



Control Number: 50399



Item Number: 43

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DOCKET NO. 50399

**APPLICATION OF NEVADA SPECIAL §
UTILITY DISTRICT TO AMEND ITS §
WATER CERTIFICATE OF §
CONVENIENCE AND NECESSITY AND §
TO DECERTIFY PORTIONS OF §
CERTIFICATED WATER SERVICE §
AREAS OF CADDO BASIN SPECIAL §
UTILITY DISTRICT, COPEVILLE §
SPECIAL UTILITY DISTRICT, AND §
CITY OF JOSEPHINE IN COLLIN §
COUNTY §**

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PUBLIC UTILITY COMMISSION
P.O. BOX 10000
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COMMISSION STAFF'S FINAL RECOMMENDATION

On December 30, 2019, Nevada Special Utility District (Nevada SUD) filed an application to amend its water Certificate of Convenience and Necessity (CCN) number 12175 through the addition of service area, and to decertify portions of the certificated water service areas of Caddo Basin Special Utility District (Caddo Basin SUD), Copeville Special Utility District (Copeville SUD), and the City of Josephine in Collin County that will be added to Nevada SUD's existing service area. The requested service area consists of 1,377.8 acres and 14 customer connections. Consent forms were filed on April 29, 2021.

On May 11, 2021, the administrative law judge (ALJ) filed Order No. 15 requiring the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a final recommendation on the application by May 26, 2021. Therefore, this pleading is timely filed.

I. FINAL RECOMMENDATION

Staff has reviewed the application and supplemental information and, as supported by the attached memorandum of Jolie Mathis, Infrastructure Division, recommends approval of the application. Staff's review indicates that Nevada SUD meets the applicable technical, managerial, and financial requirements of Chapter 13 of the Texas Water Code (TWC) and Title 16, Chapter 24 of the Texas Administrative Code (TAC), and therefore, is capable of providing continuous and adequate service. Additionally, Staff's review suggests that approval of the application is necessary for the service, accommodation, convenience, and safety of the public.

Because Nevada SUD and Caddo Basin SUD are both districts, Staff recommends that the transfer of facilities proposed in the application does not require the filing of an application for a

sale, transfer, or merger (STM) under TWC § 13.301.¹ The requirement to file a STM application applies to a water supply or sewer service corporation or water and sewer utility and the “sale, acquisition, lease, or rental of a water or sewer system owned by an entity that is required by law to possess a certificate of public convenience and necessity.”² Special utility districts do not fall within the definition of water supply or sewer service corporation³ or water and sewer utility.⁴ In addition, Caddo Basin SUD (the owner of the facilities to be transferred) is not required to possess a CCN because it is not a utility, a utility operated by an affected county, or a water supply corporation and it is not a utility, a utility operated by an affected county, or a water supply corporation.⁵

II. CONCLUSION

For the reasons discussed above, Staff respectfully requests that Nevada SUD’s application be approved.

¹ *Petition of the City of Mesquite and Talty Special Utility District for Approval of a Service Area Contract Under Texas Water Code § 13.248 and to Amend Certificates of Convenience and Necessity in Kaufman County*, Docket No. 50927, Order No. 3 Requiring New Recommendation on Administrative Completeness and Sufficiency of Notice at 3-4 (Nov. 30, 2020) (“Thus, if two retail public utilities wish to transfer assets and facilities between themselves but do not fall within the types of entities for which an STM application is required, then they are not obligated by TWC § 13.301 to seek approval of the transfer of assets and facilities between them.”).

² TWC § 13.301(a).

³ 16 TAC § 24.3(40).

⁴ 16 TAC § 24.3(39).

⁵ TWC § 13.242(a).

Dated: May 26, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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/s/ Robert Dakota Parish
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DOCKET NO. 50399

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 May 26, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Robert Dakota Parish
Robert Dakota Parish

Public Utility Commission of Texas

Memorandum

TO: Robert Parish, Attorney
Legal Division

FROM: Jolie Mathis, Utility Engineering Specialist
Infrastructure Division

DATE: May 26, 2021

RE: Docket No. 50399 – *Application of Nevada Special Utility District to Amend its Water Certificate of Convenience and Necessity and to Decertify Portions of Certificated Water Service Areas of Caddo Basin Special Utility District, Copeville Special Utility District, and City of Josephine in Collin County*

On December 30, 2019, Nevada Special Utility District (Nevada SUD) filed with the Public Utility Commission of Texas (Commission) an application to amend its water Certificate of Convenience and Necessity (CCN) No. 12175 in Collin County, Texas under Texas Water Code (TWC) §§ 13.242 to 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237.

Background

Nevada SUD is seeking to amend its water CCN to add service area containing approximately 1,377 acres and 14 existing customers. Nevada SUD is seeking to decertify a portion of Caddo Basin Special Utility District's (Caddo Basin SUD) certificated area (CCN No. 10165, approximately 1,275 acres) and amend this area to Nevada SUD's CCN. The area includes 59 existing Caddo Basin SUD customers, 26,100 feet of Caddo Basin SUD water transmission facilities, and 15 existing Nevada SUD customers.

Nevada SUD is also seeking to decertify a portion of the City of Josephine's certificated area (CCN No. 12307, approximately 103 acres) and amend this area to Nevada SUD's CCN. There are 0 existing customers within this area. Finally, Nevada SUD is seeking to decertify a portion of Copeville Special Utility District's (Copeville SUD) certificated area (CCN No. 11376 approximately, 41 acres) and amend this area to Nevada SUD's CCN. There is 1 existing customer for Nevada SUD within this area.

1. Notice

The deadline to intervene was December 16, 2020; there were no motions to intervene, protests, or opt-out requests received.

2. Factors Considered

TWC §§ 13.241 and 13.246, and 16 TAC §§ 24.11(e) and 24.227 require the Commission to consider certain factors when granting or amending a water or sewer CCN. Therefore, the following factors were considered.

3.1. *Consideration of the adequacy of service currently provided to the requested area and system compliance (TWC § 13.246(c)(1); 16 TAC § 24.227(a) and (e)(1)).*

Nevada SUD has a Texas Commission on Environmental Quality (TCEQ) approved public water system (PWS) registered as Nevada SUD, PWS ID No. 0430053. Nevada SUD does not have any violations listed in the TCEQ database. No additional construction is necessary for Nevada SUD to serve the requested area. In addition, the Commission's complaint records show no complaints against Nevada SUD.

3.2. *Consideration of the need for additional service in the requested area (TWC § 13.246(c)(2); 16 TAC § 24.227(e)(2)).*

There is a need for service as there are 15 existing customers and potential new customers in the requested areas.

3.3. *Consideration of the effect of granting an amendment on the recipient of the certificate or amendment, on the landowners in the area, and on any other retail public utility of the same kind already servicing the proximate area (TWC §§ 13.241(b) and 13.246(c)(3), 16 TAC § 24.227(e)(3)).*

Nevada SUD will be the certificated entity for the requested area and will be required to provide adequate and continuous service to the requested area.

The landowners in the area will have a water provider available when they need to request water service.

There will be no effect on any retail public utility servicing the proximate areas. All retail public utilities in the proximate area were provided notice of the CCN amendment requested in this application and did not request to intervene.

3.4. *Consideration of the managerial and technical ability of the applicant to provide adequate service (TWC § 13.246(c)(4); 16 TAC § 24.227(a) and (e)(4)).*

Nevada SUD has a TCEQ approved PWS registered as Nevada SUD, PWS ID No. 0430053. Nevada SUD does not have any violations listed in the TCEQ database. No additional construction is necessary for Nevada SUD to serve the requested area. In addition, the Commission's complaint records show no complaints against Nevada SUD.

3.5. *The applicants' demonstration that regionalization or consolidation with another retail public utility is not economically feasible when construction of a physically separate water or sewer system is required to provide service to the requested area. (TWC § 13.241(d); 16 TAC § 24.227(b)).*

Construction of a physically separate water system is not required to provide service to the requested area.

3.6. *Consideration of the feasibility of obtaining service from an adjacent retail public utility (TWC § 13.246(c)(5); 16 TAC § 24.227(e)(5)).*

There have been inquiries about furnishing water service to several proposed developments and to Community Independent School District, which is to be located inside Caddo Basin SUD's service area and in close proximity to Nevada SUD's, City Josephine's and Copeville SUD's service areas.

Caddo Basin SUD has customers and water transmission facilities in the vicinity of the proposed developments and desires to transfer to Nevada that portion of Caddo Basin SUD's certificated service area, facilities and customers containing the property.

Copeville SUD and the City of Josephine do not have customers or facilities in the vicinity of the proposed developments and service requests but do have service area adjacent to the proposed developments and service requests; therefore, they are seeking to transfer to Nevada SUD that portion of Copeville SUD's and the City of Josephine's certificated service area containing the property.

Nevada SUD is currently serving customers in the requested area, has facilities in the requested area to serve any future customers, and has sufficient capacity. Therefore, it is not feasible to obtain service from an adjacent retail public utility.

3.7. *Consideration of the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service (TWC § 13.246(c)(6); 16 TAC §§ 24.227(a) and (e)(6), 24.11(e)).*

Fred Bednarski, Financial Analyst in the Rate Regulation Division, provided the following.

An owner or operator of a retail public utility must have the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and requested utility service areas, as established by 16 TAC § 24.11. Nevada SUD must demonstrate that it meets one of the five leverage tests under 16 TAC § 24.11(e)(2) as well as the operations test under 16 TAC § 24.11(e)(3).

Leverage test

This analysis is based on financial statements ending September 30, 2020 in Attachment FB-1. These financial statements contain an unqualified auditor's opinion from Nabors CPA Services, P.C. stating that the financial statements present fairly, in all material respects, the financial position of Nevada SUD as of September 30, 2020.

Nevada SUD's 2020 financial statements report long-term debt of \$1,724,198 and equity of \$2,264,015. The debt-to-equity ratio is 0.76. Because the ratio is less than 1.0, Nevada SUD meets the leverage test specified in 16 TAC § 24.11(e)(2)(A).

Operations test

An owner or operator must demonstrate sufficient available cash to cover projected cash shortages for operations and maintenance expense during the first five years of operations, as required by 16 TAC § 24.11(e)(3).

Nevada SUD's financial statements include \$183,045 of operating income, excluding depreciation expense, and \$320,328 of unrestricted cash and cash equivalents that indicate Nevada SUD will have sufficient cash to cover projected shortages.

Capital improvements needed to provide continuous and adequate service to the requested area will be paid for by the developer and Nevada SUD's cash reserves and income. Sufficient cash and net operating income available to cover possible future shortages provide an indication of financial stability and financial and managerial capability. Therefore, Nevada SUD meets the operations test specified in 16 TAC § 24.11(e)(3).

3.8. *Requirement of the applicant to provide a bond or other financial assurance in a form and amount specified by the Commission to ensure that continuous and adequate utility service is provided (TWC §§ 13.246(d); 16 TAC § 24.227(f)).*

Fred Bednarski provided the following.

Because Nevada SUD meets the financial tests, additional financial assurance is not recommended.

3.9. *Consideration of the environmental integrity and the effect on the land to be included in the certificated area (TWC § 13.246(c)(7) and (9); and 16 TAC § 24.227(e)(7) and (9)).*

The environmental integrity of the land will not be minimally affected as the distribution lines to provide service to the requested area are installed.

3.10. *Consideration of the probable improvement in service or lowering of cost to consumers (TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)).*

Nevada SUD will continue to provide water service to the existing customers in the area with no change to the cost to customers.

3. Recommendation

Based on the mapping review by Tracy Montes, Infrastructure Division, the financial and managerial review by Fred Bednarski, Rate Regulation Division, and my technical and managerial review, I recommend that Nevada SUD meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations and is capable of providing continuous and adequate service. I further recommend that approving this application to amend water CCN No. 12175 and decertify portions of Caddo Basin SUD's CCN No. 10165, City of Josephine's CCN No. 12307, and Copeville SUD's CCN No. 11376 is necessary for the service, accommodation, convenience and safety of the public.

Nevada SUD consented to the attached map and certificates on April 21, 2021.

Caddo Basin SUD, Copeville SUD, and City of Josephine consented to the attached map and certificates on April 21, 2021.



Public Utility Commission of Texas

By These Presents Be It Known To All That

Caddo Basin Special Utility District

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, Caddo Basin Special Utility District is entitled to this

Certificate of Convenience and Necessity No. 10165

to provide continuous and adequate water utility service to that service area or those service areas in Collin and Hunt Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 50399 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 Caddo Basin Special Utility District, 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.



Public Utility Commission of Texas

By These Presents Be It Known To All That
City of Josephine

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 Josephine is entitled to this

Certificate of Convenience and Necessity No. 12307

to provide continuous and adequate water utility service to that service area or those service areas in Collin and Hunt Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 50399 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 City of Josephine, 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.



Public Utility Commission of Texas

By These Presents Be It Known To All That

Copeville Special Utility District

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, Copeville Special Utility District is entitled to this

Certificate of Convenience and Necessity No. 11376

to provide continuous and adequate water utility service to that service area or those service areas in Collin County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 50399 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 Copeville Special Utility District, 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.



Public Utility Commission of Texas

By These Presents Be It Known To All That

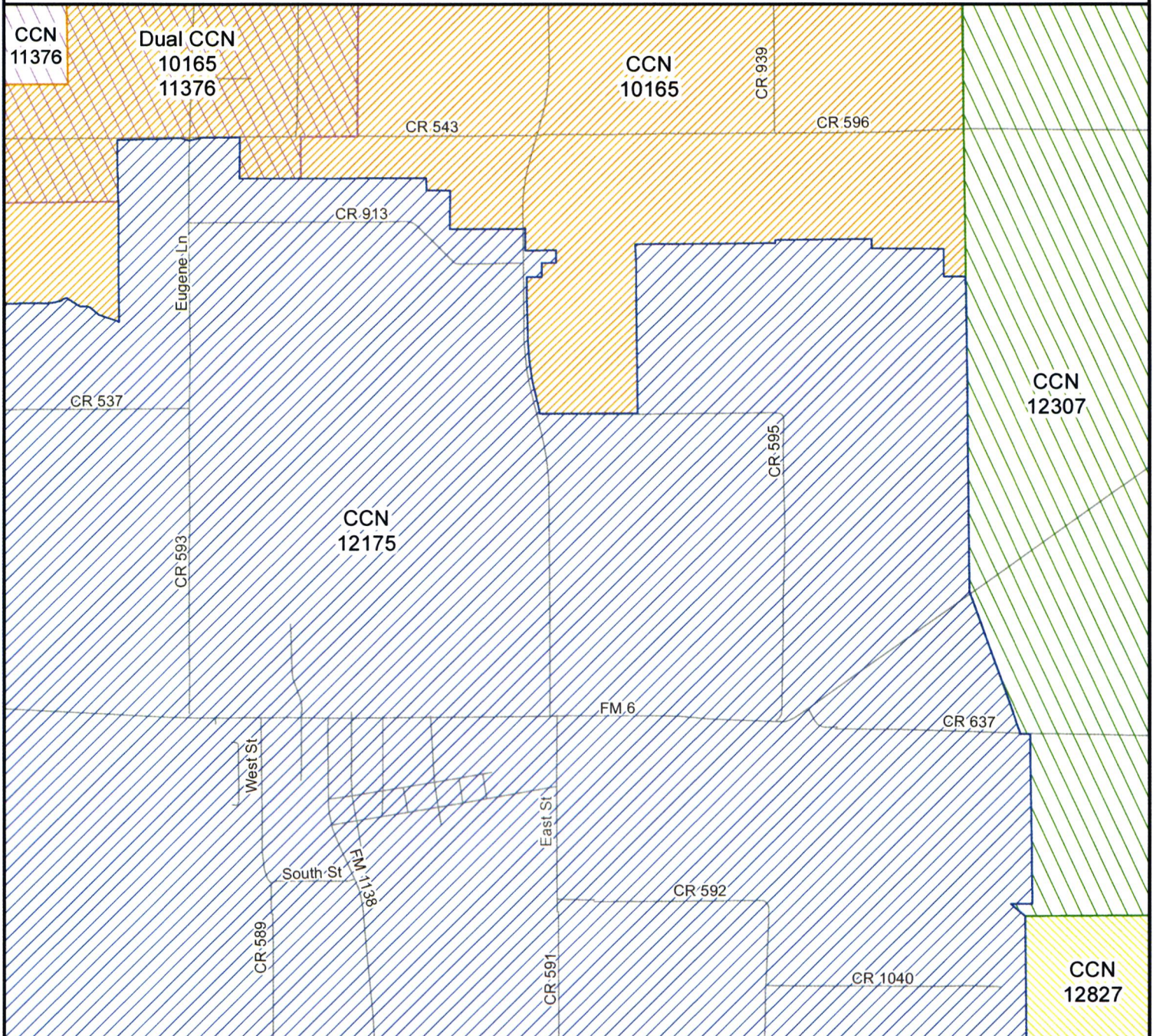
Nevada Special Utility District

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, Nevada Special Utility District is entitled to this

Certificate of Convenience and Necessity No. CCN 12175






to provide continuous and adequate water utility service to that service area or those service areas in Collin and Rockwall Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 50399 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 Nevada Special Utility District 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.

Nevada SUD
Portion of Water CCN No. 12175
PUC Docket No. 50399
Amended CCN No. 12175 and
Decertified a Portion of Copeville SUD, CCN No. 11376, Caddo Basin SUD, CCN No. 10165 and
City of Josephine, CCN No. 12307 in Collin County



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

Water CCN

-  12175 - Nevada SUD
-  11376 - Copeville SUD
-  10165 - Caddo Basin SUD
-  12307 - City of Josephine
-  12827 - City of Royse City

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Map by: Komal Patel
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