



Control Number: 49272



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DeAnn T. Walker
Chairman

Arthur C. D'Andrea
Commissioner

Shelly Botkin
Commissioner

John Paul Urban
Executive Director



Greg Abbott
Governor

Public Utility Commission of Texas

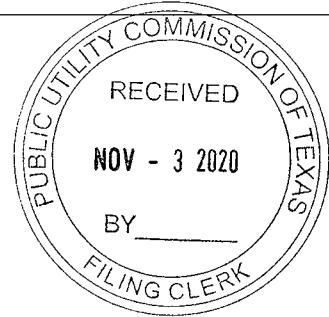
TO: DeAnn T. Walker, Chairman
Arthur C. D'Andrea, Commissioner
Shelly Botkin, Commissioner

All Parties of Record

FROM: Hunter Burkhalter
Chief Administrative Law Judge

RE: **Open Meeting of December 17, 2020**
Docket No. 49272—*Application of Yancey Water Supply Corporation to Amend*
a Water Certificate of Convenience and Necessity in Medina and Frio Counties

DATE: November 3, 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, December 17, 2020**, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties must file corrections or exceptions to the Proposed Order on or before **Wednesday, December 2, 2020**.

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

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DOCKET NO. 49272

APPLICATION OF YANCEY WATER	§	PUBLIC UTILITY COMMISSION
SUPPLY CORPORATION TO AMEND	§	
A WATER CERTIFICATE OF	§	OF TEXAS
CONVENIENCE AND NECESSITY IN	§	
MEDINA AND FRIO COUNTIES	§	

PROPOSED ORDER

This Order addresses the application of Yancey Water Supply Corporation to amend its water certificate of convenience and necessity (CCN) number 11463 in Medina and Frio counties. The Commission amends Yancey’s water CCN number 11463 as specified in this order.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Yancey is a Texas non-profit corporation registered with the Texas secretary of state under filing number 44417301.
2. Yancey operates, maintains, and controls facilities for providing water utility service in Medina and Frio counties under water CCN number 11463.
3. Yancey owns and operates public water system that is registered with the Texas Commission Environmental Quality (TCEQ) under public water system (PWS) number 1630021 in Medina and Frio counties.

Background

4. Currently, Yancey’s CCN number 11463 is not a typical CCN with geographic boundaries encompassing the area where Yancy is obligated to provide service; rather, it is what the parties refer to as a “facilities only” or “facilities plus” CCN, meaning that it roughly encompasses only Yancey’s water facilities and distribution lines.
5. The majority of Yancey’s current CCN is a “facilities plus 200 feet” CCN, meaning that it includes not only the utility’s facilities and distribution lines, but also a 200-feet wide buffer zone parallel to the distribution lines.

6. In two small areas of Yancey's current CCN, it is a "facilities plus 25 feet" CCN, meaning that the buffer zone is only 25 feet wide.
7. No official map exists depicting Yancey's current CCN boundaries, and the total acreage within the current CCN boundaries is not known.

Application

8. On February 28, 2019, Yancey filed the application at issue in this proceeding.
9. Yancey supplemented and amended the application in filings on March 19, April 26, and July 8, 2019; and March 6 and April 13, 2020.
10. The primary objective of the application is to convert Yancey's CCN from a facilities plus CCN to a CCN with a bounded area encompassing the utility's entire service area.
11. In the application, Yancey seeks a CCN with a bounded area that would primarily encompass its roughly 289 miles of certificated distribution lines.
12. Although the CCN boundaries proposed in the application were primarily formed to encompass the areas already served by Yancey's current facilities plus CCN, Yancey also sought to add certain areas that it is not currently serving but has the ability to serve with its existing infrastructure.
13. The total 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 Texas State Highway 211 and Farm to Market Road (FM) 471 and FM 1343; on the south by Frio County Line; and on the west by County Road (CR) 5232, FM 2200, and CR 341.
14. Initially, the total area requested in the application included approximately 224,359 acres and 1,764 current customers.
15. In light of recent growth in demand, Yancey now serves approximately 2,000 customers within the requested area.
16. Having excluded acreage owned by those who have elected to opt-out and acreage removed to accommodate the intervenors, the application now covers a requested area of approximately 209,526 acres and approximately 2,000 current customers.

17. Because the total acreage within Yancey's current CCN boundaries is not known, it is not possible to precisely determine how many acres are being added to Yancey's certificated area with the amendment sought in this application.
18. The majority of the requested area is already being served by Yancey.
19. Approximately 896 acres of the requested area is not currently being served by Yancey.
20. Of the 896 acres, roughly 263 acres directly adjoin areas within Yancey's currently certificated facilities plus CCN that are actively being served by Yancey; roughly 383 acres directly adjoin areas within Yancey's currently certificated facilities plus CCN that are not actively being served by Yancey; and roughly 250 acres do not directly adjoin areas within Yancey's currently certificated facilities plus CCN but are within three quarters of a mile of the currently certificated facilities plus CCN.
21. In Order No. 3 filed May 30, 2019, the administrative law judge (ALJ) deemed the application administratively complete.

Intervenors

22. East Medina Special Utility District 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 that are uncertificated and not served by other retail public utilities.
23. On July 25, 2019, East Medina filed a motion to intervene.
24. San Antonio Water System (SAWS) operates, maintains, and controls facilities for providing water utility service in Medina County, among others, under CCN number 10640.
25. On August 1, 2019, SAWS filed a motion to intervene.
26. In Order No. 5 filed on August 12, 2019, the ALJ granted both motions to intervene.

Opt Out Requests

27. On July 31, and August 1 and 5, 2019, several landowners filed requests to opt out of the requested area.
28. Subsequently, Yancey amended its application in order to exclude the opt-out properties.

Notice

29. On July 29, 2019, Yancey filed the affidavit of Neal R. Goedrich, Yancey's project engineer, attesting that, on July 3, 2019, notice of the application was sent to Yancey's current customers, neighboring utilities, and affected parties.
30. On July 29, 2019, Yancey filed publisher's affidavits attesting notice of the application was published, on June 13 and 20, 2019, in the *Hondo Anvil Herald*, a newspaper of general circulation in Medina County, and in the *Frio-Nueces Current*, a newspaper of general circulation in Frio and LaSalle counties.
31. In Order No. 6 filed on August 14, 2019, the ALJ found the notice sufficient.

Map and Certificate

32. On May 20, 2020, Commission Staff emailed the proposed map and certificate to Yancey.
33. On May 21, 2020, Yancey filed its consent to the proposed map and certificate.
34. On August 7, 2020, Commission Staff filed the proposed map and certificate as attachments to its corrected, amended final recommendation.

Evidentiary Record

35. On August 7, 2020, Yancey and Commission Staff filed a corrected agreed motion to admit evidence and proposed order. The remaining parties, East Medina and SAWS, did not oppose the motion.
36. In Order No. 16 filed on August 12, 2020, the ALJ admitted the following evidence into the record of this proceeding: (a) the application filed on February 28, 2019; (b) the supplement to the application filed on March 19, 2019; (c) the supplement to the application filed on April 26, 2019; (d) the supplement to the application filed on July 8, 2019; (e) the applicant's proof of notice and supporting documentation filed on July 29, 2019; (f) the supplement to the application filed on April 13, 2020; (g) the applicant's consent form filed on May 21, 2020; (h) Commission Staff's corrected amended final recommendation, including the attached map and certificate, filed on August 7, 2020.

Adequacy of Existing Service—Texas Water Code (TWC) § 13.246(c)(1), 16 Texas Administrative Code (TAC) § 24.227(e)(1)

37. The majority of the requested area is already being adequately served by Yancey.

38. Approximately 896 acres of the requested area is not in proximity to Yancey's facilities plus CCN boundaries and is not currently being served by Yancey, but the utility has the ability to serve this area with its existing infrastructure.

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

39. There is an ongoing need for water service in the requested area.

40. There is a need for additional service in the requested area because it is experiencing population growth.

41. Water service from a certificated utility is preferable in the requested area because individual water wells are not economically feasible for most of the population within the requested area.

42. The requested area is currently not within any other water utility's service area, and is generally encompassed in the area served by Yancey's facilities plus CCN.

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

43. Because the requested area has been modified to eliminate all properties for which the owners have asked to opt out, there will be no adverse effect on the landowners who filed opt-out requests.

44. Nearby utilities were properly noticed and, with the exception of SAWS and East Medina, no protests or motions to intervene were filed by other utilities.

45. As to SAWS and East Medina, the requested area was amended to accommodate the concerns raised by those entities and they no longer object to the application.

46. Yancey and new customers will both benefit from the amendment because, without it, Yancey would be required to repeatedly apply to amend its facilities plus CCN as it extended its distribution lines to serve new customers.

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

47. 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.

48. Yancey has sufficient capacity to serve the requested area and no additional construction is necessary.

49. 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.
50. Yancey's public water system is capable of providing drinking water that meets the requirements of Chapter 341, Texas Health and Safety Code, the rules of the TCEQ, and the TWC.
51. Yancey has access to an adequate supply of water to serve the requested area.
52. Yancey has 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 Yancey already provides service to most of the requested area.

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

53. It is not feasible to obtain service from an adjacent retail public utility because the requested area is largely already being served by Yancey.

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)

54. Yancey satisfies the leverage test because it has a debt to equity ratio of 0.23, which is less than one; because it has a debt service coverage ratio of 9.91, which exceeds 1.25; and because it has cash available to cover two years of debt service.
55. Yancey's projected operating revenues are sufficient to cover projected operations and maintenance shortages for the first five years of operations after the amendment, thus satisfying the operations test.
56. Yancey 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)

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

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

58. The proposed transaction will not adversely impact 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)

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

60. No lowering of costs is expected for existing customers as result of the transaction. Customers will continue to be charged according to Yancey's tariff.

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

61. Because Yancey will not need to construct a physically separate water system to serve the requested area, concerns of regionalization or consolidation are not applicable.

Informal Disposition

62. More than 15 days have passed since the completion of the notice provided in this docket.

63. SAWS, East Medina, Yancey, and Commission Staff are the only parties to this proceeding.

64. No party requested a hearing and no hearing is needed.

65. Commission Staff recommended that the application be approved.

66. This 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, 13.246.
2. Yancey is a retail public utility as defined by 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 Commission processed the application as required by the TWC, the Administrative Procedure Act,¹ and Commission rules.
5. After consideration of the factors in TWC § 13.246(c) and 16 TAC § 24.227(e), Yancey 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.
6. Yancey has demonstrated that the amendment of its water CCN number 11463 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).
7. It is not necessary for Yancey to provide a bond or other financial assurance under TWC § 13.246(d) or 16 TAC § 24.227(f).
8. Yancey has access to an adequate supply of water to serve the requested area, and its public water system is capable of providing drinking water that meets the requirements of Chapter 341, 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).
9. Yancey must 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 Medina and Frio counties within 31 days and submit to the Commission evidence of the recording within 45 days, as required by TWC § 13.257(r) and (s).
10. The requirements for informal disposition in 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 Yancey's water CCN number 11463 as described in this order and shown on the attached map.

¹ Tex. Gov't Code §§ 2001.001–.903.

2. The Commission approves the map and certificate attached to this order.
3. Yancey must serve every customer and applicant for service within the approved area under water CCN number 11463 that requests service and meets the terms for Yancey's water service, and such service must be continuous and adequate.
4. Yancey must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Medina and Frio counties affected by this application and file in this docket proof of the recording 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 December 2020.

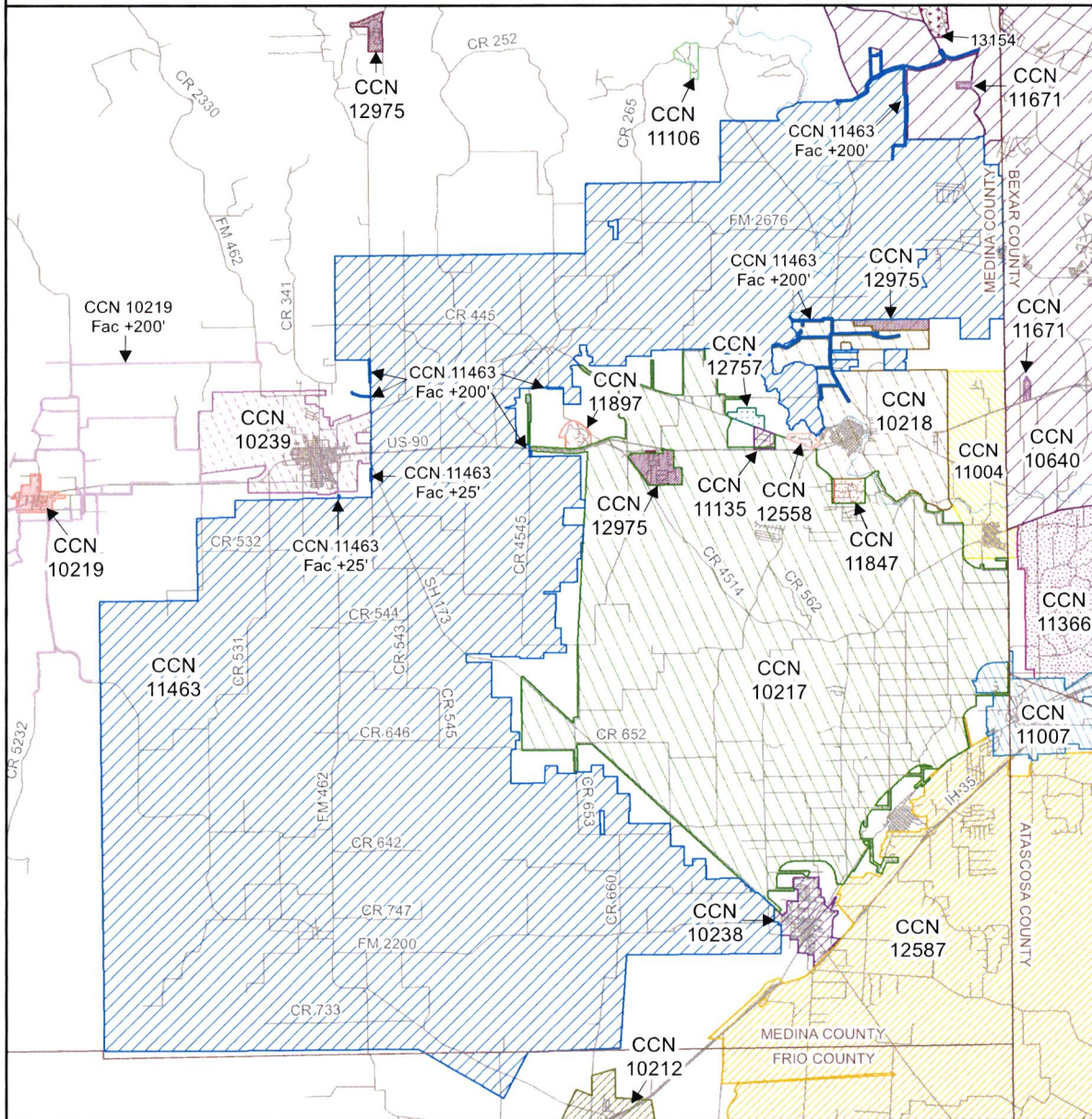
PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER

Yancey Water Supply Corporation
 Water CCN No. 11463
 PUC Docket No. 49272
 Amended CCN No. 11463 in Frio and Medina Counties



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Miles



Water CCN

- 11463 - Yancey WSC
- 10219 - Medina County WCID 2
- 10239 - City of Hondo
- 12975 - Old Highway 90 Water Service
- 11106 - SWWC Utilities Inc
- 10640 - San Antonio Water System
- 13154 - LCR Water Development LP
- 11004 - City of La Coste
- 11671 - Rio Medina Water
- 10218 - City of Castroville
- 12757 - Ville D'Alsace WSC
- 11135 - Highway 90 Ranch WSC
- 10217 - East Medina County SUD

- 12558 - New Alsace WSC
- 11847 - Medina River West WSC
- 11897 - Creekwood Ranches WSC
- 11366 - Atascosa Rural WSC
- 11007 - City of Lytle
- 12587 - Benton City WSC
- 10238 - City of Devine
- 10212 - Moore WSC

Water CCN Facility Lines

- 11463 - Yancey WSC
- 11871 - West Medina WSC



Public Utility Commission of Texas
 1701 N. Congress Ave
 Austin, TX 78701

Map by: Komal Patel
 Date created: April 30, 2020
 Project Path: n:\finalmapping\49272YanceyWSC.mxd



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.