



Control Number: 49074



Item Number: 35

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DOCKET NO. 49074



APPLICATION OF GONZALES §
COUNTY WATER SUPPLY §
CORPORATION AND RIVERWOOD §
WATER SUPPLY FOR SALE, §
TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS AND TO DECERTIFY §
RIVERWOOD WATER SUPPLY'S §
SEWER CERTIFICATE OF §
CONVENIENCE AND NECESSITY IN §
GONZALES COUNTY §

PUBLIC UTILITY COMMISSION
OF TEXAS

NOTICE OF APPROVAL

This Notice of Approval addresses the January 4, 2019 application of Riverwood Water Supply and Gonzales County Water Supply Corporation for approval of a sale, transfer, or merger of facilities and certificate rights in Gonzales County. The Commission approves the transfer of all of Riverwood's facilities and service area under water certificate of convenience and necessity (CCN) number 10711 to Gonzales County WSC and cancels Riverwood's water CCN number 10711 and sewer CCN number 20311.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Riverwood is an individual-owned retail public utility that provides water service in Texas under water CCN number 10711 and holds sewer CCN number 20311.
2. Gonzales County WSC is a domestic non-profit water supply corporation organized under Chapter 67 of the Texas Water Code (TWC) and registered with the Texas secretary of state under file number 29892601.
3. Gonzales County WSC is a retail public utility that provides water service in Texas under water CCN number 10704.
4. Gonzales County WSC owns a public water system (PWS) registered with the Texas Commission on Environmental Quality (TCEQ) under PWS number 0890006.

Application

5. On January 4, 2019, Gonzales County WSC and Riverwood filed an application for approval of the sale and transfer of the water facilities owned and operated by Riverwood and the service area held under water CCN number 10711 in Gonzales County to Gonzales County WSC. After the proposed transaction, Gonzales County WSC would provide service to the requested area under water CCN number 10704 and Riverwood's water CCN number 10711 would be canceled.
6. On March 7, April 2, and September 25, 2019, the applicants supplemented the application.
7. Riverwood's existing well failed in 2014 and Gonzales County WSC has provided service to five connections in the requested area since 2014 through PWS number 0890006.
8. Riverwood additionally requests to cancel its sewer CCN number 20311 because facilities to provide sewer service to the area were never constructed, sewer service was never provided to the area held under sewer CCN number 20311, and Riverwood does not wish to provide sewer service.
9. The requested water service area subject to this transaction is located approximately five miles west-southwest of downtown Gonzales, Texas, and is generally bounded on the north by the south terminus of County Road 473, on the east by the Guadalupe River and Riverwood Drive, on the south by the Guadalupe River, and on the west by the Guadalupe River and Edgewood Drive.
10. The total area to be transferred comprises approximately 33 acres and contains approximately five current customers.
11. In Order No. 3 filed on April 12, 2019, the administrative law judge (ALJ) deemed the application administratively complete.
12. On April 8, 2020, Commission Staff filed a clarification in response to Order No. 12.

Notice

13. On May 8 and June 7 and 28, 2019, Gonzales County WSC filed the affidavits of Barry Miller, general manager of Gonzales County WSC, attesting that notice was provided to current customers, neighboring utilities, counties, and affected parties on April 9, 2019.

14. On May 8 and June 7 and 28, 2019, Gonzales County WSC filed the affidavits of Terry Fitzwater, publisher, attesting to the publication of notice in the *Gonzales Inquirer*, a newspaper generally circulated in Gonzales County, on April 18, May 23, and June 13 and 20, 2019.
15. In Order No. 6 filed on July 11, 2019, the ALJ deemed the notice sufficient.

Evidentiary Record

16. On August 29, 2019, the parties filed a joint motion to admit evidence into the record and adopt a joint proposed order approving the sale and authorizing the transaction to proceed.
17. In Order No. 9 filed on October 23 2019, the ALJ admitted the following evidence in to the record: (a) the application of Gonzales County WSC and Riverwood for sale, transfer, or merger of certificate rights in Gonzales County filed on January 4, 2019, as supplemented on March 7, April 2, and September 25, 2019; (b) the affidavits of notice filed on May 8, 2019; (c) the affidavit of notification #2 notice filed on June 7, 2019; (d) the affidavit of publication filed on June 28, 2019; and (e) Commission Staff's final recommendation filed on August 13, 2019, as amended on September 30, 2019.
18. On January 13, 2020, the parties filed a joint motion to admit evidence into the record.
19. In Order No. 13 filed on April 22, 2020, the ALJ admitted the following evidence into the record: (a) Gonzales County WSC and Riverwood's transfer agreement filed on November 8, 2019; (b) Commission Staff's recommendation on sufficiency of the closing documents filed on November 20, 2019; (c) Gonzales County WSC's and Riverwood's consent forms filed on December 11, 2019; and (d) the map and certificate attached to the joint motion to admit evidence filed on January 13, 2020.

Sale

20. In Order No. 10 filed on October 28, 2019, the ALJ approved the transaction to proceed and required Gonzales County WSC and Riverwood to file proof that the transaction had closed and that customer deposits had been addressed.
21. On November 8, 2019, Gonzales County WSC filed notice that the sale had closed and that there were no customer deposits held by Riverwood.

22. In Order No. 11 filed on November 26, 2019, the ALJ found the closing documents sufficient.

Certificate and Map

23. On December 5, 2019, Commission Staff emailed to Gonzales County WSC and Riverwood the final proposed map and certificate related to this docket.
24. On December 11, 2019, Gonzales County WSC and Riverwood filed their consent forms concurring with the map and certificate.
25. On January 13, 2020, the final map and certificate were filed as attachments to the parties' joint motion to admit evidence and proposed Notice of Approval.
26. Riverwood has sold and transferred all of its facilities and service area under water CCN number 10711 to Gonzales County WSC.
27. As a result of the transaction, the requested area under water CCN number 10711 is transferred to water CCN number 10704 and water CCN number 10711 and sewer CCN number 20311 are cancelled.

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

28. Gonzales County WSC has minor violations listed in the TCEQ's database associated with PWS number 0890006.
29. Gonzales County WSC has provided information indicating it is addressing the violations and that the violations will not affect its ability to provide continuous and adequate service to the requested area.
30. The applicants have demonstrated a compliance status that is adequate for approval of the application.

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

31. Riverwood is not currently providing water service to the requested area.
32. The requested area is currently being served through Gonzales County WSC's PWS number 0890006.

33. The existing facilities and service are providing continuous and adequate service and no additional construction is necessary to continue providing service to the requested area.

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

34. There are five existing connections in the requested area that will continue to need service.

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

35. Riverwood and Gonzales County WSC are the only utilities affected by this sale and transfer.

36. Riverwood ceased operations in 2014 and Gonzales County WSC has been providing continuous and adequate service to the requested area since then.

37. Because no construction or changes in service are anticipated, the transaction will not affect landowners or adjacent utilities in the vicinity of the requested area.

Ability to Serve: Managerial and Technical—TWC §§ 13.241(a) and (b), 13.246(c)(4), 13.301(b), (e)(2); 16 TAC §§ 24.227(a), (d)(4), 24.239(g), (j)(5)(E)

38. The operations, maintenance, management, and customer services will continue to be provided by Gonzales County WSC.

39. Gonzales County WSC has four operators holding TCEQ Class C licenses who are responsible for operation of PWS number 0890006.

40. Gonzales County WSC has access to an adequate supply of water and is capable of providing drinking water that complies with the requirements of Chapter 341 of the Texas Health and Safety Code and Chapter 13 of the TWC.

41. Gonzales County WSC has the managerial and technical capability to provide continuous and adequate service to the requested area.

Ability to Serve: Financial Ability and Stability—TWC §§ 13.241(a), 13.246(c)(6), 13.301(b); 16 TAC §§ 24.11(e), 24.227(a), (d)(6), 24.239(g), (j)(5)(G)

42. Gonzales County WSC has a debt-to-equity ratio of less than one and a debt service coverage ratio of greater than 1.25, both of which satisfy the leverage test.

43. Gonzales County WSC has sufficient cash available to cover any projected operations and maintenance shortages during the first five years after the completion of the proposed sale and transfer, which satisfies the operations test.

44. Gonzales County WSC has demonstrated the financial ability and stability 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)

45. There is no need to require Gonzales County WSC to provide a bond or other financial assurance to ensure continuous and adequate service.

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

46. The requested area is currently being served by Gonzales County WSC.

47. Utilities within a two-mile radius were properly noticed. No protests or adverse comments were received regarding the proposed transaction.

48. It is not feasible for an adjacent utility to provide service to the requested area because Gonzales County WSC's existing facilities possess sufficient capacity to provide continuous and adequate service.

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

49. Because Gonzales County WSC does not anticipate building any new facilities to continue serving the requested area, regionalization or consolidation is not applicable.

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

50. The proposed transaction will not adversely impact the environmental integrity of the land because the requested area is currently receiving service.

Effect on the Land—TWC § 13.246(c)(9); 16 TAC § 24.227(d)(9)

51. The effect on the land should be minimal as the requested area will be served by existing systems and facilities and no additional construction is needed.

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

52. The proposed transaction will maintain current levels of customer service to existing connections because the water system will continue to be operated and maintained by a sufficient number of licensed operators.

53. The rates charged to customers will not change as a result of the transaction.

Informal Disposition

54. More than 15 days have passed since the completion of notice provided in this docket.

55. No person filed a person or motion to intervene.

56. Riverwood, Gonzales County WSC, and Commission Staff are the only parties to this proceeding.

57. No party requested a hearing and no hearing is needed.

58. Commission Staff recommended approval of the application.

59. 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 this proceeding under TWC §§ 13.041, 13.241, 13.244, 13.246, 13.251, 13.254, and 13.301.
2. Gonzales County WSC and Riverwood 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)–(c).
4. The Commission processed the application as required by the TWC, the Administrative Procedure Act,¹ and Commission Rules.
5. Gonzales County WSC and Riverwood completed the sale within the time required by 16 TAC § 24.239(o).
6. After consideration of the factors in TWC § 13.246(c), Gonzales County WSC has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area, as required by TWC § 13.301(b).

¹ Tex. Gov't Code §§ 2001.001–.902.

7. Gonzales County WSC and Riverwood have demonstrated that the sale of Riverwood's water system, the transfer of all of the service area under water CCN number 10711, and the cancellation of water CCN number 10711 and sewer CCN number 20311 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 13.301(d).
8. Gonzales County WSC 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 Gonzales County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording, as required by TWC § 13.257(r) and (s).
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.

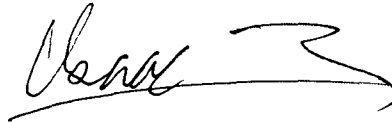
1. The Commission approves the application, as supplemented.
2. Riverwood's water CCN number 10711 is cancelled. All of Riverwood's facilities and water service area described in the application and closing documents are transferred to Gonzales County WSC's water CCN number 10704.
3. Gonzales County WSC water CCN number 10704 is amended to include Riverwood's facilities and service area described in the application and closing documents, which are transferred from Riverwood's water CCN number 10711.
4. Riverwood's sewer CCN number 20311 is cancelled.
5. The Commission approves the map and certificate attached to the joint proposed Notice of Approval filed on January 13, 2020, and attached to this Notice of Approval.
6. Gonzales County WSC must serve every customer and applicant for service within the approved area under water CCN number 10704 who requests water service and meets the

terms of Gonzales County WSC's water service, and such service must be continuous and adequate.

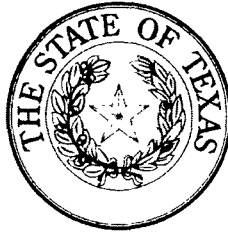
7. Gonzales County WSC must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Gonzales County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice of Approval.
8. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 22nd day of April 2020.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read 'Isaac TA', with a long horizontal flourish extending to the right.

**ISAAC TA
ADMINISTRATIVE LAW JUDGE**



Public Utility Commission of Texas

By These Presents Be It Known To All That

Gonzales County Water Supply Corporation

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, Gonzales County Water Supply Corporation is entitled to this

Certificate of Convenience and Necessity No. 10704

to provide continuous and adequate water utility service to that service area or those service areas in Caldwell, De Witt, Gonzales and Guadalupe Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 49074 are on file at the Commission offices in Austin, Texas; and are a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of Gonzales County Water Supply Corporation 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.

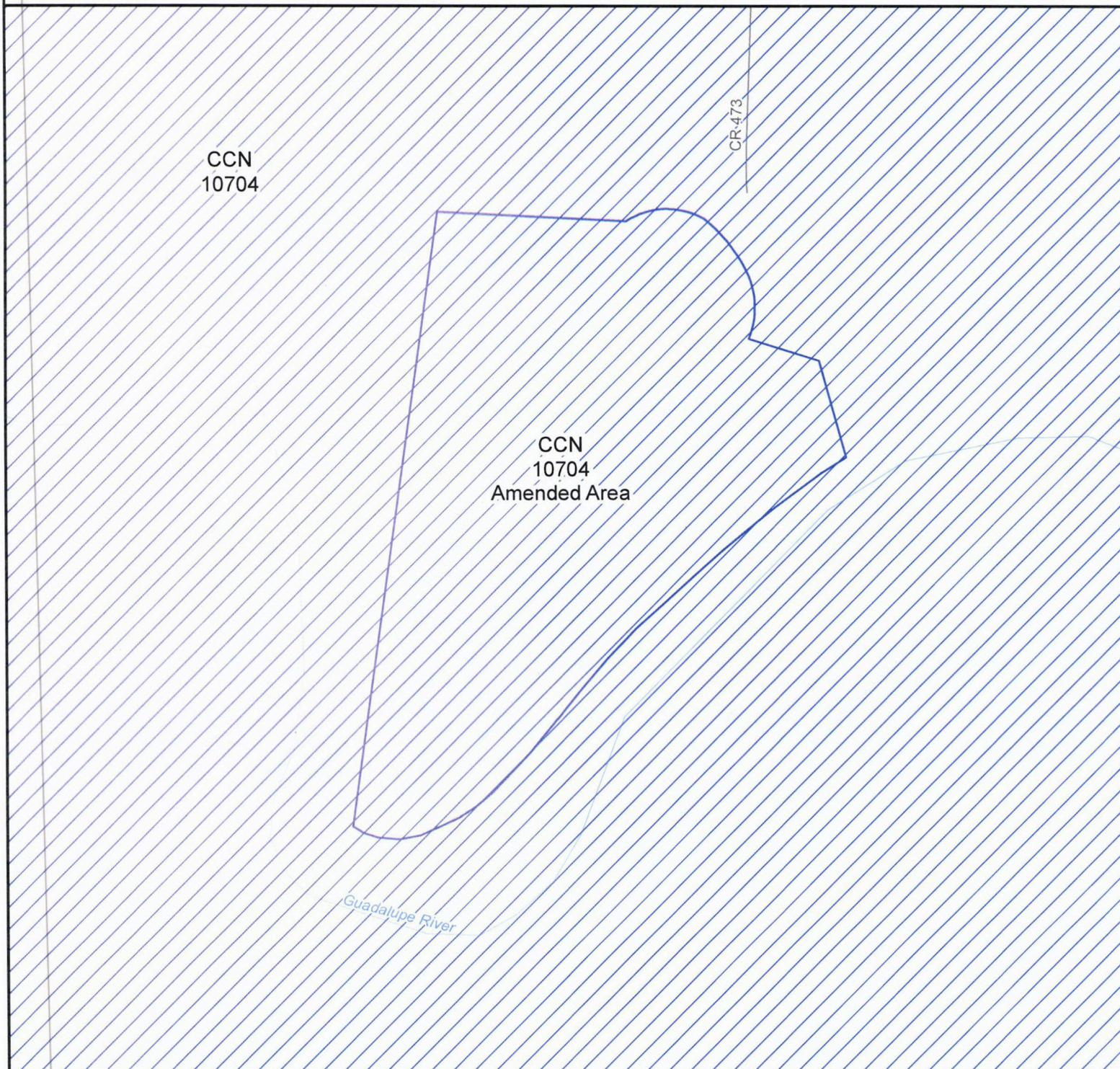
Issued at Austin, Texas, the 22nd day of April, 2020.

Gonzales County Water Supply Corporation

Portion of Water CCN No. 10704

PUC Docket No. 49074

Transferred all of Riverwood Water Supply, CCN No. 10711 and CCN No. 20311 in Gonzales County



Water CCN



10704 - Gonzales County WSC

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