

Control Number: 49559



Item Number: 17

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**DOCKET NO. 49559**

**APPLICATION OF THE CITY OF §  
HALLSVILLE TO AMEND ITS §  
WATER CERTIFICATE OF §  
CONVENIENCE AND NECESSITY §  
AND TO DECERTIFY A PORTION §  
OF WEST HARRISON WATER §  
SUPPLY CORPORATION'S §  
SERVICE AREA IN HARRISON §  
COUNTY §**

**PUBLIC UTILITY COMMISSION**

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OFFICE OF TEXAS  
PUBLIC UTILITY COMMISSION  
FILING CLERK

**AGREED MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF  
APPROVAL**

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this Motion to Admit Evidence and Proposed Notice of Approval with agreement from the City of Hallsville (collectively, the Parties). In support thereof, the Parties would show the following:

**I. BACKGROUND**

On May 21, 2019, the City of Hallsville (Hallsville) filed an application to amend its water certificate of convenience and necessity (CCN) No. 13200 and to decertify a portion of West Harrison Water Supply Corporation's (West Harrison) CCN No. 12728 in Harrison County. Hallsville proposes to incorporate an area which is comprised of approximately 16 acres, no existing customers, and 24 proposed connections.

Order No. 4, issued October 23, 2019, set a deadline of January 24, 2020, for the Parties to jointly file detailed, legally sufficient findings of fact and conclusions of law. This pleading, therefore, is timely filed.

**II. MOTION TO ADMIT EVIDENCE**

The Parties request the entry of the following items into the record of this proceeding: (a) Hallsville's application filed on May 21, 2019 and as supplemented on July 19, 2019 and August 16, 2019; (b) Commission Staff's supplemental recommendation on Administrative Completeness and Notice filed on September 3, 2019; (c) Hallsville's proof of notice filed on October 7, 2019; (d) Commission Staff's recommendation on Sufficiency of Notice filed on October 14, 2019; (e)

Hallsville's consent form filed on January 3, 2020 (f) West Harrison's consent form filed January 3, 2020; and (g) Staff's final recommendation and attachments filed January 10, 2020.

### **III. JOINT PROPOSED NOTICE OF APPROVAL**

The Parties have agreed on the attached Proposed Notice of Approval, which would grant Hallsville's application to amend water CCN No. 13200 and to decertify a portion of West Harrison's CCN No. 12728. The Parties request that the Commission adopt the findings of fact, conclusions of law, and ordering paragraphs included in the Proposed Notice of Approval.

### **IV. CONCLUSION**

The Parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the attached Proposed Notice of Approval be adopted.

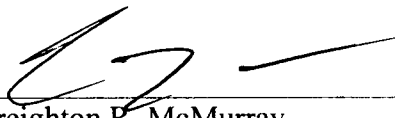
Dated: January 24, 2020

Respectfully submitted,

### **PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION**

Thomas S. Hunter  
Division Director

Heath D. Armstrong  
Managing Attorney



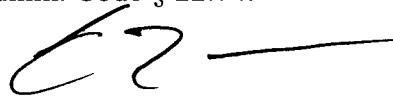
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**DOCKET NO. 49559**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this the 24<sup>th</sup> of January 2020 in accordance with 16 Tex. Admin. Code § 22.74.

A handwritten signature in black ink, appearing to read 'C. McMurray', is written over a horizontal line.

Creighton R. McMurray

**DOCKET NO. 49559**

<b>APPLICATION OF THE CITY OF</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>HALLSVILLE TO AMEND ITS</b>	<b>§</b>	
<b>WATER CERTIFICATE OF</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CONVENIENCE AND NECESSITY</b>	<b>§</b>	
<b>AND TO DECERTIFY A PORTION</b>	<b>§</b>	
<b>OF WEST HARRISON WATER</b>	<b>§</b>	
<b>SUPPLY CORPORATION'S</b>	<b>§</b>	
<b>SERVICE AREA IN HARRISON</b>	<b>§</b>	
<b>COUNTY</b>	<b>§</b>	

**PROPOSED NOTICE OF APPROVAL**

This Notice of Approval addresses the application of the City of Hallsville to amend its water certificate of convenience and necessity (CCN) number 13200 to add 16 acres to its water service area in Harrison County, and to decertify a portion of West Harrison Water Supply Corporation's (West Harrison) water CCN No. 12728. The application is approved, the requested area is added to CCN No. 13200, and the requested portion of CCN No. 12728 is decertified.

**I. Findings of Fact**

**Applicant**

1. The City of Hallsville is a type A general law municipality with a population of fewer than 5,000 residents.
2. The City of Hallsville operates, maintains, and controls facilities for water service under CCN No. 13200 in Harrison County.

**Application**

3. On May 21, 2019, The City of Hallsville filed an application to amend its water CCN No. 13200 in Harrison County by adding additional acreage and to decertify a portion of West Harrison's service area.
4. The requested area consists of approximately 16 acres, no current customers, and 24 proposed connections.
5. The requested area is located within West Harrison's water CCN No. 12728.

6. The requested service area is generally bounded on the north by Rutland Dr., on the east by Farm to Market Road 450, on the south by Deer Run Rd., and on the west by Country Club Road.
7. In Order No. 3, issued September 12, 2019, the administrative law judge (ALJ) found the application administratively complete.

**Notice**

8. On October 7, 2019, The City of Hallsville filed the affidavit of Mayor Jesse Casey, attesting that amended notice was mailed to neighboring utilities, county authorities, municipalities, and affected parties on September 6, 2019.
9. On October 7, 2019, The City of Hallsville filed publisher's affidavits attesting to publication of notice in the *Marshall News Messenger*, a publication of general circulation in Harrison County, on September 10, 2019 and September 17, 2019.
10. In Order No. 4, issued October 23, 2019, the ALJ found notice sufficient.

**Map, Tariff, Certificate**

11. On December 13, 2019, Staff emailed its proposed map, certificate, and tariff to The City of Hallsville and West Harrison.
12. On January 3, 2020, The City of Hallsville filed its consent to the proposed map and the applicable certificate.
13. On January 3, 2020, West Harrison filed its consent to the proposed map and the applicable certificate.
14. On January 10, 2020, Staff filed the proposed map and certificate as an attachment to its final recommendation.

**Evidentiary Record**

15. On January 24, 2020, the Parties filed an agreed motion to admit evidence and proposed notice of approval.
16. In Order No. 5, issued on \_\_\_\_\_, 2020, the ALJ admitted the following into evidence: (a) Hallsville's application filed on May 21, 2019 and as supplemented on July 19, 2019 and August 16, 2019; (b) Commission Staff's supplemental recommendation on Administrative Completeness and Notice filed on September 3, 2019; (c) Hallsville's proof of notice filed on October 7, 2019; (d) Commission Staff's recommendation on Sufficiency of Notice filed on October 14, 2019; (e) Hallsville's consent form filed on January 3, 2020

(f) West Harrison's consent form filed January 3, 2020; and (g) Staff's final recommendation and attachments filed January 10, 2020.

**Adequacy of Existing Service—TWC §13.246(c)(1), 16 TAC § 24.227(d)(1)**

17. There are no current customers in the area subject to this application.
18. There is no current water service in the requested area.

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

19. A developer requested service from The City of Hallsville to serve 24 residential lots that have been proposed for the area.
20. The development is projected to add 24 water connections in the requested area.

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

21. A portion of West Harrison's water CCN No. 12728 will be decertified.
22. On February 20, 2017, the City of Hallsville and West Harrison executed an Interlocal Agreement for the Provision of Water Service to Saddle Brook Subdivision to transfer the requested area to the City of Hallsville.
22. There will be no effect on any retail public utility servicing the proximate area. Nearby retail public utilities were provided notice and did not provide comments in the docket by the intervention deadline of October 17, 2019.

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

23. The City of Hallsville has Public Water System number 1020004 approved by the Texas Commission on Environmental Quality (TCEQ), which has adequate capacity to meet the projected demands in the requested area.
24. The City of Hallsville has an existing wholesale water contract with the City of Longview for the purchase of treated water

**Service from Other Utilities—TWC § 13.246(c)(5); 16 TAC § 24.227(d)(5)**

25. According to the Interlocal Agreement, the parties agree that City of Hallsville shall be the sole provider of the water service area and service from adjacent retail public utilities is not feasible.

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

26. The City of Hallsville will extend its existing water system to serve the requested area and will not need to construct a physically separate water system.

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

27. The City of Hallsville meets three out of the five leverage tests: (a) the City of Hallsville has a debt to equity ratio of 0.90, which meets the leverage test of less than one; (b) the City of Hallsville has sufficient unrestricted cash available as a cushion for two years of debt service; and (c) the City of Hallsville has a debt service coverage ratio of 1.58 times derived by dividing net operating income before depreciation.
28. The City of Hallsville has the financial ability and financial stability to pay for the facilities necessary to provide continuous and adequate service to the requested area.

**Financial Assurance—TWC § 13.246(c)(7); 16 TAC § 24.227(d)(7)**

29. There is no need to require The City of Hallsville 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(d)(7)**

30. The environmental integrity of the land will be minimally affected as a result of the requested CCN amendment.

**Improvement in Service and Lowering of Cost—TWC § 13.246(c)(8); 16 TAC § 24.227(d)(8)**

31. No improvement of service or lowering of cost to customers in the requested area will result from granting the CCN amendment because The City of Hallsville will be serving new customers that have not been previously served.

**Effect on the Land—TWC § 13.246(c)(9); 16 TAC § 24.227(d)(9)**

32. The land is being developed as a residential neighborhood. The utilities being constructed to serve the neighborhood will allow the development to proceed.

**Informal Disposition**

33. More than 15 days have passed since the completion of notice provided in this docket.
34. No person filed a protest or motion to intervene.
35. The City of Hallsville and Staff are the only parties to this proceeding.
36. No party requested a hearing and no hearing is needed.
37. Staff recommended that the application be approved.
38. The decision is not adverse to any party.

## **II. Conclusion of Law**

The Commission makes the following conclusions of law:

1. The Commission has jurisdiction over this proceeding under Texas Water Code (TWC) §§ 13.241, 13.244, and 13.246.
2. The City of Hallsville is a retail public utility as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Notice of the application complies with TWC § 13.246 and 16 TAC § 24.235.
4. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,<sup>1</sup> the TWC, and Commission rules.
5. The City of Hallsville possesses the financial, managerial, and technical capability to provide continuous and adequate service to the requested service area and its current service area in Harrison County as required by TWC § 13.241(a) and 16 TAC § 24.227.
6. The amendment to CCN number 13200 is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(c).
7. The City of Hallsville must record a certified copy of the approved map for the certificate amendment, along with a boundary description of the service area, in the real property records of Harrison County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording in accordance with TWC § 13.257(r) and (s).
8. 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 The City of Hallsville's water CCN No. 13200 as described in this Notice of Approval and shown on the attached map.
2. The Commission decertifies the portion of West Harrison's water CCN No. 12728 as described in this Notice of Approval and shown on the attached map.

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<sup>1</sup> Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2008 & Supp. 2014).

3. The Commission grants the certificates attached to this Notice of Approval.
4. The City of Hallsville must serve every customer and applicant for service within the approved area under CCN No. 13200 who requests water service and such service must be continuous and adequate.
5. The City of Hallsville must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Harrison County affected by this application.
6. The City of Hallsville must file in this docket proof of the recording required in ordering paragraph five no later than 45 days after the date this Notice of Approval is signed.
7. 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 \_\_\_\_\_ 2020.**

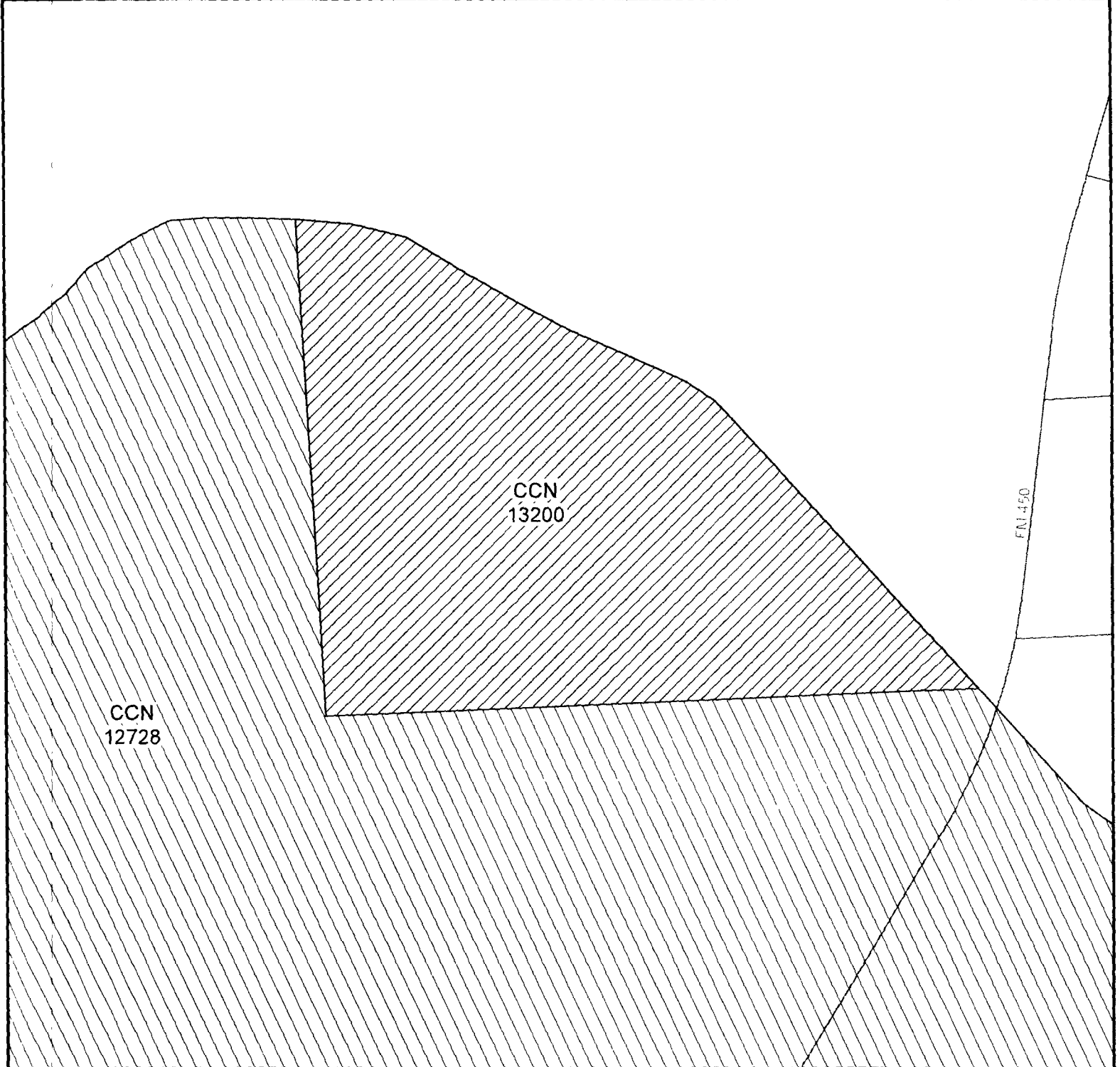
**PUBLIC UTILITY COMMISSION OF TEXAS**

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**STEVEN LEARY  
ADMINISTRATIVE LAW JUDGE**

City of Hallsville  
Portion of Water CCN No. 13200  
PUC Docket No. 49559

Decertified a Portion of West Harrison Water Supply Corporation, CCN 12728 in Harrison County



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

**Water CCN**



13200 - City of Hallsville

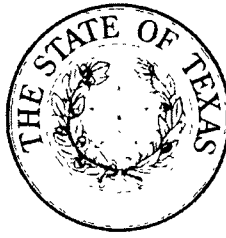


12728 - West Harrison WSC

0 200 400  
Feet



Map by Komal Patel  
Date created November 7, 2019  
Project Path n:\finalmapping\  
49559CityofHallsville.mxd



# **Public Utility Commission of Texas**

**By These Presents Be It Known To All That**

## **City of Hallsville**

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, the City of Hallsville is entitled to this

### **Certificate of Convenience and Necessity No. 13200**

to provide continuous and adequate water utility service to that service area or those service areas in Harrison County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 49559 are on file at the Commission offices in Austin, Texas; and are a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of Hallsville 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, the \_\_\_\_\_ day of \_\_\_\_\_ 2020.