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DOCKET NO. 49262

APPLICATION OF THE CITY OF § PUBLIC UTILITY COMMISSION
FLORESVILLE TO AMEND A §
SEWER CERTIFICATE OF §
CONVENIENCE AND NECESSITY IN § OF TEXAS
WILSON COUNTY §

JOINT PROPOSED ORDER

COMES NOW, the City of Floresville (Floresville) and the Staff of the Public Utility Commission of Texas (Staff) (collectively, the Parties) and file this Joint Proposed Order, and would respectfully show the following:

I. BACKGROUND

On February 26, 2019, the City of Floresville (Floresville) filed an application to amend its sewer certificate of convenience and necessity (CCN) number 20279, in Wilson County, Texas. The requested area includes approximately 4,201 acres and 171 connections.

Order No. 17 required the parties to file a Proposed Order that is formatted like, and contains a level of detail similar to, the Proposed Order filed in Docket No. 45489 by December 3, 2020.¹ Therefore, this pleading is timely filed.

II. JOINT PROPOSED ORDER

The attached Joint Proposed Order would adopt findings of fact and conclusions of law and approve Floresville’s application to amend its sewer CCN number 20279 in Wilson County, Texas.

III. CONCLUSION

The Parties respectfully request that the Commission adopt the attached Joint Proposed Order.

¹ Order No. 15, filed on Aug. 25, 2020, also specified that “[f]or each proposed finding of fact, the parties should include a footnote reference to the specific document(s) in the evidentiary record that supports the finding.”

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Dated: December 3, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on December 3, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Taylor P. Denison
Taylor P. Denison

5. Floresville seeks to conform the boundaries of its CCN to areas it already serves. The proposed service area addition includes approximately 4,201 acres and 171 customers.⁶
6. The proposed service area addition is located approximately two miles north, south, east, and west of downtown Floresville, Texas, and is generally bounded on the north by County Road (CR) 130 and CR 302; on the east by CR 402; on the south by Pajarito Creek; and on the west by San Antonio River.⁷
7. No protests or opt-out requests were received from customers within the proposed service area.⁸
8. On May 31, 2019, the administrative law judge (ALJ) filed Order No. 3, finding the application administratively complete.⁹

Notice of Application

9. Notice of the application by publication appeared in The Wilson County News, a newspaper of general circulation in Wilson County, on October 2, 2019 and October 9, 2019.¹⁰
10. On December 11, 2019, Floresville filed the publisher's affidavit, which stated that The Wilson County News, a newspaper of general circulation in Wilson County, published notice of the application in that newspaper on October 2, 2019 and October 9, 2019.¹¹
11. On February 3, 2020, Floresville mailed notice of the application to neighboring utilities, counties, cities, and affected parties.¹²
12. On February 14, 2020, Floresville filed an affidavit in which Henrietta Turner, City Manager of the City of Floresville, attested that notice was mailed to current customers,

⁶ Application at 4, 13.

⁷ *Id.* at 13.

⁸ On November 20, 2019, an opt-out request was filed by John and Carolyn Hill stating that they wished for their property to be excluded from the requested CCN service area. However, the referenced property is wholly located within the existing, already certificated sewer CCN service area of the City of Floresville. Letter of Exclusion from Affected Areas of Service (Nov. 20, 2019); Letter Response to Opt-Out Request (May 7, 2020); Commission Staff's Final Recommendation Memo at 5.

⁹ Order No. 3 Finding Application Administratively Complete; Requiring Notice; and Establishing a Procedural Schedule (May 31, 2019).

¹⁰ Publisher's Affidavit (Dec. 11, 2019).

¹¹ *Id.*

¹² Affidavit of Notice to Current Customers, Landowners, Neighboring Utilities and Affected Parties (Misfiled- Replaced with Correct Item- Prior Item Moved to Docket No. 49263 (Item No. 32) (Feb. 14, 2020).

landowners, neighboring utilities, and affected parties. Ms. Turner stated that Floresville had provided notice to the following persons and entities: landowners who own a tract of land that is at least 25 acres and is wholly or partly located in the requested area to be certified, City of Stockdale, City of Poth, Evergreen UWCD, San Antonio River Authority, Wilson County FWSD 1 of Wilson County Texas, Wilson County Judge, SS Water Supply Corporation, Sunko Water Supply Corporation, Three Oaks Water Supply Corporation, Picoso Water Supply Corporation, and Oak Hills Water Supply Corporation.¹³

13. In Order No. 12, filed on April 9, 2020, the ALJ found the notice of the application sufficient.¹⁴

Evidentiary Record

14. On July 23, 2020, Floresville and Staff filed a Joint Proposed Notice of Approval and Motion to Admit Evidence.¹⁵

15. In Order No. 14 filed on July 30, 2020, the ALJ admitted the following evidence into the record of this proceeding: The application, filed on February 26, 2019; the amended application, filed on April 25, 2019; Floresville's proof of public notice, filed on December 11, 2019; Floresville's proof of notice to current customers, landowners, neighboring utilities, and affected parties, filed on February 14, 2020; Floresville's response to the November 20, 2019 opt-out request, filed on May 7, 2020; Floresville's consent form, filed on July 1, 2020, concurring with the certificate transmitted by email on June 25, 2020 and the revised final map transmitted by email on June 26, 2020; Commission Staff's final recommendation, filed on July 16, 2020; and the final map and certificate, filed on July 23, 2020, attached to the joint proposed notice of approval.¹⁶

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

16. The area subject to this application is served by Floresville's TCEQ-approved wastewater discharge permit number WQ-10085001.¹⁷

¹³ *Id.*

¹⁴ Order No. 12 (April 8, 2020).

¹⁵ Joint Motion to Admit Evidence and Proposed Notice of Approval (July 23, 2020).

¹⁶ Order No. 14 - Admitting Evidence (July 30, 2020).

¹⁷ Application at 2-3, Commission Staff's Final Recommendation Memo at 5.

17. Floresville is not subject to any pending TCEQ enforcement actions.¹⁸

18. No additional construction is necessary for Floresville to serve the requested area.¹⁹

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

19. Floresville currently serves 171 customers in the requested area.²⁰

20. The requested area generally encompasses existing customers and infrastructure served by Floresville.²¹

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

21. The granting of the proposed CCN amendment will not substantially affect any landowner or retail public utility and will only obligate Floresville to provide retail sewer service to landowners within the proposed service area.²²

22. There will be no effect on any retail public utility servicing the proximate area as there are no other sewer providers in the area.²³

23. Floresville has existing facilities in place to serve the requested area and will not incur additional costs for new facilities.²⁴

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

24. Floresville is a municipal utility that currently serves the requested area.²⁵

25. Floresville employs Ricardo Carrasco, David Inouye, Johnny Villarreal, and Jorge Lopez as licensed sewer operators.²⁶

26. Floresville has sufficient capacity to serve the requested area and has adequate facilities for the provision of sewer utility service.²⁷

¹⁸ Commission Staff's Final Recommendation Memo at 6.

¹⁹ *Id.* at 6-7.

²⁰ Application at 13, Commission Staff's Final Recommendation Memo at 5.

²¹ Commission Staff's Final Recommendation Memo at 5.

²² *Id.* at 5-6.

²³ *Id.*

²⁴ *Id.* at 6.

²⁵ Application at 2-3.

²⁶ *Id.* at 7.

²⁷ Commission Staff's Final Recommendation Memo at 6.

27. Floresville does not have any violations listed in the TCEQ database.²⁸

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

28. Floresville currently has a BBB- credit rating from Standard & Poor’s Financial Services LLC, satisfying the leverage test.²⁹

29. Floresville has demonstrated that it has sufficient cash on hand to cover any projected operations and maintenance shortages during the first five years of operations, satisfying the operations test.³⁰

30. Floresville has demonstrated that it has the financial ability and financial stability to finance the facilities necessary to operate and manage the utility and to provide continuous and adequate service to the requested area.³¹

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

31. There is no need to require Floresville to provide a bond or other financial assurance to ensure continuous and adequate utility service is provided.³²

Ability to Serve: Sewer Utility Service—TWC §§ 13.241(c), 13.246(c)(4), 16 TAC § 24.227(a)(2)

32. Floresville’s wastewater treatment plant is permitted by the TCEQ under permit number WQ-10085001 and is capable of meeting TCEQ’s design criteria for sewer treatment plants.³³

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

33. Floresville does not intend to construct a new physically separate sewer system to serve the area.³⁴

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.* at 6-7.

³³ Application at 6-7.

³⁴ *Id.* at 5-6, Commission Staff’s Final Recommendation Memo at 6.

Service from Other Utilities—TWC § 13.246(c)(5); 16 TAC § 24.227(e)(5)

34. It is not feasible for an adjacent utility to provide service to the requested area because Floresville already provides service to the requested area and has the facilities in place to serve the requested area.³⁵

Environmental Integrity—TWC § 13.246(c)(7); 16 TAC § 24.227(e)(7)

35. Granting Floresville’s CCN amendment will not adversely impact the environmental integrity of the requested area as no additional construction is needed to provide service to the requested area.³⁶

Improvement in Service—TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)

36. Granting Floresville’s CCN amendment will not affect service to customers, because Floresville already serves the requested area.³⁷

Lowering of Cost—TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)

37. Floresville will continue to serve existing customers in the requested area using existing facilities and rates.³⁸

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

38. No additional construction is necessary to provide service the requested area.³⁹

Map and Certificate

39. On June 25, 2020 and June 26, 2020, Commission Staff emailed its proposed map and certificate to Floresville.

40. On July 1, 2020, Floresville filed its signed consent form, concurring with the certificate transmitted by email on June 25, 2020 and the revised final map transmitted by email on June 26, 2020.⁴⁰

³⁵ Commission Staff’s Final Recommendation Memo at 6.

³⁶ *Id.* at 7.

³⁷ *Id.*

³⁸ Application at Cover Letter; Commission Staff’s Final Recommendation Memo at 7. Floresville states in its application that upon entering Floresville’s CCN service area, the outlying customers’ rates will be lowered by approximately 50 percent.

³⁹ Commission Staff’s Final Recommendation Memo at 7.

⁴⁰ Consent Forms (July 1, 2020).

41. On July 16, 2020, Commission Staff filed the proposed map and certificate as an attachment to its recommendation.⁴¹

Informal Disposition

- 42. More than 15 days have passed since the completion of the notice provided in this docket.
- 43. No person filed a protest or motion to intervene.
- 44. Floresville and Commission Staff are the only parties to this proceeding.
- 45. No party requested a hearing and no hearing is needed.
- 46. Commission Staff recommended approval of the application.⁴²
- 47. The decision is not adverse to any party.

II. Conclusions of Law

The Commission adopts the following conclusions of law.

- 1. The Commission has jurisdiction over this application under TWC §§ 13.041, 13.241, 13.244, and 13.246.
- 2. Floresville is a retail public utility as defined in TWC § 13.002(19) and 16 TAC § 24.3(31).
- 3. Notice of the application was provided in compliance with TWC § 13.246 and 16 TAC § 24.235.
- 4. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act⁴³, the TWC, and Commission rules.
- 5. Floresville possesses the financial, managerial, and technical capability to provide continuous and adequate service to the requested area in Wilson County as required by TWC § 13.241 and 16 TAC § 24.227.
- 6. After considering the factors in TWC § 13.246(c) and 16 TAC § 24.227(e), approval of the application 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).
- 7. Floresville must record a certified copy of the approved map for the certificate amendment, along with a boundary description of the service area, in the real property records of Wilson

⁴¹ Commission Staff's Final Recommendation (July 16, 2020).

⁴² *Id*

⁴³ Tex. Gov't Code §§ 2001.001—.902.

County within 31 days of receiving this Order and submit to the Commission evidence of the recording. TWC § 13.257(r), (s).

8. 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 Floresville's sewer CCN number 20279 to include the requested area described in the Order and shown on the map attached to this Order.
2. The Commission grants the certificate attached to this Order.
3. Floresville must serve every customer and applicant for service within the area certified under CCN number 20279, and such service shall be continuous and adequate.
4. Floresville must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Wilson County affected by the application.
5. Floresville must file in this docket proof of the recording required in ordering paragraph 4 not later than 45 days after the date of this Order.
6. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas on the ____ day of _____, 2020.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER