



Control Number: 49272



Item Number: 63

Addendum StartPage: 0

DOCKET NO. 49272

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

§
§
§
§
§

**PUBLIC UTILITY COMMISSION
OF TEXAS**

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 a 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 Yancey 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-foot-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 or amended the application in filings on March 19, April 26, and July 8, 2019 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 the area already served by 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-to-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 471 and Farm-to-Market Road 1343, on the south by Frio County Line, and on the west by County Road 5232, Farm-to-Market Road 2200, and County Road 341.
14. As of July 29, 2019 when notice of the application was sent and published, the total requested area included approximately 224,359 acres and 1,764 current customers.
15. Having excluded acreage owned by those who have elected to opt out and acreage removed to accommodate the intervenors, the amended application reflects a requested area of approximately 209,526 acres.

16. 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.
17. Yancey is already serving the majority of the requested area.
18. Approximately 896 acres of the requested area are not currently being served by Yancey.
19. Of the 896 acres, roughly 263 acres directly adjoin areas within Yancey's current certificated service area that are actively being served by Yancey; roughly 383 acres directly adjoin areas within Yancey's current certificated service area that are not actively being served by Yancey; and roughly 250 acres do not directly adjoin areas within Yancey's current certificated service area but are within three-quarters of a mile of the certificated service area.
20. In Order No. 3 filed on May 30, 2019, the administrative law judge (ALJ) deemed the application administratively complete.

Intervenors

21. 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.
22. San Antonio Water System operates, maintains, and controls facilities for providing water utility service in Medina County and other counties under CCN number 10640.
23. In Order No. 5 filed on August 12, 2019, the ALJ granted motions to intervene filed by East Medina and San Antonio Water System.

Opt Out Requests

24. On July 31 and August 1 and 5, 2019, the following landowners filed requests to opt out of the requested area:

Landowner opting out	Date of filing
Raymond L. Jagge	July 31, 2019
Robyn Jagge Masrouri	July 31, 2019
Sharon Jagge Rogers	July 31, 2019

Todd Tschirhart on behalf of B & L Tschirhart, Ltd.	July 31, 2019
Polly Edlund on behalf of Old Jagge Ranch, Ltd.	July 31, 2019
Fran and Duane Brown	August 1, 2019
Michael and Margot Bowen	August 5, 2019
Two Creeks Ranch, LLC	August 5, 2019

25. On March 6, 2020, a letter from Two Creeks Ranch, LLC was filed. In that letter, Two Creeks Ranch withdrew its request to opt out of the requested area.

26. Subsequently, Yancey amended its application to exclude the opt-out properties.

Notice

27. 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.

28. 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 County.

29. In Order No. 6 filed on August 14, 2019, the ALJ found the notice sufficient.

Map and Certificate

30. On May 20, 2020, Commission Staff emailed the proposed map and certificate to Yancey.

31. On May 21, 2020, Yancey filed its consent to the proposed map and certificate.

32. On August 7, 2020, Commission Staff filed the proposed map and certificate as attachments to its corrected, amended final recommendation.

Evidentiary Record

33. 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; and (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)

34. The majority of the requested area is already being adequately served by Yancey.
35. Approximately 896 acres of the requested area are not within Yancey's current 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)

36. There is an ongoing need for water service in the requested area.
37. 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.
38. 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)

39. 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.
40. Nearby utilities were properly noticed and, with the exception of San Antonio Water System and East Medina, no protests or motions to intervene were filed by other utilities.
41. As to San Antonio Water System and East Medina, the requested area was amended to accommodate the concerns raised by those entities, and they no longer object to the application.
42. 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)

43. Yancey has sufficient capacity to serve the requested area, and no additional construction is necessary.
44. Yancey has not been subject to any unresolved enforcement action by the Commission, TCEQ, Texas Health and Human Services, the Office of the Attorney General, or the United States Environmental Protection Agency.
45. Yancey's public water system 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.
46. Yancey has access to an adequate supply of water to serve the requested area.
47. Yancey 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 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)

48. 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)

49. 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.
50. 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.
51. 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)

52. 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)

53. 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)

54. No change in service is expected as a result of the amendment.
55. No lowering of costs is expected for existing customers as a result of the CCN amendment. Customers will continue to be charged according to Yancey's tariff.

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

56. Because Yancey will not need to construct a physically separate water system to serve the requested area, concerns of regionalization or consolidation do not apply.

Informal Disposition

57. More than 15 days have passed since the completion of the notice provided in this docket.
58. San Antonio Water System, East Medina, Yancey, and Commission Staff are the only parties to this proceeding.
59. No party requested a hearing, and no hearing is needed.
60. Commission Staff recommended that the amended application be approved.
61. 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 §§ 13.241 and 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 application meets the requirements set forth in TWC § 13.244 and 16 TAC §§ 24.25 and 24.227.
5. The Commission processed the application as required by the TWC, the Administrative Procedure Act,¹ and Commission rules.
6. 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.
7. 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).
8. 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).
9. 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 of the Texas Health and Safety Code, the TWC, and the rules of the TCEQ in accordance with TWC § 13.241(b) and 16 TAC § 24.227(a)(1).
10. Under TWC § 13.257(r) and (s), Yancey 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 Medina and Frio counties no later than the 31st day after the date the CCN holder receives this Order.
11. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

¹ Tex. Gov't Code §§ 2001.001–.903.

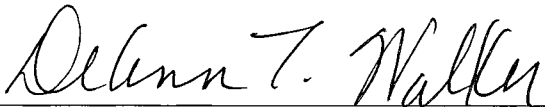
III. Ordering Paragraphs

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.
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 file in this docket proof of the recording required in TWC § 13.257(r) and (s) within 45 days of 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 17th day of December 2020.

PUBLIC UTILITY COMMISSION OF TEXAS


DEANN T. WALKER, CHAIRMAN


ARTHUR C. D'ANDREA, COMMISSIONER


SHELLY BOTKIN, COMMISSIONER



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

17th

day of

December

2020.

This map displays the CCN 10219 area, which is shaded in light blue. The area is bounded by several roads, including CR 200, CR 341, CR 445, CR 532, CR 541, CR 543, CR 545, CR 546, CR 547, CR 548, CR 549, CR 550, CR 551, CR 552, CR 553, CR 554, CR 555, CR 556, CR 557, CR 558, CR 559, CR 560, CR 561, CR 562, CR 563, CR 564, CR 565, CR 566, CR 567, CR 568, CR 569, CR 570, CR 571, CR 572, CR 573, CR 574, CR 575, CR 576, CR 577, CR 578, CR 579, CR 580, CR 581, CR 582, CR 583, CR 584, CR 585, CR 586, CR 587, CR 588, CR 589, CR 590, CR 591, CR 592, CR 593, CR 594, CR 595, CR 596, CR 597, CR 598, CR 599, CR 600, CR 601, CR 602, CR 603, CR 604, CR 605, CR 606, CR 607, CR 608, CR 609, CR 610, CR 611, CR 612, CR 613, CR 614, CR 615, CR 616, CR 617, CR 618, CR 619, CR 620, CR 621, CR 622, CR 623, CR 624, CR 625, CR 626, CR 627, CR 628, CR 629, CR 630, CR 631, CR 632, CR 633, CR 634, CR 635, CR 636, CR 637, CR 638, CR 639, CR 640, CR 641, CR 642, CR 643, CR 644, CR 645, CR 646, CR 647, CR 648, CR 649, CR 650, CR 651, CR 652, CR 653, CR 654, CR 655, CR 656, CR 657, CR 658, CR 659, CR 660, CR 661, CR 662, CR 663, CR 664, CR 665, CR 666, CR 667, CR 668, CR 669, CR 670, CR 671, CR 672, CR 673, CR 674, CR 675, CR 676, CR 677, CR 678, CR 679, CR 680, CR 681, CR 682, CR 683, CR 684, CR 685, CR 686, CR 687, CR 688, CR 689, CR 690, CR 691, CR 692, CR 693, CR 694, CR 695, CR 696, CR 697, CR 698, CR 699, CR 700, CR 701, CR 702, CR 703, CR 704, CR 705, CR 706, CR 707, CR 708, CR 709, CR 710, CR 711, CR 712, CR 713, CR 714, CR 715, CR 716, CR 717, CR 718, CR 719, CR 720, CR 721, CR 722, CR 723, CR 724, CR 725, CR 726, CR 727, CR 728, CR 729, CR 730, CR 731, CR 732, CR 733, CR 734, CR 735, CR 736, CR 737, CR 738, CR 739, CR 740, CR 741, CR 742, CR 743, CR 744, CR 745, CR 746, CR 747, CR 748, CR 749, CR 750, CR 751, CR 752, CR 753, CR 754, CR 755, CR 756, CR 757, CR 758, CR 759, CR 760, CR 761, CR 762, CR 763, CR 764, CR 765, CR 766, CR 767, CR 768, CR 769, CR 770, CR 771, CR 772, CR 773, CR 774, CR 775, CR 776, CR 777, CR 778, CR 779, CR 780, CR 781, CR 782, CR 783, CR 784, CR 785, CR 786, CR 787, CR 788, CR 789, CR 790, CR 791, CR 792, CR 793, CR 794, CR 795, CR 796, CR 797, CR 798, CR 799, CR 800, CR 801, CR 802, CR 803, CR 804, CR 805, CR 806, CR 807, CR 808, CR 809, CR 810, CR 811, CR 812, CR 813, CR 814, CR 815, CR 816, CR 817, CR 818, CR 819, CR 820, CR 821, CR 822, CR 823, CR 824, CR 825, CR 826, CR 827, CR 828, CR 829, CR 830, CR 831, CR 832, CR 833, CR 834, CR 835, CR 836, CR 837, CR 838, CR 839, CR 840, CR 841, CR 842, CR 843, CR 844, CR 845, CR 846, CR 847, CR 848, CR 849, CR 850, CR 851, CR 852, CR 853, CR 854, CR 855, CR 856, CR 857, CR 858, CR 859, CR 860, CR 861, CR 862, CR 863, CR 864, CR 865, CR 866, CR 867, CR 868, CR 869, CR 870, CR 871, CR 872, CR 873, CR 874, CR 875, CR 876, CR 877, CR 878, CR 879, CR 880, CR 881, CR 882, CR 883, CR 884, CR 885, CR 886, CR 887, CR 888, CR 889, CR 890, CR 891, CR 892, CR 893, CR 894, CR 895, CR 896, CR 897, CR 898, CR 899, CR 900, CR 901, CR 902, CR 903, CR 904, CR 905, CR 906, CR 907, CR 908, CR 909, CR 910, CR 911, CR 912, CR 913, CR 914, CR 915, CR 916, CR 917, CR 918, CR 919, CR 920, CR 921, CR 922, CR 923, CR 924, CR 925, CR 926, CR 927, CR 928, CR 929, CR 930, CR 931, CR 932, CR 933, CR 934, CR 935, CR 936, CR 937, CR 938, CR 939, CR 940, CR 941, CR 942, CR 943, CR 944, CR 945, CR 946, CR 947, CR 948, CR 949, CR 950, CR 951, CR 952, CR 953, CR 954, CR 955, CR 956, CR 957, CR 958, CR 959, CR 960, CR 961, CR 962, CR 963, CR 964, CR 965, CR 966, CR 967, CR 968, CR 969, CR 970, CR 971, CR 972, CR 973, CR 974, CR 975, CR 976, CR 977, CR 978, CR 979, CR 980, CR 981, CR 982, CR 983, CR 984, CR 985, CR 986, CR 987, CR 988, CR 989, CR 990, CR 991, CR 992, CR 993, CR 994, CR 995, CR 996, CR 997, CR 998, CR 999, CR 1000.



Water CCN