



Control Number: 49263



Item Number: 62

Addendum StartPage: 0

DeAnn T. Walker
Chairman

Arthur C. D'Andrea
Commissioner

Shelly Botkin
Commissioner

Thomas Gleeson
Executive Director



Greg Abbott
Governor

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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

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

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: February 17, 2020

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.

On February 12, 2021, Commission Staff filed corrections to the proposed order consistent with the Commission's Final Order in Docket No. 49262.¹ The administrative law judge finds the corrections appropriate, except where noted as follows and the ALJ has revised the correction to conform with the application. The proposed order is revised and attached as a redline.

Findings of Fact.

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 water service to landowners within the proposed service area.
32. Floresville has access to an adequate supply of water and is capable of providing drinking water. 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.

taw
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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).

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

CORRECTED PROPOSED ORDER

This Order addresses the application filed certificate of convenience and necessity (CCN) amends CCN number 10688 to the extent provided.

I. Findings of Fact

The Commission makes the following findings:

Applicant

1. Floresville is the only public utility that provides water service in Wilson County.
2. Floresville operates, maintains, and controls the water supply for Wilson County under water CCN number 10688.
3. Floresville owns and operates a public water supply system under Texas Environmental Quality (TCEQ) under public utility number 24700 in Wilson County.

Application

4. On February 26, 2019, Floresville filed an application to amend its water CCN number 10688 to conform with the service area of the existing water supply system.
5. Floresville filed supplements to the application.
6. Floresville seeks to conform the boundaries of the proposed service area addition includes approximately 171 customers.

~~7. The total requested area is located approx~~
~~downtown Floresville, Texas, and is genera~~
~~and County Road 302; on the east by County~~
~~and on the west by San Antonio River.~~

~~5. 8 No opt-out requests were received from cus~~

~~6. 9 In Order No. 3 filed on May 31, 2019, the~~
~~application administratively complete.~~

~~7. 1 On August 25, 2020, the ALJ filed Order No.~~
~~evidence to enable the Commission to deter~~
~~provide service for the entire service ar~~
~~Floresville was required to provide an upo~~
~~service area; boundaries of Floresville's~~
~~extraterritorial jurisdiction city, county~~
~~similar routes; and locations of prospecti~~
~~located outside Floresville's city limits.~~

~~8. 1 On November 12, 2020, Floresville filed it~~
~~No. 15.~~

~~9. 1 On December 11, 2020, Floresville filed it~~
~~No. 15.~~

~~10. The proposed service area addition is loca~~
~~and west of downtown Floresville, Texas, ar~~
~~Road 130 and County Road 302; on the east 1~~
~~Creek; and on the west by the San Antonio~~

~~11. No protests or opt-out requests were recei~~
~~area.~~

~~¹ On November 20, 2019, an opt-out request was filed~~
~~their property to be excluded from the requested CCN se~~
~~within the existing, already certificated water CCN se~~

~~12.~~ On December 29, 2020, Commission Staff file was no need to revise its July 16, 2020 fi approved.

Notice

~~13.~~ On December 11, 2019, Flores ~~with~~ ~~he~~ ~~is~~ ~~lead~~ ~~ed~~ ~~the~~ ~~attesting that notice of the application w~~
The Wilson County News, a newspaper of general public ~~lead~~
~~notice of the application in that news pape~~

~~14.~~ On February 14, 2020, ~~he~~ ~~Edm~~ ~~with~~ ~~he~~ ~~in~~ ~~lo~~ ~~ft~~ ~~fa~~ ~~l~~ ~~Ed~~ ~~ur~~ ~~ne~~
 Manager of the City of ~~a~~ ~~Flone~~ ~~Febr~~ ~~ua~~ ~~ry~~ ~~a~~ ~~Be~~ ~~e~~ ~~st~~
 appli ~~was~~ ~~ma~~ ~~io~~ ~~ne~~ ~~d~~ ~~Fl~~ ~~o~~ ~~m~~ ~~e~~ ~~c~~ ~~u~~ ~~r~~ ~~r~~ ~~e~~ ~~n~~ ~~t~~ ~~s~~ ~~,~~ ~~l~~ ~~a~~ ~~n~~ ~~d~~ ~~o~~ ~~u~~ ~~t
 utilities, ~~and~~ ~~affected~~ ~~parties~~ ~~that~~ ~~Flores~~ ~~v~~
~~following persons and entities: land owners~~
~~and is wholly or partly located in the re~~
~~Corporation, Sunko Water Supply Corporatio~~
~~Picosa Water Supply Corporation, Oak Hills~~
~~City of Poth, Evergreen UWCD, San Antonio~~
~~of Wilson County Texas, and Wilson County~~~~

~~15.~~ 16. Order No. 12, filed on April 9, 2020, sufficient.

Map and Certificate

~~16.~~ On June 25, 2020, Commission Staff email e
 Floresville.

~~17.~~ On July 1, 2020, ~~si~~ ~~g~~ ~~Ed~~ ~~on~~ ~~se~~ ~~rv~~ ~~in~~ ~~g~~ ~~le~~ ~~o~~ ~~n~~ ~~f~~ ~~i~~ ~~d~~ ~~h~~ ~~o~~ ~~s~~ ~~s~~ ~~w~~ ~~e~~ ~~i~~ ~~d~~ ~~t~~ ~~h~~
 map and ~~cert~~ ~~ific~~ ~~ate~~ ~~d~~ ~~by~~ ~~email~~ ~~on~~ ~~June~~ ~~25,~~ ~~2~~

~~Affected Areas of Service (Nov. 20, 2019); Letter Respo~~
~~Final Recommendation Memo at 5.~~

~~18.~~ On July 16, 2020, Commission Staff filed attachment to its recommendation.

Evidentiary Record

~~19.~~ On July ~~13,~~ ~~2020,~~ ~~es Flores filed a motion to~~ ~~dismiss~~ ~~of a proposed~~ ~~admit evidence.~~

~~20.~~ The Order No. 14 filed on July 30, 2020, the record of this proceeding: (a) the application filed on April 25, 2019; (c) December 11, 2019; (d) Floresville's proof neighboring utilities, and affected parties response to the November 20, 2019 opt-out consent form, filed on July 1, 2020, not transmitted by email on June 25, 2020; (g) on July 16, 2020; and (h) the final map and 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 in compliance with TCEQ requirements.~~

~~22. Floresville is currently providing service which has been continuous and adequate is already being~~

~~23. No additional construction is necessary for~~

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

~~23.~~ Floresville is currently providing service

~~24. The requested area is currently not within generally encompasses existing customers and~~

~~25. The application does not reflect that requested~~

~~26. Floresville seeks to conform its CCN area to~~

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

~~27. Granting the CCN amendment will obligate Floresville customers in the requested area and to provide service to landowners within the requested area.~~

~~25. The granting of the proposed CCN amendment or retail public utility and wastewater service to landowners within the proposed area.~~

~~28. Nearby utilities were properly notified and no other intervenes were filed by other utilities.~~

~~29. Landowners within the requested area will receive water service and sewer 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 customers within the requested area.~~

~~27. Floresville has sufficient capacity to serve the requested area if necessary.~~

~~28. Floresville has not been subject to an enforcement action in the past five years for non-compliance with the TCEQ rules.~~

~~29. Floresville has access to an adequate supply of water and is capable of providing wastewater treatment services for the requested area that meets the requirements of chapter 24 of the TCEQ rules, and the TWC.~~

~~30. Floresville has a sufficient number of employees and equipment to provide continuous and adequate service to the requested area.~~

~~31. The application does not indicate that additional information is needed to complete the CCN amendment.~~

3-2. Foresville has access to an adequate supply of water that meets the requirements of chapter TWC, and the TCEQ's rules.

3-3. Foresville employs an adequate number of maintenance public water system.

3-4. Foresville has the managerial and technical 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)

3-5. Foresville currently has a BBB- credit rating, satisfying the leverage test.

3-6. Foresville has sufficient cash on hand to operate and maintain short-term obligations

~~the grantings of that is highly enhanced by the operations~~

3-7. Foresville has the financial ability and to the requested area.

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

3-8. There is no need to require Foresville to ensure continued compliance with applicable

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

3-9. Foresville has an existing public water identification number 2470001 and is capable systems.

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

4-0. Foresville will not need to construct a requested area because it currently provided

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 ret
 eomments were received.

42. B.V. is not feasible for an adjacent utility
 For easement by or dead service and the the
 place to serve 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 adverse
 land or have an adverse effect on the while aimed
 needed to provide service to the requested

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 resu
 45. No lowering of costs is expected for existi
 Customers will continue to be charged the

Informal Disposition

46. More than 15 days have passed since the co
 47. No person filed a protest or motion to int
 48. B.V. and Commission Staff are the o
 49. No party requested a hearing and no hearin
 50. Commission Staff recommended approval of t
 51. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclus
 1. The Commission has authority over this pr
 13.244, and 13.246.

2. Floresville is a retail public utility as c

3. Notice of the application was provided in § 24.235.

4. The application meets the requirements set

5. Regionalization and consolidation concerns
proceeding because construction of a physi

5. 6 The Commission processed the application a
 Proceed²ur and Act Commission rules.

6. 7 After considering the fact o2r4s. liln(2e4). WCa2 n8d(el)3,. Floresville has demonstrated adequate fina provide continuous and adequate service to § 13.241 and 16 TAC § 24.227.

7. 8 Floresville has demonstrated that the amenities serve the public interest and is necessary safety of the public, as required by TWC §

8. 9 It is not necessary for Floresville to provide
§ 13.246(d) or 16 TAC § 24.227(f).

9. 1 Floresville's water system is capable of requirements of chapter 341 of the Texas Health Code and the TWC in accordance with TWC § 13.24

~~+0.~~ Under TWC § 13.257(r) and (s), Floresville approved map and certificate, along with a real property records of Wilson County no holder receives this Order.

4-1. The requirements for informal disposition proceeding.

² Tex. Gov't Code §§ 2001.001 — 903.

III. Ordering Paragraphs

In accordance with these findings of fact the following orders.

1. The Commission amends Floresville's water (and shown on the attached map.
2. The Commission approves the map and certifi
3. Floresville must serve every customer and under CCN number 10688 that requests servi service, and such service must be continuo
4. Floresville must file in this docket proof (s) within 45 days after the date of this
5. The Commission denies all other motions an relief that have not been expressly grante

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

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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	§	

CORRECTED 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 municipally owned utility.
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 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, 2019 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 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 November 12, 2020, Floresville filed its first revised map exhibit in response to Order No. 15.
12. On December 11, 2020, Floresville filed its third revised map exhibit in response to Order No. 15.
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.

Notice

14. On December 11, 2019, Floresville filed the 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.
15. 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.
16. In Order No. 12, filed on April 9, 2020, the ALJ found the notice of the application sufficient.

Map and Certificate

17. On June 25, 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 Commission 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, 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)

22. The requested is already being adequately served by Floresville.

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

23. Floresville is currently providing service to 171 existing customers in the requested area.
24. The requested area is currently not within any other water 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)

25. 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.
26. Nearby utilities were properly noticed and no protests or motions to intervene were filed by other utilities.

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

27. Floresville has sufficient capacity to serve the requested area and no additional construction is necessary.
28. 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.
29. 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 rules of the TCEQ, and the TWC.
30. 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 §§ 13.246(c)(6), 13.241(a); 16 TAC §§ 24.227(a), 24.227(e)(6), 24.11(e)

31. Floresville currently has a BBB- credit rating from Standard & Poor's Financial Services LLC, satisfying the leverage test.
32. 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.
33. 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)

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

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

35. 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)

36. 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)

37. 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.

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

38. 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.

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

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

40. 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

41. More than 15 days have passed since the completion of the notice provided in this docket.
42. No person filed a protest or motion to intervene.
43. Floresville and Commission Staff are the only parties to this proceeding.

44. No party requested a hearing and no hearing is needed.
45. Commission Staff recommended approval of the application.
46. 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. 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.
6. The Commission processed the application as required by the TWC, the Administrative Procedure Act¹, and Commission rules.
7. After considering 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.
8. 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).
9. 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).

¹ Tex. Gov't Code §§ 2001.001—.903.

10. 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).
11. 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.
12. 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 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

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