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DOCKET NO. 49263

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

JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

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 Motion to Admit Evidence and Proposed Notice of Approval, and would respectfully show the following:

I. BACKGROUND

On February 26, 2019, the City of Floresville (Floresville) filed an application to amend its water Certificate of Convenience and Necessity (CCN) No. 10688 in Wilson County, Texas. The requested area includes approximately 4,201 acres and 171 connections.

On May 31, 2019, the Commission administrative law judge (ALJ) issued Order No. 3, finding the application administratively complete and requiring Floresville to provide notice of the application. On April 9, 2020, the ALJ issued Order No. 12, finding Floresville’s notice sufficient.

On May 4, 2020, the ALJ issued Order No. 13, requiring Staff to provide final maps, certificates, and tariffs (if applicable) to Floresville for review and consent by June 25, 2020. Order No. 13 also required Floresville to file signed consent forms with the Commission by July 9, 2020. On June 25, 2020, Staff provided Floresville with the final map and certificate for review and consent via email. On July 1, 2020, Floresville filed its signed consent form, concurring with the map and certificate transmitted by email on June 25, 2020. On July 16, 2020, Staff filed its Final Recommendation, recommending the application be approved.

Order No. 13 also established a deadline of July 23, 2020, for parties to jointly file proposed findings of fact and conclusions of law. Therefore, this pleading is timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

The Parties move to admit the following evidence into the record of this proceeding:

- (a) The Application, filed on February 26, 2019 [AIS Item No. 1];
- (b) The amended Application, filed on April 25, 2019 [AIS Item No. 5];
- (c) Floresville's proof of public notice, filed on December 11, 2019 [AIS Item No. 27];
- (d) Floresville's proof of notice to current customers, landowners, neighboring utilities, and affected parties, filed on February 14, 2020 [AIS Item No. 32];
- (e) Floresville's response to the November 20, 2019 opt-out request, filed on May 7, 2020 [AIS Item No. 37];
- (f) Floresville's consent form, filed on July 1, 2020, concurring with the final map and certificate transmitted by email on June 25, 2020 [AIS Item No. 38]; and
- (g) Commission Staff's Final Recommendation, filed on July 16, 2020, including the attached map and certificate [AIS Item No. 39].

III. JOINT PROPOSED NOTICE OF APPROVAL

The attached Joint Proposed Notice of Approval would adopt findings of fact and conclusions of law and approve Floresville's application to amend its water CCN No. 10688 in Wilson County, Texas. Also attached are the consented final map and certificate filed by Commission Staff on July 16, 2020.

IV. CONCLUSION

The Parties respectfully request that the Commission grant the Motion to Admit Evidence and adopt the attached Joint Proposed Notice of Approval.

Dated: July 23, 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 July 23, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Taylor P. Denison _____
Taylor P. Denison

DOCKET NO. 49263

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

NOTICE OF APPROVAL

This Notice of Approval addresses the application of the City of Floresville to amend its water Certificate of Convenience and Necessity (CCN) No. 10688 in Wilson County, Texas. The Staff of the Public Utility Commission of Texas (Staff) recommended approval of the application. The Commission adopts the following findings of fact and conclusions of law.

I. Findings of Fact

The Commission makes the following findings of fact:

Applicant

1. The City of Floresville (Floresville) is a municipally-owned utility that provides water service under CCN No. 10688 in Wilson County, Texas.
2. The requested service area includes 4,201 acres with 171 customers.
3. Floresville has a public water system (PWS) registered with the Texas Commission on Environmental Quality (TCEQ) under PWS ID 2470001.

Application

4. On February 26, 2019, Floresville filed an application to amend its water CCN No. 10688.
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. 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. No protests or opt-out requests were received from customers within the proposed service area.

8. On May 31, 2019, the administrative law judge (ALJ) issued Order No. 3, finding the application administratively complete.
9. On July 1, 2020, Floresville filed its signed consent form, concurring with the final map and certificate transmitted by email on June 25, 2020.
10. On July 16, 2020, Staff filed its Final Recommendation, recommending the application be approved.
11. On July 23, 2020, Floresville and Staff filed a Joint Proposed Notice of Approval and Motion to Admit Evidence.

Notice of Application

12. On December 11, 2019, Floresville filed the publisher's affidavit of Erica M. Soto, attesting that notice was published in The Wilson County News in Wilson County on October 2, 2019 and October 9, 2019.
13. On February 14, 2020, Floresville filed the affidavit of notice of Henrietta Turner, attesting that notice was mailed to current customers, landowners, neighboring utilities, and affected parties on February 3, 2020.
14. On April 9, 2020, the ALJ issued Order No. 12, finding Floresville's notice sufficient.

Evidentiary Record

15. On July 23, 2020, Floresville and Staff filed a Joint Proposed Notice of Approval and Motion to Admit Evidence. In Order No. __ issued on _____, 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, filed on July 1, 2020, concurring with the final map and certificate transmitted by email on June 25, 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.

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

1. Floresville is already serving all of the requested area with its existing public water system under PWS ID 2470001, which is registered with the Texas Commission on Environmental Quality (TCEQ).

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

2. There is a need for service as Floresville is already serving 171 customers in the requested area.

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

3. 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 water service to landowners within the proposed service area.
4. There will be no effect on any retail public utility servicing the proximate area as there are no other water providers in the area.

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

5. Floresville possesses the managerial and technical capability to provide continuous and adequate service within the proposed service area.
6. Floresville has an existing public water system registered with the TCEQ under City of Floresville, PWS ID 2470001. Floresville is capable of providing drinking water that meets the requirements of Chapter 341, Health and Safety Code, and has access to an adequate supply of water.
7. Floresville does not have any violations listed in the TCEQ database.

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)

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

9. Floresville has sufficient cash on hand to cover any projected operations and maintenance shortages during the first five years of operations, satisfying the operations test.
10. Floresville has the financial ability and financial stability to pay for the facilities necessary to provide continuous and adequate service to the requested area.

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

11. It is not necessary for Floresville to be required to provide a bond or other financial assurance to ensure continuous and adequate service.

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

12. This criterion is not applicable because the requested area already receives water services from the Applicant.

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

13. This criterion is not applicable because no additional construction is required to serve the requested area.

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

14. Granting the proposed CCN amendment will not impact the environmental integrity of the proposed service area because no additional construction is required.

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

15. There will be no impact or change to the quality of utility services as Floresville already provides water services to all of the proposed service area.

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

16. Granting the proposed CCN amendment will not adversely affect cost of service to customers in the proposed service area.

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

17. Granting the proposed CCN amendment will not substantially affect the land included in the proposed service area.

Informal Disposition

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

19. No person filed a protest or motion to intervene.
20. Floresville and Commission Staff are the only parties to this proceeding.
21. No party requested a hearing and no hearing is needed.
22. Commission Staff recommended approval of the application.
23. 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 application under Texas Water Code (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 Texas Administrative Code (TAC) § 24.3(59).
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 Act¹, the TWC, and Commission rules.
5. Floresville possesses the financial, managerial, and technical capability to provide continuous and adequate service to the proposed service area in Wilson County as required by TWC § 13.241 and 16 TAC § 24.227.
6. The amendment to CCN number 10688 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. Under TWC § 13.257(r) and (s), Floresville is required to record a certified copy of its revised CCN and map, along with a boundary description of its service area, in the real property records of each county in which the service area or a portion of the service area is located, within 31 days of receiving this Notice of Approval.
8. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

¹ Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-66.016.

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 water CCN number 10688 to include the proposed service area addition as described and shown on the map attached to this Notice of Approval.
2. The Commission grants the certificate attached to this Notice of Approval.
3. Floresville must provide service to every customer and applicant for service within the area certified under CCN number 10688, and such service must 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 Notice of Approval.
6. The Commission denies all other motions and any other requests for general or specific relief not expressly granted.

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

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE



Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Floresville

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 Floresville is entitled to this

Certificate of Convenience and Necessity No. 10688

to provide continuous and adequate water 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. 49263 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 _____ 2020.