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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

2021 FEB 12 PM 12:56 PUBLIC UTILITY COMMISSION FILING CLERK

COMMISSION STAFF'S CORRECTIONS TO THE PROPOSED ORDER

On January 28, 2021, the Office of Policy and Docket Management issued a Proposed Order to be considered at the open meeting scheduled for February 25, 2021 and directed the parties to file corrections or exceptions to the Proposed Order on or before February 16, 2021. Therefore, this pleading is timely filed.

I. STAFF'S PROPOSED CORRECTIONS

Staff (Staff) of the Public Utility Commission of Texas (Commission) proposes the following corrections to the Proposed Order, consistent with the Commission's Final Order in Docket No. 49262:¹

Modify finding of fact 1 because it is duplicative of finding of fact 2.

- 1. Floresville is a ~~home-rule municipally owned utility that provides water service under CCN number 10688 in Wilson County.~~

Modify finding of fact 3 to add the county.

- 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 in Wilson County.

Modify finding of fact 4, consistent with the Commission's Final Order in Docket No. 49262.

- 4. On February 26, 2019, Floresville filed ~~an~~ the application at issue in this proceeding 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.~~

New findings of fact should be added after finding of fact 5, consistent with the Commission's Final Order in Docket No. 49262. Subsequent findings of fact should be renumbered accordingly.

¹ Application of the City of Floresville to Amend a Sewer Certificate of Convenience and Necessity in Wilson County, Docket No. 49262, Final Order (Jan. 29, 2021).

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 opt-out requests were received from customers within the proposed service area.

Delete findings of fact 10 and 11 because they were modified and added as proposed finding of fact 7 and 8, above.

- ~~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.~~

Modify findings of fact 13, 14, 17, 19, 22, 28, 36, 38, 42, and 43, consistent with the Commission's Final Order in Docket No. 49262.

13. On December 11, 2019, Floresville filed ~~the~~ a publisher's affidavit attesting that notice of the application was published on October 2 and October 9, 2019 in *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.~~
14. On February 14, 2020, Floresville filed ~~an~~ the affidavit in which of Henrietta Turner, City Manager of the City of Floresville, attesting that on February 3, 2020, notice of the application was mailed sent to Floresville's 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, Picosa 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.

17. On July 1, 2020, Floresville filed its ~~signed consent form, concurring with~~ the proposed map and certificate transmitted by email on June 25, 2020.
19. On July 23, 2020, ~~the parties~~ Floresville and Commission Staff filed a joint proposed notice of approval and motion to admit evidence.
22. ~~Floresville is currently providing service in the~~ The requested area and such service has been continuous and adequate is already being adequately served by Floresville.
28. Nearby utilities were properly noticed and no protests, ~~adverse comments,~~ or motions to intervene were filed by other utilities.
36. 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 ~~following the granting of the requested amendment,~~ satisfying the operations test.
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.~~
42. It is not feasible for an adjacent utility to provide service to the requested area because Floresville ~~currently~~ already provides service to the requested area and has the facilities in place to serve the requested area.
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~~ will be needed to provide service to the requested area.

Delete findings of fact 21, 23, 25, 26, 27, 29, 30, 31, 32, 33, 34, and 41, consistent with the Commission's Final Order in Docket No. 49262.

21. ~~Floresville has a public water system registered with the TCEQ and is currently operating in compliance with TCEQ requirements.~~
23. ~~No additional construction is necessary for Floresville to serve the requested area.~~
25. ~~The application does not reflect that requests for additional service were received.~~
26. ~~Floresville seeks to conform its CCN area to the areas it currently serves.~~
27. ~~Granting the CCN 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.~~
29. ~~Landowners within the requested area will continue to benefit from a safe and reliable water source and service.~~

- ~~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 CCN 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.~~
- ~~41. Notice was provided to the neighboring retail public utilities and no protests or adverse comments were received.~~

New findings of fact should be added after finding of fact 24, consistent with the Commission's Final Order in Docket No. 49262. Subsequent findings of fact should be renumbered accordingly.

25. The requested area is currently not within any other water utility's service area and generally encompasses existing customers and infrastructure served by Floresville.

New findings of fact should be added after finding of fact 26, consistent with the Commission's Final Order in Docket No. 49262. Subsequent findings of fact should be renumbered accordingly.

27. 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.

New findings of fact should be added after finding of fact 29, consistent with the Commission's Final Order in Docket No. 49262. Subsequent findings of fact should be renumbered accordingly.

30. Floresville has sufficient capacity to serve the requested area and no additional construction is necessary.
31. Floresville has not been subject to an enforcement action by the Commission or TCEQ in the past five years for non-compliance with rules, orders, or statutes.
32. 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.

33. 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.

A new conclusion of law should be added after conclusion of law 4 because it is needed to support the order, consistent with the Commission's Final Order in Docket No. 49262. Subsequent conclusions of law should be renumbered accordingly.

5. Regionalization and consolidation concerns under TWC § 13.241(d) do not apply in this proceeding because construction of a physically separate water system is not required.

Conclusion of law 6 should be modified for completeness to include 16 TAC § 24.11(e) because Floresville's financial ability and stability satisfy the leverage and operations test prescribed by that rule provision, consistent with the Commission's Final Order in Docket No. 49262.

6. After consideration of the factors in TWC § 13.246(c) and 16 TAC § 24.11(e) and 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.

II. CONCLUSION

Staff respectfully requests that the administrative law judge adopt the corrections proposed above.

Dated: February 12, 2021

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 February 12, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/Heath D. Armstrong
Heath D. Armstrong