

Control Number: 49879



Item Number: 18

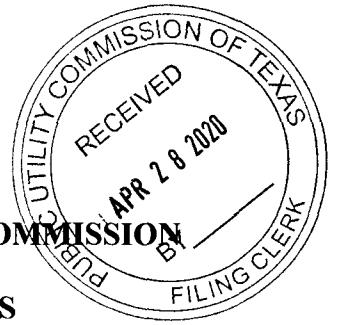
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**DOCKET NO. 49879**

**APPLICATION OF SWIFT WATER  
SUPPLY CORPORATION TO AMEND  
ITS WATER CERTIFICATE OF  
CONVENIENCE AND NECESSITY IN  
NACOGDOCHES COUNTY**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**



**COMMISSION STAFF'S RECOMMENDATION ON PROPOSED NOTICE AND  
PROPOSED PROCEDURAL SCHEDULE**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Third Supplemental Recommendation on Proposed Notice and Proposed Procedural Schedule in response to Order No. 6. Staff recommends that Swift Water Supply Corporation (Swift) be directed to provide notice as directed below and in the attached memorandum and that the proposed procedural schedule be adopted. In support thereof, Staff would show the following:

**I. BACKGROUND**

On August 21, 2019, Swift filed an application to amend its water certificate of convenience and necessity (CCN) No. 11420 in Nacogdoches County. The requested area consists of approximately 3,136 acres and 62 current customers. Swift filed supplemental information on October 14, 2019, December 16, 2019, January 7, 2020 and February 10, 2020.

Order No. 6 issued on April 15, 2020, found the application administratively complete and required Staff to file a recommendation on the proposed notice and a proposed procedural schedule by April 28, 2020. Therefore, this pleading is timely filed.

**II. NOTICE**

As detailed in the attached memorandum, from Patricia Garcia in the Commission's Infrastructure Division, Staff recommends that Swift proceed with providing public notice. Specifically, Staff recommends that Swift be directed to use the attached *Notice to Landowners, Neighboring Systems, and Cities* form to complete the following actions:

1. Provide notice of the application by first-class mail to the following:
  - a. Cities, districts, and neighboring retail public utilities providing the same utility service whose corporate boundaries or certificated service area are located within two miles from the outer boundary of the requested area:

- Angelina & Neches River Authority
  - Appleby WSC (CCN No. 10376)
  - Attoyac Bayou Watershed Authority
  - City of Appleby
  - City of Nacogdoches (CCN No. 11182)
  - Libby WSC (CCN No. 10943)
- b. The county judge of each county that is wholly or partially included in the requested area:
- Nacogdoches County Judge
- c. Each groundwater conservation district that is wholly or partially included in the requested area:
- Pineywoods GCD
- d. Each landowner of a tract of land that is at least 25 acres and is wholly or partly located in the requested area. Notice must be mailed to the owner of the tract of land according to the most current tax appraisal rolls of the applicable central appraisal district at the time the application was filed.
- e. Any affected customers, and other affected parties in the requested area.

Addresses can be obtained by the Applicant from the Water Utility Database at <http://www.puc.texas.gov/watersearch>. Information related to districts including addresses can be obtained from the Texas Commission on Environmental Quality's (TCEQ) web site located at <http://www.tceq.texas.gov/iwud/>.

2. Publish notice in a newspaper having general circulation in the county where the requested area is located, once each week for two consecutive weeks. Proof in the form of a publisher's affidavit must be filed within 30 days of the publication date. The affidavit must state with specificity each county in which the newspaper is of general circulation. Within 30 days of the date the notice was mailed, Applicant must file an affidavit specifying the notice that was provided to every person and entity to whom notice was provided and the date the notice was mailed.
3. Provide notice using the attached notice forms.
4. Provide a copy of map delineating the requested area with each individual notice to neighboring utilities, other affected parties, landowners and customers.

5. File in the docket a map and copy of notice along with the signed affidavit specifying every person and entity to whom notice was provided, the date that the notice was provided, and the publisher's affidavit for proof of newspaper publication.

#### **IV. PROCEDURAL SCHEDULE**

Staff proposes the following procedural schedule:

<b>Event</b>	<b>Date</b>
Deadline for Swift to file with the Commission signed affidavits that the notice was given along with a copy of the notice sent to the affected parties and published in a newspaper of general circulation	June 12, 2020
Deadline for Staff to file a recommendation on sufficiency of notice	June 22, 2020
Deadline to intervene	Thirty (30) days after notice is issued

#### **V. CONCLUSION**

For the reasons detailed above, Staff recommends that Swift be directed to provide notice as detailed above and in the attached memorandum, and that the procedural schedule proposed above be adopted.

Dated: April 28, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Rachelle Nicolette Robles  
Division Director

Eleanor D'Ambrosio  
Managing Attorney

/s/ John Harrison  
John Harrison  
State Bar No. 24097806  
Richard Nemer  
State Bar No. 24042829  
Daniel Moore  
State Bar No. 24116782  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7277  
(512) 936-7268 (facsimile)  
John.Harrison@puc.texas.gov

**DOCKET NO. 49879**

**CERTIFICATE OF SERVICE**

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 April 28, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ John Harrison  
John Harrison

## PUCT Interoffice Memorandum

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**To:** John Harrison, Attorney  
Legal Division

**From:** Patricia Garcia, Senior Engineering Specialist  
Infrastructure Division

**Date:** April 28, 2020

**Subject:** **Docket No. 49879**, Application of Swift Water Supply Corporation to Amend its Water Certificate of Convenience and Necessity in Nacogdoches County

On August 21, 2019, Swift Water Supply Corporation (Swift Water or Applicant) filed with the Public Utility Commission of Texas (Commission) an application to amend its water Certificate of Convenience and Necessity (CCN) No. 11420 in Nacogdoches County, Texas pursuant to Texas Water Code (TWC) §§ 13.242 to 13.250 and the 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237. The total service area being requested includes approximately 3,123 acres and 62 current customers.

Staff from the Rate Regulation Division and the Infrastructure Division have reviewed the additional information filed by the Applicant on February 10, 2020 and Order No. 6, which deemed the application administratively complete. Staff recommends the Applicant be ordered to do the following:

1. Provide notice of the application by first-class mail to the following:
  - a. Cities, districts, and neighboring retail public utilities providing the same utility service whose corporate boundaries or certificated service area are located within two miles from the outer boundary of the requested area:
    - Angelina & Neches River Authority
    - Appleby WSC (CCN No. 10376)
    - Attoyac Bayou Watershed Authority
    - City of Appleby
    - City of Nacogdoches (CCN No. 11182)
    - Libby WSC (CCN No. 10943)
  - b. The county judge of each county that is wholly or partially included in the requested area:
    - Nacogdoches County Judge
  - c. Each groundwater conservation district that is wholly or partially included in the requested area:
    - Pineywoods GCD
  - d. Each landowner of a tract of land that is at least 25 acres and is wholly or partly located in the requested area. Notice must be mailed to the owner of the tract of land according to the most current tax appraisal rolls of the applicable central appraisal district at the time the application was filed.
  - e. Any affected customers, and other affected parties in the requested area.

Addresses can be obtained by the Applicant from the Water Utility Database at <http://www.puc.texas.gov/watersearch>. Information related to districts including addresses can be obtained from the Texas Commission on Environmental Quality's (TCEQ) web site located at <http://www14.tceq.texas.gov/iwud/>.

2. Publish notice in a newspaper having general circulation in the county where the requested area is located, once each week for two consecutive weeks. Proof in the form of a publisher's affidavit must be filed within 30 days of the publication date. The affidavit must state with specificity each county in which the newspaper is of general circulation. Within 30 days of the date the notice was mailed, Applicant must file an affidavit specifying the notice that was provided to every person and entity to whom notice was provided and the date the notice was mailed.
3. Provide notice using the attached notice forms.
4. Provide a copy of map delineating the requested area with each individual notice to neighboring utilities, other affected parties, landowners and customers.
5. File in the docket a map and copy of notice along with the signed affidavit specifying every person and entity to whom notice was provided, the date that the notice was provided, and the publisher's affidavit for proof of newspaper publication.

#### **Technical Content:**

The Applicant states there are no plans for facilities to serve the requested area. The PUCT cannot finalize approval of the CCN amendment until construction is approved by the Texas Commission on Environmental Quality (TCEQ) for the facilities and distribution system to serve the requested area and the approval letters are filed in this docket per 16 TAC § 24.233(a)(14).

The Applicant must supplement the application with a copy of the construction approval letters from TCEQ for the facilities and distribution system to serve the requested area. Applicant must file the approval letters prior to Staff making a final recommendation on the application.

Staff may determine that additional information is needed to make a final recommendation in this docket. If additional information is needed, Staff may send requests for information (RFI) to the Applicant. The Applicant will have 20 days from the receipt of the RFI to respond.

***Notice for Publication***

**NOTICE OF APPLICATION TO AMEND A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE WATER UTILITY SERVICE IN NACOGDOCHES COUNTY, TEXAS**

Swift Water Supply Corporation (Applicant) has filed an application with the Public Utility Commission of Texas to amend its Certificate of Convenience and Necessity (CCN) No 11420 for the provision of retail water utility service in Nacogdoches County.

**The requested area overlaps the following district boundaries:**

- Angelina & Neches River Authority; and
- Pineywoods Groundwater Conservation District.

If these districts do not request a public hearing, the Commission shall determine that the districts are consenting to the Swift Water Supply Corporation's request to provide retail water utility service in the requested area.

The requested area is located:

**Area A:**

- The requested area is located approximately 7 miles northeast of downtown Nacogdoches, TX, and is generally bounded on the north by Happy Land; on the east by FM 1878; on the south by FM 1878; and on the west by FM 2609.
- The requested areas include approximately 1,675 total acres and 60 current customers.

**Area B:**

- The requested area is located approximately 10 miles east-northeast of downtown Nacogdoches, TX, and is generally bounded on the north by FM 1878; on the east by FM 95; on the south by CR 234; and on the west by FM 1878.
- The requested areas include approximately 1,448 total acres and 2 current customers.

The total requested area is approximately 3,123 total acres and 62 current customers.

**A copy of the map showing the requested area is available at: 7077 E St Hwy 7 Nacogdoches, TX 75961**

*Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date. The letter must include the person's name, address, email address and fax number if applicable.*

If a valid public hearing is requested, the Commission will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for a final decision. An evidentiary hearing is a legal proceeding similar to a civil trial in state district court.



A landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the requested area, may file a written request with the Commission to be excluded from the requested area ("opt out") within (30) days from the date that notice was provided by the Utility. All opt out requests must include a large-scale map, a metes and bounds description of the landowner's tract of land, landowner's name, address, email address and fax number, if applicable.

Persons who wish to request this option should file the required documents with the:

Public Utility Commission of Texas  
Central Records  
1701 N. Congress, P. O. Box 13326  
Austin, TX 78711-3326

In addition, the landowner must also send a copy of the opt out request to the Utility. Staff may request additional information regarding your request.

Si desea información en español, puede llamar al 1-888-782-8477.

***Notice to Neighboring Systems, Landowners, Customers and Cities***

**NOTICE OF APPLICATION TO AMEND A CERTIFICATE OF CONVENIENCE AND NECESSITY  
TO PROVIDE WATER UTILITY SERVICE IN NACOGDOCHES COUNTY, TEXAS**

To: \_\_\_\_\_  
(Neighboring System, Landowner, Customer or City)

Date Notice Mailed: \_\_\_\_, 2020

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City State Zip)

Swift Water Supply Corporation (Applicant) has filed an application with the Public Utility Commission of Texas to amend its Certificate of Convenience and Necessity (CCN) No 11420 for the provision of retail water utility service in Nacogdoches County.

The requested area overlaps the following district boundaries:

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- Pineywoods Groundwater Conservation District.

If these districts and do not request a public hearing, the Commission shall determine that the districts are consenting to the Swift Water Supply Corporation's request to provide retail water utility service in the requested area.

The requested area is located:

Area A:

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- The requested area is located approximately 10 miles east-northeast of downtown Nacogdoches, TX, and is generally bounded on the north by FM 1878; on the east by FM 95; on the south by CR 234; and on the west by FM 1878.
- The requested areas include approximately 1,448 total acres and 2 current customers.

The total requested area is approximately 3,123 total acres and 62 current customers.

**See enclosed map showing the requested area.**

*Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date. The letter must include the person's name, address, email address and fax number if applicable.*

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1701 N. Congress, P. O. Box 13326  
Austin, TX 78711-3326

In addition, the landowner must also send a copy of the opt out request to the Utility. Staff may request additional information regarding your request.

Si desea información en español, puede llamar al 1-888-782-8477.

# PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE TO CURRENT CUSTOMERS, LANDOWNERS, NEIGHBORING  
UTILITIES AND AFFECTED PARTIES  
DOCKET NO. 49879

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

has provided individual notice to the following entities, landowners and customers:

DATE OF NOTICE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OATH

I, \_\_\_\_\_, being duly sworn, file this form as  
\_\_\_\_\_ (indicate relationship to applicant, that is,  
owner, member of partnership, title of officer of corporation, or other authorized representative of  
applicant); that in such capacity, I am qualified and authorized to file and verify such form, am  
personally familiar with the notices given with this application, and have complied with all notice  
requirements in the application and application acceptance letter; and that all such statements made  
and matters set for therein are true and correct.

\_\_\_\_\_  
Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant,  
or its' attorney, a properly verified Power of Attorney must be enclosed.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public

Commission Expires \_\_\_\_\_

# PUBLIC UTILITY COMMISSION



PUBLISHER'S AFFIDAVIT  
DOCKET NO. 49879

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_,  
who being by me duly sworn, deposes and that (s)he is the

\_\_\_\_\_ of the \_\_\_\_\_  
(TITLE) (NAME OF NEWSPAPER)

that said newspaper is regularly published in \_\_\_\_\_  
(COUNTY/COUNTIES)

and generally circulated in \_\_\_\_\_, Texas;  
(COUNTY/COUNTIES)

and that the attached notice was published in said newspaper on the following dates, to wit:

\_\_\_\_\_  
(DATES)

\_\_\_\_\_  
(SIGNATURE OF NEWSPAPER REPRESENTATIVE)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public

Commission Expires \_\_\_\_\_