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Arthur C. D'Andrea
Commissioner
Shelly Botkin
Commissioner
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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

RE: **Open Meeting of February 25, 2021**
Docket No. 49263 – *Application of the City of Floresville to Amend a Water Certificate of Convenience and Necessity in Wilson County*

DATE: January 28, 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 Thursday, February 25, 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, February 16, 2021.

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

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DOCKET NO. 49263

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

PROPOSED ORDER

This Order addresses the application filed by the City of Floresville to amend its water certificate of convenience and necessity (CCN) number 10688 in Wilson County. The Commission amends CCN number 10688 to the extent provided in this Order.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Floresville is a home-rule municipality that provides water service under CCN number 10688 in Wilson County.
2. Floresville operates, maintains, and controls facilities for providing water service in Wilson County under water CCN number 10688.
3. Floresville owns and operates a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under public water system identification number 2470001.

Application

4. On February 26, 2019, Floresville filed an application to amend its water CCN number 10688 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.
5. Floresville filed supplements to the application on April 25, 2019 and July 23, 2019.
6. In Order No. 3 filed on May 31, 2019, the administrative law judge (ALJ) deemed the application administratively complete.

7. 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.
8. On November 12, 2020, Floresville filed its first revised map exhibit in response to Order No. 15.
9. On December 11, 2020, Floresville filed its third revised map exhibit in response to Order No. 15.
10. 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 130 and County Road 302; on the east by County Road 402; on the south by Pajarito Creek; and on the west by the San Antonio River.
11. No protests or opt-out requests were received from customers within the proposed service area.¹
12. 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.

Notice

13. 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.

¹ 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

14. On February 14, 2020, Floresville filed an affidavit in which Henrietta Turner, City Manager of the City of Floresville, attested that on February 3, 2020, 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 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.
15. In Order No. 12, filed on April 9, 2020, the ALJ found the notice of the application sufficient.

Map and Certificate

16. On June 25, 2020, Commission Staff emailed its proposed map and certificate to Floresville.
17. On July 1, 2020, Floresville filed its signed consent form, concurring with the map and certificate transmitted by email on June 25, 2020.
18. On July 16, 2020, Commission Staff filed the proposed map and certificate as an attachment to its recommendation.

Evidentiary Record

19. On July 23, 2020, the parties filed a joint motion to admit evidence.
20. 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, 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)

21. Floresville has a public water system registered with the TCEQ and is currently operating in compliance with TCEQ requirements.

22. Floresville is currently providing service in the requested area and such service has been continuous and adequate.

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

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

24. Floresville is currently providing service to 171 existing customers in the requested area.

25. The application does not reflect that requests for additional service were received.

26. Floresville seeks to conform its CN area to the areas it currently serves.

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

27. Granting the CN amendment will obligate Floresville to continue serving its 171 existing customers in the requested area and to provide service to future customers in the requested area.

28. Nearby utilities were properly noticed and no protests, adverse comments, or motions to intervene were filed by other utilities.

29. Landowners within the requested area will continue to benefit from a safe and reliable water source and service.

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

30. Floresville currently provides service to 171 current customers in the requested area.

31. The application does not indicate that additional connections will be added as a result of the CN amendment.

32. Floresville has access to an adequate supply of water and is capable of providing drinking water that meets the requirements of chapter 341 of the Texas Health and Safety Code, the TWC, and the TCEQ's rules.
33. Floresville employs an adequate number of TCEQ-licensed operators to operate and maintain its public water system.
34. Floresville has the managerial and technical capability to provide continuous and adequate service to the requested area.

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

35. Floresville currently has a BBB- credit rating from Standard & Poor's Financial Services LLC, satisfying the leverage test.
36. Floresville has sufficient cash on hand to cover any projected operations and maintenance shortages during the first five years of operations following the granting of the requested amendment, satisfying the operations test.
37. Floresville has the financial ability and stability to provide continuous and adequate service to the requested area.

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

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

Ability to Serve: Water Utility Service—TWC §§ 13.241(b), 13.246(c)(4), 16 TAC § 24.227(a)(1)

39. Floresville has an existing public water system that is permitted by the TCEQ under identification number 2470001 and is capable of meeting TCEQ's criteria for water systems.

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

40. Floresville will not need to construct a physically separate water system to serve the requested area because it currently provides service to the requested area.

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

41. Notice was provided to the neighboring retail public utilities and no protests or adverse comments were received.
42. It is not feasible for an adjacent utility to provide service to the requested area because Floresville currently provides service to the requested area.

Environmental Integrity and Effect on the Land—TWC § 13.246(c)(7) and (c)(9); 16 TAC § 24.227(e)(7) and (e)(9)

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 is 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)

44. No change in service is expected as a result of the amendment.
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.

Informal Disposition

46. More than 15 days have passed since the completion of the notice provided in this docket.
47. No person filed a protest or motion to intervene.
48. Floresville and Commission Staff are the only parties to this proceeding.
49. No party requested a hearing and no hearing is needed.
50. Commission Staff recommended approval of the application.
51. 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 Act², 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.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

² Tex. Gov't Code §§ 2001.001—903.

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 the _____ day of _____ 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D’ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER