



Control Number: 49262



Item Number: 51

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**DeAnn T. Walker**  
Chairman

**Arthur C. D'Andrea**  
Commissioner

**Shelly Botkin**  
Commissioner

**Thomas Gleeson**  
Executive Director



**RECEIVED** **Greg Abbott**  
Governor

2020 DEC 18 PM 2:49

PUBLIC UTILITY COMMISSION  
FILING CLERK

## *Public Utility Commission of Texas*

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

All Parties of Record

FROM: Gregory R. Siemankowski  
Administrative Law Judge

A handwritten signature in black ink, appearing to be "G. Siemankowski".

RE: **Open Meeting of January 29, 2021**  
**Docket No. 49262** – *Application of the City of Floresville to Amend a Sewer Certificate of Convenience and Necessity in Wilson County*

DATE: December 18, 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 Friday, January 29, 2021, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties shall file corrections or exceptions to the Proposed Order on or before Friday, January 15, 2021.

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

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**DOCKET NO. 49262**

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

**PROPOSED ORDER**

This Order addresses the application of the City of Floresville to amend its sewer certificate of convenience and necessity (CCN) number 20279 in Wilson County. The Commission amends Floresville's sewer CCN number 20279 as specified in this Order.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicant**

1. Floresville is a municipally-owned utility that provides sewer service under CCN No. 20279 in Wilson County, Texas.
2. Floresville operates, maintains, and controls facilities for providing sewer service in Wilson County under sewer CCN number 20279.
3. Floresville owns and operates a sewer system that is registered with the Texas Commission on Environmental Quality (TCEQ) under wastewater discharge permit number WQ0010085001 in Wilson County.

**Application**

4. On February 26, 2019, Floresville filed the application at issue in this proceeding.
5. Floresville filed supplements to the application on April 25 and July 23, 2019.
6. 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.
7. The total requested area is located approximately two miles north, south, east, and west of downtown Floresville, Texas, and is generally bounded on the north by County Road 130

and County Road 302; on the east by County Road 402; on the south by Pajarito Creek; and on the west by San Antonio River.

8. No protests or opt-out requests were received from customers within the proposed service area.
9. In Order No. 3 filed on May 31, 2019, the administrative law judge (ALJ) deemed the application administratively complete.
10. On August 25, 2020, the ALJ filed Order No. 15, requiring Floresville to provide sufficient evidence to enable the Commission to determine if Floresville demonstrated a need to provide service for the entire service area proposed in the application. Specifically, Floresville was required to provide an updated map depicting the following: proposed service area; boundaries of Floresville's city limits; boundaries of Floresville's extraterritorial jurisdiction city, county, state, and federal roads, highways, and other similar routes; and locations of prospective customers requesting new service who are located outside Floresville's city limits.
11. On September 9, 2020, Floresville filed its first revised map exhibit in response to Order No. 15.
12. On November 12, 2020, Floresville filed its second revised map depicting proposed CCN area and existing services within that area.
13. On November 20, 2020 Commission Staff filed a status report and recommended that there was no need to revise its July 16, 2020 final recommendation and that the application be approved.

**Notice**

14. On February 14, 2020, Floresville filed the affidavit of Henrietta Turner, city manager of the City of Floresville, attesting that on February 3, 2020, notice of the application was sent to Floresville's current customers, landowners, neighboring utilities, and affected parties.
15. On December 11, 2019, Floresville filed a publisher's affidavit attesting that notice of the application was published on October 2 and 9, 2019 in the *The Wilson County News*, a newspaper of general circulation in Wilson County.

16. In Order No. 12 filed on April 9, 2020, the ALJ found the notice sufficient.

**Map and Certificate**

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

18. On July 1, 2020, Floresville filed its consent to the proposed map and certificate.

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

**Evidentiary Record**

20. On July 23, 2020, Floresville and Staff filed a joint proposed notice of approval and motion to admit evidence.

21. In Order No. 14 filed on July 30, 2020, the ALJ admitted the following evidence into the record of this proceeding: (a) the application filed on February 26, 2019; (b) the amended application filed on April 25, 2019; (c) Floresville's proof of public notice filed on December 11, 2019; (d) Floresville's proof of notice to current customers landowners, neighboring utilities, and affected parties, filed on February 14, 2020; (e) Floresville's response to the November 20, 2019 opt-out request filed on May 7, 2020; (f) Floresville's 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, filed on July 1, 2020; (g) Commission Staff's final recommendation filed on July 16, 2020; and (h) the final map and certificate, filed on July 23, 2020, attached to the joint proposed notice of approval.

22. In Order No. 18 filed on December 14, 2020, the ALJ admitted, *sua sponte*, the following evidence into the record of this proceeding: (a) Floresville's first revised map exhibit in response to Order No. 15 filed on September 9, 2020; (b) Floresville's second revised map depicting proposed CCN area and existing services within that area filed on November 12, 2020; and (c) Commission Staff's status report filed on November 20, 2020.

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

23. The requested area is already being adequately served by Floresville.

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

24. There is an ongoing need for sewer service in the requested area.
25. The requested area is currently not within any other sewer utility's service area and generally encompasses existing customers and infrastructure served by Floresville.

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

26. 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.
27. Nearby utilities were properly noticed and no protests or motions to intervene were filed by other utilities.

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

28. Floresville has sufficient capacity to serve the requested area and no additional construction is necessary.
29. Floresville has not been subject to any unresolved enforcement action by the Commission, TCEQ, Texas Health and Human Services, the Office of the Attorney General, or the United States Environmental Protection Agency.
30. Floresville's wastewater treatment system is capable of providing sewer service that meets the requirements of chapter 341 of the Texas Health and Safety Code, the rules of the TCEQ, and the TWC.
31. Floresville has a sufficient number of licensed operators and the managerial and technical capability to provide continuous and adequate service to the requested area. Among other things, this is demonstrated by the fact that Floresville already provides service to 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)**

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

33. 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.
34. Floresville has the financial ability and stability to provide continuous and adequate service to the requested area.
35. Floresville's wastewater treatment plant is permitted by the TCEQ under permit number WQ0010085001 and is capable of meeting TCEQ's design criteria for sewer treatment plants.
- Financial Assurance—TWC § 13.246(d); 16 TAC § 24.227(f)*
36. There is no need to require Floresville to provide a bond or other financial assurance to ensure continuous and adequate service.
- Environmental Integrity and Effect on Land—TWC § 13.246(c)(7) and (c)(9); 16 TAC § 24.227(e)(7) and (e)(9)*
37. The proposed CN amendment will not adversely affect the environmental integrity of the land or have an adverse effect on the land because no additional construction will be needed to provide service to the requested area.
- Improvement in Service or Lowering of Cost—TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)*
38. No change in service is expected as a result of the amendment.
39. No lowering of costs is expected for existing customers as a result of the CN amendment. Customers will continue to be charged the existing rates.
- Regionalization or Consolidation—TWC § 13.241(d); 16 TAC § 24.227(b)*
40. Because Floresville will not need to construct a physically separate water system to serve the requested area, concerns of regionalization or consolidation do not apply.
- Service from Other Utilities—TWC § 13.246(c)(5); 16 TAC § 24.227(e)(5)*
41. 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.

**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.
47. The 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, 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 application meets the requirements set forth in TWC § 13.244 and 16 TAC § 24.227.
5. The Commission processed the application as required by the TWC, the Administrative Procedure Act,<sup>1</sup> and Commission rules.
6. After consideration of the factors in TWC § 13.246(c) and 16 TAC § 24.227(e), Floresville has demonstrated adequate financial, managerial, and technical capability to provide continuous and adequate service to the requested service area as required by TWC § 13.241 and 16 TAC § 24.227.
7. Floresville has demonstrated that the amendment of its sewer CCN number 20279 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).

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



8. It is not necessary for Floresville to provide a bond or other financial assurance under TWC § 13.246(d) or 16 TAC § 24.227(f).
9. Floresville's wastewater treatment system is capable of providing sewer service that meets the requirements of chapter 341 of the Texas Health and Safety Code, the rules of the TCEQ, and the TWC in accordance with TWC § 13.241(b) and 16 TAC § 24.227(a)(1).
10. Under TWC § 13.257(r) and (s), Floresville is required to record a certified copy of its approved map and certificate, along with a boundary description of its service area, in the real property records of Wilson County no later than the 31st day after the date the CCN holder receives this Order.
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 amends Floresville's sewer CCN number 20279 as described in the Order and shown on the attached map.
2. The Commission approves the map and certificate attached to this Order.
3. Floresville must serve every customer and applicant for service within the approved area under CCN number 20279 that requests service and meets the terms of Floresville's sewer service, and such service must be continuous and adequate.
4. Floresville must file in this docket proof of the recording required in TWC § 13.257(r) and (s) within 45 days after the date of this Order.
5. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

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

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**DEANN T. WALKER, CHAIRMAN**

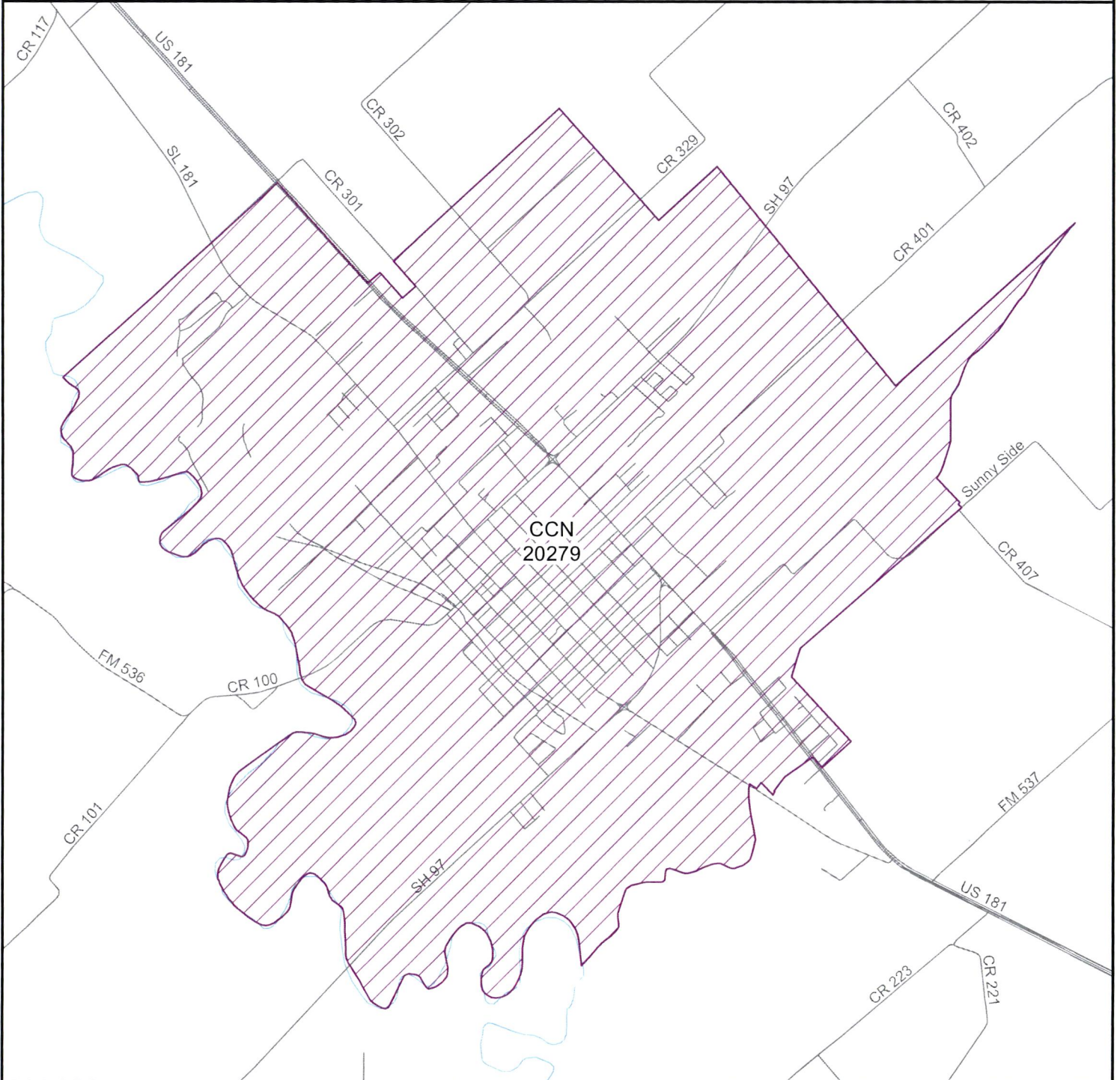
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**ARTHUR C. D'ANDREA, COMMISSIONER**

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**SHELLY BOTKIN, COMMISSIONER**

City of Floresville  
Sewer CCN No. 20279  
PUC Docket No. 49262  
Amended CCN No. 20279 in Wilson County



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

**Sewer CCN**

 20279 - City of Floresville



Map by: Komal Patel  
Date created: June 4, 2020  
Project Path: n:\finalmapping\  
49262CityofFloresville.mxd



# **Public Utility Commission of Texas**

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

## **City of Floresville**

having obtained certification to provide sewer 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 Floresville is entitled to this

### **Certificate of Convenience and Necessity No. 20279**

to provide continuous and adequate sewer utility service to that service area or those service areas in Wilson County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 49262 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 Floresville 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.