



Control Number: 49272



Item Number: 58

Addendum StartPage: 0



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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**PUBLIC UTILITY COMMISSION
OF TEXAS**

**JOINT RESPONSE TO ORDER NO. 17,
CLARIFYING APPLICANT'S EXISTING CCN BOUNDARIES, JOINT MOTION TO
ADMIT EVIDENCE, AND APPLICANT'S NOTICE OF APPEARANCE**

COME NOW, Yancey Water Supply Corporation (Yancey or Applicant), and the Staff (Staff) of the Public Utility Commission of Texas (Commission) (cumulatively, the Parties) and file this Joint Response to Order No. 17, Clarifying Applicant's Existing CCN Boundaries, Joint Motion to Admit Evidence, and Applicant's Notice of Appearance, which is unopposed by San Antonio Water System (SAWS). Counsel for Yancey and East Medina Special Utility District (East Medina) have conferred and East Medina takes no position on this pleading (East Medina and SAWS are cumulatively, Intervenor). The Parties respectfully show the following:

I. BACKGROUND

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to admit Staff's corrected recommendation. On August 12, 2020, the ALJ filed Order No. 16, Admitting Evidence.

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III. YANCEY'S EXISTING CCN IS PRIMARILY A "FACILITIES PLUS 200 FEET" CCN

Yancey's existing CCN is considered by the Commission to be a "facilities plus 200 feet" CCN, except in two small areas, where Yancey's CCN is "facilities plus 25 feet" (Yancey's "facilities plus 200 feet" and "facilities plus 25 feet" CCN are collectively referred to as a "facilities plus" CCN).

The ALJ asked the Parties to specifically define a “facility line CCN.” Historically, it was the policy of the Texas Commission on Environmental Quality (TCEQ) to grant CCNs that reflected the nature of the utility. Water supply corporations that served rural areas were generally issued CCNs that traced their distribution lines (i.e. facilities-based CCNs). As suburban growth sprawled beyond city limits throughout the state, the TCEQ transitioned from granting geographically-limited CCNs to granting more expansive bounded area CCNs. Yancey’s use of the term “facilities line CCN” is intended to reflect the original policy and that its existing water CCN is not based on an expansive bounded surface area, but rather on the location of its facilities—including its distribution lines. The more customary terminology used by the Commission for this type of CCN is a “facilities plus 200 feet” CCN.

The Parties recognize that both “facilities only” CCNs and “facilities plus 200 feet” CCNs were granted by the TCEQ and still exist today. A “facilities only” CCN covers a “point of use” certificated service area that only incorporates the customer connections at the time the CCN was granted. A “facilities plus 200 feet” CCN is a variation of the “facilities only” CCN, and it includes not only the facilities but also a buffer of a specified number of feet perpendicular to each side of the distribution lines, usually two hundred feet. In this case, Yancey’s “facilities plus” CCN corresponds to its distribution lines and connections.

Typically, a “facilities only” or “facilities plus” CCN holder might request a bounded area CCN to future-proof the utility. As rural areas become more suburbanized and parcels are subdivided, “facilities only” and “facilities plus” CCNs inhibit the ability of a utility to serve new customers, because if a new connection is outside the existing distribution lines, it requires a CCN amendment. Converting to a bounded area CCN ensures that a CCN holder can quickly begin

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Yancey files this Notice of Appearance of Counsel and respectfully shows and requests as follows:

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816 Congress Avenue, Suite 1900
Austin, Texas 78701
Telephone: (512) 322-5800
Facsimile: (512) 472-0532
Email: mgershon@lglawfirm.com; cruiz@lglawfirm.com

¹ Stated another way, the 896 acres are not the *only* uncertificated area included in the 209,526 total acres of requested service area.

4. Yancey respectfully requests that all correspondence, pleadings, and all other documents in this proceeding be served upon the above-referenced legal counsel.

V. CONCLUSION AND PRAYER

The Parties respectfully request that the maps and certificate, attached hereto as Exhibit A be admitted into the record as evidence, and the Commission adopt the Proposed Order filed on August 7, 2020. Further, Yancey respectfully requests that all correspondence, pleadings, and all other documents in this proceeding be served upon the above-referenced legal counsel.

Respectfully,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Rachelle Nicolette Robles
Division Director

Eleanor D'Ambrosio
Managing Attorney

/s/ Taylor Kilroy
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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 October 26, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Michael A. Gershon
Michael A. Gershon

EXHIBIT A

Commission Staff Recommended CCN Map and Certificate



Public Utility Commission of Texas

By These Presents Be It Known To All That

YANCEY WATER SUPPLY CORPORATION

having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Yancey Water Supply Corporation is entitled to this

Certificate of Convenience and Necessity No. 11463

to provide continuous and adequate water utility service to that service area or those service areas in Medina and Frio Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 49272 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the Yancey Water Supply Corporation to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this _____ day of _____ 2020.

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Eleanor D'Ambrosio
Managing Attorney

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taylor.kilroy@puc.texas.gov

/s/ Michael A. Gershon
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By These Presents Be It Known To All That

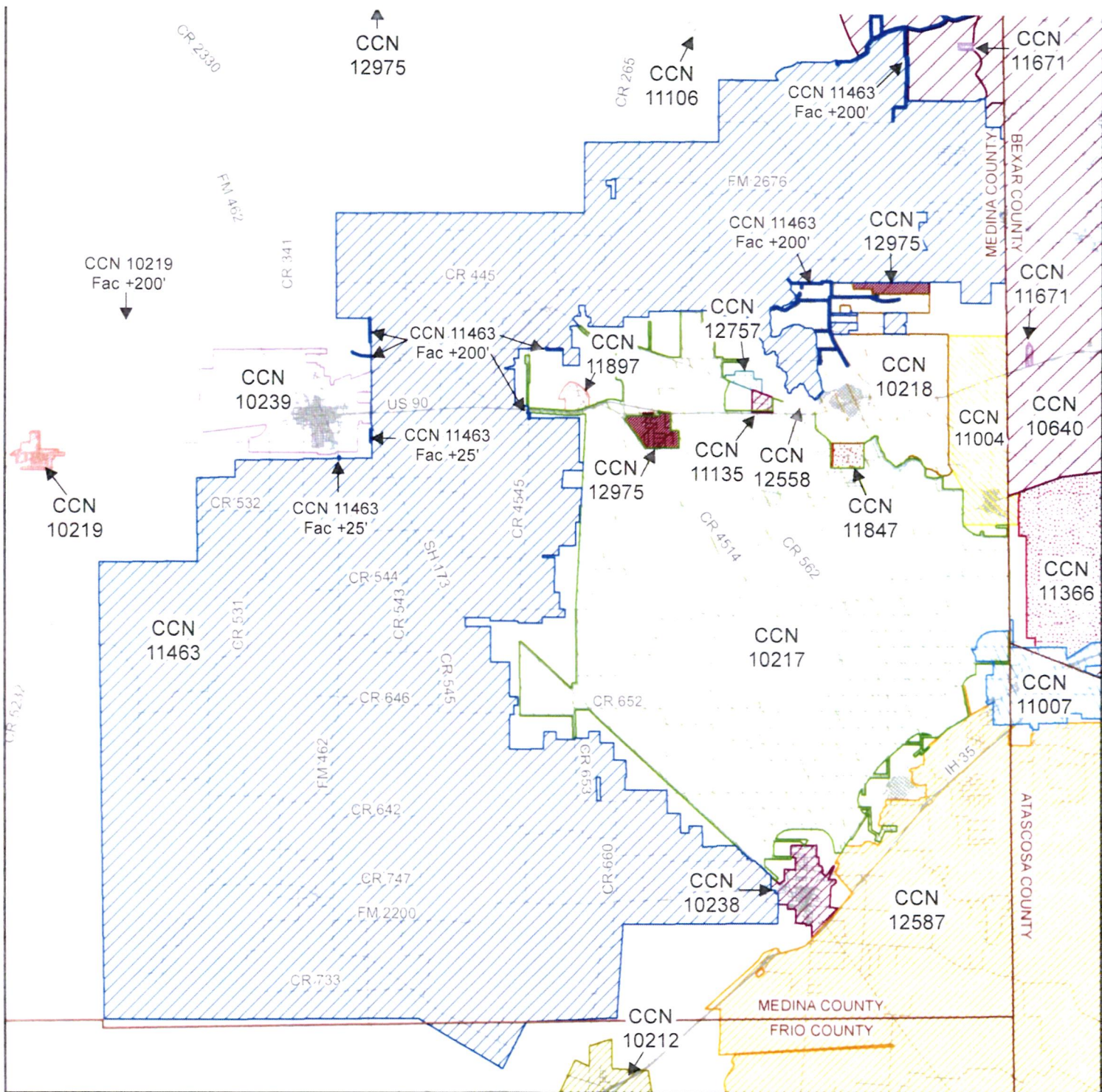
YANCEY WATER SUPPLY CORPORATION

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Certificate of Convenience and Necessity No. 11463

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Issued at Austin, Texas, this _____ day of _____, 2020.



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Miles



Water CCN

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|--|--------------------------------------|--|-------------------------------|
| | 11463 - Yancey WSC | | 12558 - New Alsace WSC |
| | 10219 - Medina County WCID 2 | | 11847 - Medina River West WSC |
| | 10239 - City of Hondo | | 11897 - Creekwood Ranches WSC |
| | 12975 - Old Highway 90 Water Service | | 11366 - Atascosa Rural WSC |
| | 11106 - SWWC Utilities Inc | | 11007 - City of Lytle |
| | 10640 - San Antonio Water System | | 12587 - Benton City WSC |
| | 13154 - LCR Water Development LP | | 10238 - City of Devine |
| | 11004 - City of La Coste | | 10212 - Moore WSC |

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serving new customers who are already in close proximity to the CCN holder's facilities and distribution lines.

The ALJ asked if a map exists that depicts Yancey's current CCN boundaries. Aside from the map depicted on the Commission's CCN Map Viewer, Yancey is providing a digital copy of a map prepared in 1984 by the State Department of Highways and Public Transportation (see Exhibit B) (the "1984 Map"), and an unofficial map produced by Yancey (the "Unofficial Map"), roughly depicting Yancey's distribution lines, facilities plus CCN, and the boundaries of Yancey's proposed bounded area CCN (Exhibit C). While the 1984 Map was retired in 2007, it depicts Yancey's "facilities plus" CCN as it was in 1984, essentially tracing Yancey's existing lines at the time. These lines are represented on the Unofficial Map against the backdrop of Yancey's proposed bounded area CCN boundaries. The 1984 Map and Unofficial Map do not represent the precise nature of Yancey's existing CCN, as neither shows the 200 or 25 foot buffer area that runs with the facilities CCN. The maps are only offered to visually demonstrate to the ALJ, the general layout of Yancey's certificated service area as it exists today, compared to the bounded service area as proposed in Yancey's Application.

The ALJ asked if the acreage of Yancey's current CCN is known. Calculating the acreage of a "facilities plus" CCN is difficult because it necessarily involves estimating the mileage covered by distribution lines and other facilities along with the applicable buffer (200 feet or 25 feet). However, the Parties assert that, outside of the 3,277 originally-requested acres that was reduced to 896 acres, the remaining acreage in the requested area is needed to fill in the gaps in Yancey's existing service area, i.e., the spaces between its facility lines plus the 200 or 25 foot buffer, such that Yancey will be granted a bounded area CCN that accurately reflects its existing service territory. This bounded area CCN will allow Yancey to add new customers in the event a

parcel located within the interstices of its facility lines is subdivided. The additional 896 acres includes area that is beyond Yancey's existing facility lines, and therefore, includes area that is new to Yancey's service area.¹

Lastly, the ALJ asked if a map exists that compares the boundaries of Yancey's current CCN with the boundaries of the proposed CCN. The Unofficial Map (attached as Exhibit C) generally displays this information. The Parties note that this map is only offered to visually demonstrate to the ALJ, the general layout of Yancey's certificated service area as it exists today, compared to the bounded service area as proposed in Yancey's Application.

IV. NOTICE OF APPEARANCE

Yancey files this Notice of Appearance of Counsel and respectfully shows and requests as follows:

1. Yancey engaged the law firm of Lloyd Gosselink Rochelle & Townsend, P.C. (the "Firm") on January 22, 2018 as its General Counsel.

2. While the Firm has not officially filed a Notice of Appearance under this particular docket until now, it has participated in representing Yancey in previous filings under this docket.

3. The contact information of Yancey's legal counsel is as follows:

Michael A. Gershon
C. Cole Ruiz
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
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Email: mgershon@lglawfirm.com; cruiz@lglawfirm.com

¹ Stated another way, the 896 acres are not the *only* uncertificated area included in the 209,526 total acres of requested service area.

4. Yancey respectfully requests that all correspondence, pleadings, and all other documents in this proceeding be served upon the above-referenced legal counsel.

V. CONCLUSION AND PRAYER

The Parties respectfully request that the maps and certificate, attached hereto as Exhibit A be admitted into the record as evidence, and the Commission adopt the Proposed Order filed on August 7, 2020. Further, Yancey respectfully requests that all correspondence, pleadings, and all other documents in this proceeding be served upon the above-referenced legal counsel.

Respectfully,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

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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 October 26, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Michael A. Gershon
Michael A. Gershon

EXHIBIT A

Commission Staff Recommended CCN Map and Certificate



Public Utility Commission of Texas

By These Presents Be It Known To All That

YANCEY WATER SUPPLY CORPORATION

having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Yancey Water Supply Corporation is entitled to this

Certificate of Convenience and Necessity No. 11463

to provide continuous and adequate water utility service to that service area or those service areas in Medina and Frio Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 49272 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the Yancey Water Supply Corporation to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this _____ day of _____ 2020.

EXHIBIT B

**1984 State Department of Highways and Public Transportation Map,
Showing Yancey WSC's Original Facilities Plus CCN ("1984 Map")**

EXHIBIT C

**Yancey WSC Unofficial Map Depicting Facilities Plus CCN, Water
Distribution Lines and Proposed Area CCN Boundaries.**

