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

**JOINT PROPOSED ORDER**

**COME 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 water certificate of convenience and necessity (CCN) number 10688, in Wilson County, Texas. The requested area includes approximately 4,201 acres and 171 connections.

Order No. 20 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 January 12, 2021.<sup>1</sup> 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 water CCN number 10688 in Wilson County, Texas.

**III. CONCLUSION**

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

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<sup>1</sup> Order No. 20 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: January 12, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Rachelle Nicolette Robles  
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/s/ Taylor P. Denison \_\_\_\_\_

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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 January 12, 2021, 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 FLORESVILLE TO AMEND A WATER CERTIFICATE OF CONVENIENCE AND NECESSITY IN WILSON COUNTY**           §           **PUBLIC UTILITY COMMISSION OF TEXAS**

**PROPOSED ORDER**

This Order addresses the application of the City of Floresville (Floresville) to amend its water certificate of convenience and necessity (CCN) number 10688 in Wilson County, Texas. The Commission amends Floresville’s water CCN number 10688 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 water service under CCN number 10688 in Wilson County, Texas.<sup>2</sup>
2. Floresville operates, maintains, and controls facilities for providing water service in Wilson County under water CCN number 10688.<sup>3</sup>
3. Floresville owns and operates a public water system (PWS) that is registered with the Texas Commission on Environmental Quality (TCEQ) under PWS ID 2470001 in Wilson County.<sup>4</sup>

**Application**

4. On February 26, 2019, Floresville filed the application at issue in this proceeding.<sup>5</sup>

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<sup>2</sup> Application of The City of Floresville to Amend a Water Certificate of Convenience and Necessity in Wilson County at 2-3 (Feb. 26, 2019) (Application).

<sup>3</sup> Commission Staff’s Final Recommendation at 5, Memorandum of Spencer English, Financial Analyst, Rate Regulation Division, and Roshan Pokhrel, Engineering Specialist, Infrastructure Division (Jul. 16, 2020) (Commission Staff’s Final Recommendation Memo).

<sup>4</sup> Application at 6.

<sup>5</sup> Application.

5. Floresville filed supplements to the application on April 25, 2019 and July 23, 2019.<sup>6</sup>
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.<sup>7</sup>
7. 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.<sup>8</sup>
8. No protests or opt-out requests were received from customers within the proposed service area.<sup>9</sup>
9. In Order No. 3 filed on May 31, 2019, the administrative law judge (ALJ) deemed the application administratively complete.<sup>10</sup>
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.<sup>11</sup> 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.<sup>12</sup>

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<sup>6</sup> Floresville's Updated Application as Requested by the PUC Staff (Amended Map Exhibits for the CCN Boundary) (2 CDs) (Apr. 25, 2019); Floresville's CCN Amendment (Jul. 23, 2019).

<sup>7</sup> Application at 4, 13.

<sup>8</sup> *Id.* at 13; Affidavit of Notice to Current Customers, Landowners, Neighboring Utilities and Affected Parties (Feb. 14, 2020).

<sup>9</sup> 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 water 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.

<sup>10</sup> Order No. 3 Finding Application Administratively Complete; Requiring Notice; and Establishing a Procedural Schedule (May 31, 2019).

<sup>11</sup> Order No. 15 Requiring Additional Information Regarding the Need for Service, and Other Procedural Matters (Aug. 25, 2020).

<sup>12</sup> *Id.*

11. On November 12, 2020, Floresville filed its first revised map exhibit in response to Order No. 15.<sup>13</sup>
12. On December 11, 2020, Floresville filed its third revised map exhibit in response to Order No. 15.<sup>14</sup>
13. On December 29, 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.<sup>15</sup>

**Notice**

14. 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.<sup>16</sup>
15. 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.<sup>17</sup>
16. On February 3, 2020, Floresville mailed notice of the application to neighboring utilities, counties, cities, and affected parties.<sup>18</sup>
17. 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, 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, SS Water Supply Corporation, Sunko Water Supply Corporation, Three Oaks Water Supply Corporation, Picoso Water Supply Corporation, Oak Hills Water Supply

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<sup>13</sup> Floresville's First Revised Map Exhibit in Response to Order No. 15 (Nov. 12, 2020).

<sup>14</sup> Floresville's Third Revised Map Exhibit in Response to Order No. 15 (Dec. 11, 2020).

<sup>15</sup> Commission Staff's Comments on Sufficiency of Revised Mapping Information (Dec. 29, 2020).

<sup>16</sup> Publisher's Affidavit (Dec. 11, 2019).

<sup>17</sup> *Id.*

<sup>18</sup> Affidavit of Notice to Current Customers, Landowners, Neighboring Utilities and Affected Parties (Feb. 14, 2020).

Corporation, City of Stockdale, City of Poth, Evergreen UWCD, San Antonio River Authority, Wilson County FWSD 1 of Wilson County Texas, and Wilson County Judge.<sup>19</sup>

18. In Order No. 12, filed on April 9, 2020, the ALJ found the notice of the application sufficient.<sup>20</sup>

### **Map and Certificate**

19. On June 25, 2020, Commission Staff emailed its proposed map and certificate to Floresville.
20. On July 1, 2020, Floresville filed its signed consent form, concurring with the map and certificate transmitted by email on June 25, 2020.<sup>21</sup>
21. On July 16, 2020, Commission Staff filed the proposed map and certificate as an attachment to its recommendation.<sup>22</sup>

### **Evidentiary Record**

22. On July 23, 2020, Floresville and Staff filed a Joint Proposed Notice of Approval and Motion to Admit Evidence.<sup>23</sup>
23. 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 final map and certificate transmitted by email on June 25, 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.<sup>24</sup>

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<sup>19</sup> *Id*

<sup>20</sup> Order No. 12 (Apr. 8, 2020).

<sup>21</sup> Consent Forms (Jul. 1, 2020).

<sup>22</sup> Commission Staff's Final Recommendation (Jul. 16, 2020).

<sup>23</sup> Joint Motion to Admit Evidence and Proposed Notice of Approval (Jul. 23, 2020).

<sup>24</sup> Order No. 14 - Admitting Evidence (Jul 30, 2020).

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

24. The area subject to this application is served by Floresville’s TCEQ-approved PWS under PWS ID 2470001.<sup>25</sup>
25. Floresville is not subject to any pending TCEQ enforcement actions.<sup>26</sup>
26. No additional construction is necessary for Floresville to serve the requested area.<sup>27</sup>

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

27. Floresville currently serves 171 customers in the requested area.<sup>28</sup>
28. The requested area is currently not within any other water utility’s service area and generally encompasses existing customers and infrastructure served by Floresville.<sup>29</sup>

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

29. 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.<sup>30</sup>
30. Nearby utilities were properly noticed and no protests or motions to intervene were filed by other utilities.<sup>31</sup>
31. Floresville has existing facilities in place to serve the requested area and will not incur additional costs for new facilities.<sup>32</sup>

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

32. Floresville is a municipal utility that currently serves the requested area.<sup>33</sup>

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<sup>25</sup> Application at 2-3 and 7, Commission Staff’s Final Recommendation Memo at 5-6.

<sup>26</sup> Commission Staff’s Final Recommendation Memo at 6.

<sup>27</sup> *Id.* at 6.

<sup>28</sup> Application at 13, Commission Staff’s Final Recommendation Memo at 5.

<sup>29</sup> Commission Staff’s Final Recommendation Memo at 5.

<sup>30</sup> *Id.* at 5-6.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 6.

<sup>33</sup> Application at 2-3.



33. Floresville employs Ricardo Carrasco, David Inouye, Johnny Villarreal, Jorge Lopez, Andres Ibarra, and Edelmiro Chapa as licensed water operators.<sup>34</sup>
34. Floresville has sufficient capacity to serve the requested area and has adequate facilities for the provision of water utility service.<sup>35</sup>
35. Floresville does not have any violations listed in the TCEQ database.<sup>36</sup>

**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)**

36. Floresville currently has a BBB- credit rating from Standard & Poor's Financial Services LLC, satisfying the leverage test.<sup>37</sup>
37. 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.<sup>38</sup>
38. 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.<sup>39</sup>

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

39. There is no need to require Floresville to provide a bond or other financial assurance to ensure continuous and adequate utility service is provided.<sup>40</sup>

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

40. Floresville has an existing PWS that is permitted by the TCEQ under PWS ID 2470001 and is capable of meeting TCEQ's criteria for water systems.<sup>41</sup>

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<sup>34</sup> *Id.* at 7.

<sup>35</sup> Commission Staff's Final Recommendation Memo at 6.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* at 6-7.

<sup>41</sup> Application at 6-7; Commission Staff's Final Recommendation Memo at 6.

<sup>47</sup> *Id.*  
<sup>46</sup> 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.

<sup>45</sup> *Id.*  
<sup>44</sup> *Id.* at 7.  
<sup>43</sup> Commission Staff's Final Recommendation Memo at 6.  
<sup>42</sup> Application at 5-6, Commission Staff's Final Recommendation Memo at 6.

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

**Informal Disposition**

- 45. No lowering of costs is expected for existing customers as a result of the CCN amendment.  
Customers will continue to be charged the existing rates.<sup>46</sup>
- 44. No change in service is expected as a result of the amendment.<sup>45</sup>

**Improvement in Service or Lowering of Cost—TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)**

- 43. The proposed CCN 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.<sup>44</sup>

**24.227(e)(7) and (e)(9)**

**Environmental Integrity and Effect on the Land—TWC § 13.246(c)(7) and (c)(9); 16 TAC §**

- 42. 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.<sup>43</sup>

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

- 41. 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.<sup>42</sup>

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

## 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>48</sup>, and Commission rules.
6. After considering 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 water CCN number 10688 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).
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 water system is capable of providing water 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.

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<sup>48</sup> Tex. Gov't Code §§ 2001.001—903.

### **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 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 10688 that requests service and meets the terms of Floresville's water 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 on 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**