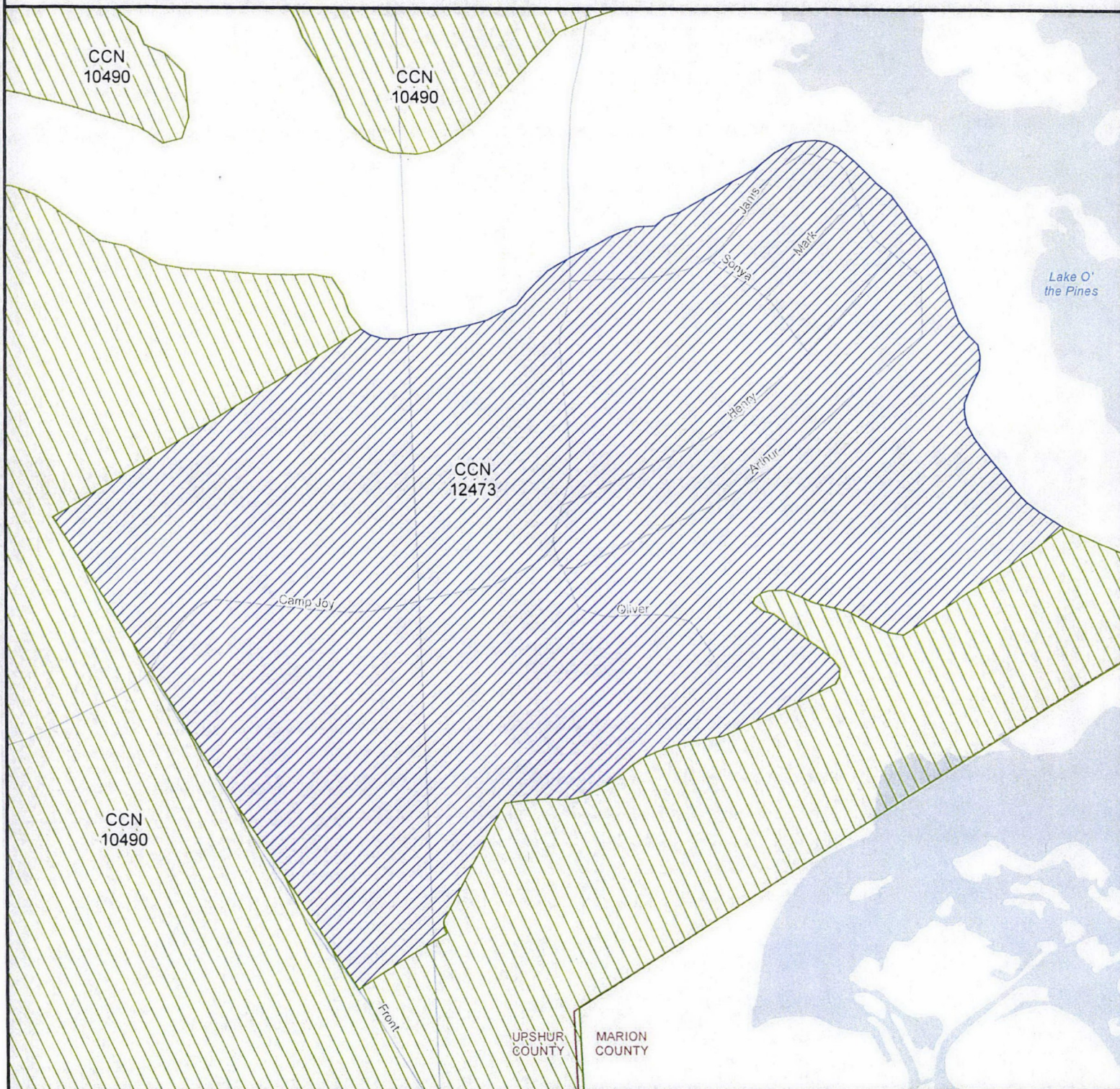
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Texas Water Systems, Inc., is entitled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

Certificate of Convenience and Necessity No. 12473

to provide continuous and adequate water utility service to that service area or those service areas in Gregg, Henderson, Limestone, Smith and Upshur County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48863 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 Texas Water Systems, 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 13th day of September 2019.

Texas Water Systems, Inc.
Portion of Water CCN No. 12473
PUC Docket No. 48863
Transferred all of Camp Joy Water Company, CCN No. 12960 in Upshur County



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

Water CCN

-  12473 - Texas Water Systems Inc
-  10490 - Bi County WSC

0 450 900
Feet



Map by: Komal Patel
Date created: April 5, 2019
Project Path: n:\finalmapping\
48863TexasWaterSystems.mxd

00000011