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PUC DOCKET NO. 49272

**APPLICATION OF YANCEY WATER
SUPPLY CORPORATION TO
AMEND A WATER CERTIFICATE OF
CONVENIENCE AND NECESSITY IN
MEDINA AND FRIO COUNTIES**

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**BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS**

**RESPONSE TO ORDER NO. 15,
CORRECTED UNOPPOSED JOINT MOTION TO ADMIT EVIDENCE
AND PROPOSED ORDER**

On July 28, 2020, the Honorable Administrative Law Judge issued Order No. 15 Requiring Clarification from the Parties regarding (1) the Commission Staff's final recommendation, and (2) the Parties' Joint Motion to Admit Evidence and Proposed Order. Today, August 7, 2020, Commission Staff has separately submitted a Corrected Amended Final Recommendation, which includes the "corresponding map and certificate" referenced in Order No. 15 and in the Commission Staff's initial Amended Final Recommendation filed on July 8, 2020.

Parties now submit the attached Corrected Unopposed Motion to Admit Evidence and Proposed Order, and clarify that they move to admit the Corrected Amended Final Recommendation, including the attached memorandum and accompanying map and certificate, filed on this day, August 7, 2020 by Commission Staff.

Respectfully,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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Division Director

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**ATTORNEYS FOR YANCEY WATER
SUPPLY CORPORATION**

PUC DOCKET NO. 49272

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 August 7, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Michael A. Gershon
Michael A. Gershon

PUC DOCKET NO. 49272

**APPLICATION OF YANCEY WATER
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CONVENIENCE AND NECESSITY IN
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**BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS**

**UNOPPOSED JOINT MOTION TO ADMIT EVIDENCE AND
PROPOSED ORDER**

COME NOW, Yancey Water Supply Corporation (Yancey or Applicant), and the Staff of the Public Utilities Commission of Texas (Staff) (cumulatively, Applicant and Staff referred to as Parties) file this Joint Motion to Admit Evidence and Proposed Order, which is unopposed by the by East Medina County Special Utility District (East Medina) and San Antonio Water System (SAWS) (cumulatively, Intervenor) and respectfully show the following:

I. BACKGROUND

On February 28, 2019, Yancey filed an Application with the Public Utility Commission of Texas (Commission) to amend its Certificate of Convenience and Necessity No. 11463 (Yancey CCN) to provide retail water utility service in Medina and Frio Counties within an “area” CCN much of which for years has been covered by Yancey’s “facility line” CCN (Application).

The requested area is located approximately 20-50 miles west of downtown San Antonio, Texas, and is generally bounded on the north by Medina Lake; on the east by SH 211 and FM 471 and FM 1343; on the south by the Frio County Line (though Yancey’s existing CCN does extend south of the Frio County Line); and on the west by CR 5232 and FM 2200 and CR 341. At the time Yancey filed the Application, the total requested area included approximately 224,359 total acres and 1,764 current customers. Today, Yancey serves approximately 2,000 customers within the requested area. The majority of this acreage is already certificated under Yancey’s facility line

CCN where service is currently being provided. The uncertificated requested area includes approximately 3,772 total acres and 0 current customers, less the acreage owned by those who have elected to opt-out, or removed from the requested area to accommodate the Intervenor.

On August 12, 2019, the Honorable Administrative Law Judge (ALJ) granted the motions to intervene filed by East Medina and SAWS. On April 13, 2020, Yancey submitted revised maps to address East Medina and SAWS's interventions, as well as the several opt-out requests filed under this docket.

Order No. 12 established a deadline of June 3, 2020, for Staff to file a final recommendation on the Application. On June 3, 2020, Staff filed its recommendation to approve the Application. Order No. 12 also established a deadline of June 17, 2020, for parties to jointly file a proposed order, containing detailed, legally sufficient findings of fact, conclusions of law, and ordering paragraphs. Order No. 13, issued on June 18, 2020, extended the June 17, 2020 deadline to June 24, 2020, granting the Parties' and Intervenor's Joint Motion for Extension of Time. Order No. 14, issued on June 25, 2020, again extended the deadline to July 8, 2020. Parties timely filed an Unopposed Joint Motion to Admit Evidence and Proposed Order on July 8, 2020. On July 28, 2020, the ALJ issued Order No. 15, requiring clarifications to be filed by August 7, 2020. In response to Order No. 15, the Parties now submit this Corrected Joint Motion to Admit Evidence and Proposed Order today, August 7, 2020. This pleading is therefore timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

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

- (a) The Application filed on February 28, 2019, as supplemented on March 19, 2019, April 26, 2019, July 8, 2019, April 13, 2020, and May 21, 2020;
- (b) Applicant's proof of notice and supporting documentation, filed on July 29, 2019;

(c) Staff's Corrected Amended Final Recommendation including the attached memorandum that the Application to be approved and corresponding map and certificate, filed on August 7, 2020.

III. JOINT PROPOSED ORDER

The attached Joint Proposed Order would adopt findings of fact and conclusions of law, and approve the Application and amendment to Yancey's water CCN maps.

IV. CERTIFICATE OF CONFERENCE

Counsel for Applicant has conferred with counsel for East Medina, and counsel for East Medina has indicated that this motion is unopposed. Counsel for Applicant has also conferred with counsel for SAWS, and counsel for SAWS has indicated this motion is unopposed.

V. CONCLUSION AND PRAYER

The Parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the Commission adopt the attached Proposed Order.

Dated: August 7, 2020

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

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**ATTORNEYS FOR YANCEY WATER
SUPPLY CORPORATION**

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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 August 7, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Michael A. Gershon
Michael A. Gershon

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**APPLICATION OF YANCEY WATER
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AMEND A WATER CERTIFICATE
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**BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS**

JOINT PROPOSED ORDER

This Order addresses the Application of the Yancey Water Supply Corporation (Yancey or Applicant) to amend water Certificate of Convenience and Necessity No. 11463 in Medina and Frio Counties (Yancey CCN) (the Application). The Commission approves the Application and authorizes the Yancey CCN amendment.

I. Findings of Fact

The Commission makes the following findings of fact:

Applicants

1. Yancey is a retail public utility that operates, maintains, and controls facilities for providing water utility service in Medina and Frio Counties under CCN No. 11463.
2. Yancey holds a public water supply/system registration with the TCEQ in Medina and Frio Counties (ID No. 1630021).

Intervenors

3. The San Antonio Water System (SAWS) is a retail public utility that operates, maintains, and controls facilities for providing water utility service in Atascosa, Bexar, Comal and Medina Counties under Certificate of Convenience and Necessity (CCN) No. 10640.
4. East Medina Special Utility District (East Medina) is a retail public utility that operates, maintains, and controls facilities for providing water utility service in portions of Medina County under CCN No. 10217, and serves areas outside its CCN in areas uncertificated and not served by other retail public utilities.

Application

5. On February 28, 2019, Yancey filed an application to amend its water Certificate of Convenience No. 11463 in Medina and Frio Counties.
6. Yancey's application seeks to convert its line CCN to an area CCN, the area of which is located approximately 20-50 miles west of downtown San Antonio, Texas, and is generally bounded on the north by Medina Lake; on the east by SH 211 and FM 471 and FM 1343; on the south by Frio County Line (though Yancey's existing CCN does extend south of the Frio County Line); and on the west by CR 5232 and FM 2200 and CR 341. At the time Yancey filed the Application, the total requested area included approximately 224,359 total acres and 1,764 current customers. Today, Yancey serves approximately 2,000 customers within the requested area. The majority of this acreage is already certificated under a facility line CCN where service is currently being provided. The uncertificated requested area includes approximately 3,772 total acres and 0 current customers, less the acreage owned by those who have elected to opt-out, or removed from the requested area to accommodate the Intervenors.
7. In Order No. 3, issued on May 30, 2019, the ALJ found the application administratively complete.

Notice

8. On July 29, 2019, Yancey filed proof that notice filed was provided pursuant to 16 TAC § 24.235.
9. In Order No. 6, issued on August 14, 2019, the ALJ deemed the notice sufficient.

Evidentiary Record

10. On June 17, 2020, Yancey, SAWS, East Medina, and the Public Utility Commission Staff (Staff) (collectively, Parties) filed a joint motion to admit evidence.
11. In Order No. __ issued on _____, 2020, the ALJ admitted the following evidence into the record: Yancey's application filed on February 28, 2019, as supplemented on March 19, 2019, April 26, 2019, July 8, 2019, April 13, 2020, and May 21, 2020; Yancey's proof of notice and supporting documentation, filed on July 29, 2019; and Staff's Corrected

Amended Final Recommendation that the Application to be approved, and corresponding map and certificate filed on August 7, 2020.

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

12. The requested area is currently served by Yancey by way of a line CCN. No additional facilities or improvements are currently needed by Yancey to serve the requested area.

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

13. Water utility service is necessary in the proposed areas as individual water wells are not economically feasible for most of the population to be served within the proposed area.
14. The proposed areas to be annexed into Yancey's CCN are currently not within any other water utility's service area, and are generally encompassed in Yancey WSC's existing line CCN.

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

15. On August 14, 2019, the ALJ issued Order No. 6, finding Yancey's notice to landowners and retail public utilities sufficient.
16. Eight landowner's elected to opt-out, of which one landowner withdrew its request. The revised proposed Yancey CCN boundary maps filed under this docket on April 13, 2020, and the Staff's Corrected Amended Final Recommendation filed on August 7, 2020, reflect and honor each of the remaining seven opt-out requests.
17. Yancey, SAWS, and East Medina are the only utilities affected by this Application to Amend Yancey's CCN.
18. To the extent SAWS would have been affected by the initially proposed Yancey CCN boundaries, Yancey and SAWS have settled any and all such impacts by excluding portions of the initially proposed Yancey CCN area that would have affected SAWS. The agreed changes are reflected in the revised proposed Yancey CCN boundary maps filed under this docket on April 13, 2020, and the Staff's Corrected Amended Final Recommendation filed on August 7, 2020.
19. To the extent East Medina would have been affected by the initially proposed Yancey CCN boundaries, Yancey and East Medina have settled any and all such impacts by excluding

portions of the initially proposed Yancey CCN area that would have affected East Medina. The agreed changes are reflected in the revised proposed Yancey CCN boundary maps filed under this docket on April 13, 2020, and in Staff's Corrected Amended Final Recommendation filed on August 7, 2020.

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

20. Yancey has a sufficient number of licensed operators and the managerial and technical capability to provide adequate and continuous service to the requested service area.
21. Yancey has sufficient capacity to serve the customers and no additional construction is necessary.
22. Yancey has not been subject to any unresolved enforcement action by the Commission, TCEQ, the Texas Department of Health, the Office of Attorney General, or the United States Environmental Protection Agency.
23. Yancey does not have any violations listed in the TCEQ database.

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

24. Yancey's long term debt, divided by equity, produces a debt to equity ratio of less than one.
25. Yancey's debt service coverage ratio exceeds 1.25.
26. Yancey has cash available to cover two years of debt service.
27. Yancey has demonstrated the financial capability and stability to provide continuous and adequate service to the requested area.

Feasibility of Obtaining Service from Adjacent Retail Public Utility – TWC § 13.246(c)(5); 16 TAC § 24.227(e)(5)

28. The requested area has existing facilities and is currently being served by Yancey.
29. SAWS and East Medina are utilities, both which were granted intervenor status by Order No. 5, issued by the ALJ on August, 12, 2019.

30. Yancey filed revised proposed CCN boundary maps on April 13, 2020, which account for and exclude (i) geographic areas owned by landowners who filed opt-out requests under this docket, and (ii) geographic areas currently served by SAWS or East Medina or which SAWS or East Medina seek to serve.
31. Utilities within a two-mile radius were properly noticed, and no other protests or requests to opt out were received regarding the proposed CCN amendment.
32. It is not feasible for an adjacent utility to provide service to the requested area, as revised by Yancey's revised boundary maps filed on April 13, 2020.

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

33. Yancey's projected operating revenues are sufficient to cover projected operations and maintenance expense for the first five years after the completion of the proposed sale and transfer.
34. There is no need to require Yancey to provide a bond or other financial assurance to ensure continuous and adequate service.

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

35. The proposed transaction will not adversely impact the environmental integrity of the land because the requested area is currently receiving service from Yancey.

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

36. The requested area will continue to be served by existing systems and facilities and no additional construction is needed; therefore, the effect on the land should be minimal.

Improvement in Service or Lowering Cost to Consumers – TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)

37. No change in service is expected as a result of the transaction.
38. No lowering of costs is expected for all existing customers a result of the transaction. Customers will be charged according to Yancey's tariff.

II. Conclusions of Law

1. After consideration of the factors in TWC § 13.246(c), Yancey has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area;
2. Yancey has provided the application contents required by TWC § 13.244 and 16 TAC § 24.233 for applications to amend a CCN, including (i) appropriate maps; (ii) evidence of any required consent, franchise, or permits; and (iii) an administratively complete CCN amendment application.

III. Ordering Paragraphs

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

1. The Application, as supplemented, is approved.
2. Yancey CCN No. 11463 is amended in accordance with this Order.
3. Yancey shall serve every customer and applicant for service within the area certificated under CCN No. 11463, and such service shall be continuous and adequate.
4. Yancey shall comply with the recording requirements of TWC § 13.257(r) for the areas in Medina and Frio counties affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.

SIGNED AT AUSTIN, TEXAS on the ____ day of _____, 2020.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE