

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 §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

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

On December 30, 2019, Nevada Special Utility District (Nevada SUD) filed an application to amend its water Certificate of Convenience and Necessity (CCN) 12175 through the addition of service area, and to decertify those 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 (Josephine) in Collin County that will be added to Nevada SUD's existing service area. The requested service area consists of 1,378 acres and 59 existing Caddo Basin SUD customers and 14 existing Nevada SUD customers.

On May 11, 2021, the administrative law judge filed Order No. 15 requiring Nevada SUD, Caddo Basin SUD, Copeville SUD, Josephine, and the Staff of the Public Utility Commission of Texas (Staff) (collectively, the Parties) to file joint proposed findings of fact and conclusions of law by June 9, 2021. The Parties filed there pleading on June 9, 2021 but inadvertently misstated the acreage and current Nevada SUD customers and offer this amended pleading to correct those numbers.

I. MOTION TO ADMIT EVIDENCE

The Parties request that the following evidence be admitted into the record:

(a) the Application of Nevada SUD to Amend its Certificate of Convenience and Necessity and to Decertify a Portions of Water Service Area of Caddo basin SUD, Copeville SUD, and Josephine in Collin County, filed on December 30, 2019 (Interchange Item No. 1);

(b) Nevada SUD's Supplemental Information, filed on March 5, 2020, March 31, 2020, April 2, 2020, April 17, 2020, May 28, 2020, June 26, 2020, August 31, 2020, and September 28, 2020 (Interchange Item Nos. 5, 7, 8, 11, 14, 15, 21, 23);

(c) Nevada SUD's Response to Staff's First Request for Information, filed on October 5, 2020 and October 8, 2020 (Interchange Item Nos. 24 and 25);

(d) Staff's Third Supplemental Recommendation on Administrative Completeness, filed on November 2, 2020 (Interchange Item No. 26);

(e) Nevada SUD's Proof of Notice, filed on December 1, 2020 (Interchange Item No. 28);

(f) Staff's Recommendation on Sufficiency of Notice, filed on December 30, 2020 (Interchange Item No. 29);

(g) Nevada SUD's Proof of Name Change from WSC to SUD, filed on March 2, 2021 (Interchange Item No. 33);

(h) Staff's Recommendation on the Name Change, filed March 24, 2021 (Interchange Item No. 36);

(i) Staff's Clarification on Name Change Recommendation, filed on April 16, 2021 (Interchange Item No. 38);

(j) Consent Forms to Maps and Certificates of Nevada SUD, Caddo basin SUD, Copeville SUD, and Josephine, filed on April 29, 2021 (Interchange Item No. 40);

(k) Staff's Final Recommendation, filed on May 26, 2021 (Interchange Item No. 43);

(l) Staff's Supplemental Final Recommendation, filed on May 26, 2021 (Interchange Item No. 44).

II. PROPOSED NOTICE OF APPROVAL

The Parties offer the attached Proposed Notice of Approval to grant Nevada SUD's Application to amend water CCN No. 12175, and to decertify a portion of Caddo Basin SUD's water CCN No. 10165, Copeville SUD's water CCN No. 11376, and Josephine's water CCN No. 12307.

III. CONCLUSION

The Parties respectfully request that the Commission grant the Motion to Admit Evidence and adopt the attached Proposed Notice of Approval.

Dated: June 14, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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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 June 14, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Robert Dakota Parish
Robert Dakota Parish

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APPLICATION OF NEVADA SPECIAL	§	PUBLIC UTILITY COMMISSION
UTILITY DISTRICT TO AMEND ITS	§	
WATER CERTIFICATE OF	§	OF TEXAS
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	§	

PROPOSED NOTICE OF APPROVAL

This Proposed Notice of Approval addresses the application of Nevada Special Utility District (Nevada SUD) to amend its water Certificate of Convenience and Necessity (CCN) No. 12175 and to decertify portions of Caddo Basin Special Utility District's (Caddo Basin SUD) water CCN No. 10165, Copeville Special Utility District's (Copeville SUD) water CCN No. 11376, and the City of Josephine's (Josephine) water CCN No. 12307 in Collin County. The Commission amends Nevada SUD's water CCN number 12175 to include the requested service area addition and decertifies the portions of Caddo Basin SUD's water CCN No. 10165, Copeville SUD's water CCN No. 11376, and Josephine's water CCN No. 12307 to remove the requested service areas.

I. Findings of Fact

The Commission makes the following findings of fact:

Applicant

1. Nevada SUD is a special utility district registered with the Texas Secretary of State under File Number 0015643801.
2. Nevada SUD is a retail public utility that provides water service to customers in Collin County.
3. Nevada SUD operates, maintains, and controls facilities that provide water service in Collin County.
4. Caddo Basin SUD is a special utility district registered with the Texas Secretary of State under Taxpayer ID Number 17522875750

5. Copeville SUD is a special utility district registered with the Texas Secretary of State under File Number 0015643301.
6. Josephine is a municipality in Collin County.

Application

7. On December 30, 2019, Nevada SUD filed an application to amend its water CCN in Collin County and to decertify portions of Caddo Basin SUD, Copeville SUD, and Josephine's service area.
8. Nevada SUD filed supplemental information on March 5, 2020, March 31, 2020, April 2, 2020, April 17, 2020, May 28, 2020, June 26, 2020, August 31, 2020, and September 28, 2020.
9. The requested area consists of 1,378 acres and 59 existing Caddo Basin SUD customers and 14 existing Nevada SUD customers.
10. The requested area is located approximately .33 miles east of downtown Nevada, Texas, and is generally bounded on the north by County Road 596; on the east by County Road 637 and County Road 640; on the south by County Road 1040; and on the west by County Road 544.
11. In Order No. 9 filed on November 3, 2020, the administrative law judge (ALJ) found the application administratively complete.

Notice

12. On December 1, 2020, Nevada SUD filed the affidavit of Eddie Daniel, P.E., authorized representative for Nevada SUD, testifying that notice was mailed to neighboring utilities, county authorities, municipalities, and affected parties on November 16, 2020.
13. On December 1, 2020, Nevada SUD filed a publisher's affidavit attesting to publication of notice in the *Collin County Commercial Record*, a publication of general circulation in Collin County, on November 19, 2020, and November 26, 2020.
14. In Order No. 10 filed on December 31, 2020, the ALJ found the notice sufficient.

Name Change

15. On March 2, 2021, Nevada SUD requested that the Commission approve their name change from a water supply corporation to a special utility district to reflect its Texas Commission on Environmental Quality (TCEQ) approved entity conversion.

16. In Order No. 14 filed on April 16, 2021, the ALJ approved Nevada SUD's name change to reflect their TCEQ entity conversion.
17. Nevada SUD's new approved name is "Nevada Special Utility District".

Map and Certificate

18. On April 21, 2021, Commission Staff emailed the proposed map and certificate to Nevada SUD, Caddo Basin SUD, Copeville SUD and Josephine.
19. On April 29, 2021, Nevada SUD, Caddo Basin SUD, Copeville SUD and Josephine filed their consent to the proposed map and certificate.
20. On June 9, 2021, Commission Staff filed the proposed map and certificate as attachments to the Agreed Motion to Admit Evidence.

Evidentiary Record

21. On June 9, 2021, Commission Staff filed an agreed motion to admit evidence and proposed notice of approval.
22. In Order No. 16 filed on _____, 2021, the ALJ admitted the following into evidence: (a) the Application of Nevada SUD to Amend its Certificate of Convenience and Necessity and to Decertify a Portions of Water Service Area of Caddo basin SUD, Copeville SUD, and Josephine in Collin County, filed on December 30, 2019 (Interchange Item No. 1); (b) Nevada SUD's Supplemental Information, filed on March 5, 2020, March 31, 2020, April 2, 2020, April 17, 2020, May 28, 2020, June 26, 2020, August 31, 2020, and September 28, 2020 (Interchange Item Nos. 5, 7, 8, 11, 14, 15, 21, 23); (c) Nevada SUD's Response to Staff's First Request for Information, filed on October 5, 2020 and October 8, 2020 (Interchange Item Nos. 24 and 25); (d) Staff's Third Supplemental Recommendation on Administrative Completeness, filed on November 2, 2020 (Interchange Item No. 26); (e) Nevada SUD's Proof of Notice, filed on December 1, 2020 (Interchange Item No. 28); (f) Staff's Recommendation on Sufficiency of Notice, filed on December 30, 2020 (Interchange Item No. 29); (g) Nevada SUD's Proof of Name Change from WSC to SUD, filed on March 2, 2021 (Interchange Item No. 33); (h) Staff's Recommendation on the Name Change, filed March 24, 2021 (Interchange Item No. 36); (i) Staff's Clarification on Name Change Recommendation, filed on April 16, 2021 (Interchange Item No. 38); (j) Consent Forms to Maps and Certificates of Nevada SUD, Caddo basin SUD, Copeville SUD, and

Josephine, filed on April 29, 2021 (Interchange Item No. 40); (k) Staff's Final Recommendation, filed on May 26, 2021 (Interchange Item No. 43); (l) Staff's Supplemental Final Recommendation, filed on May 26, 2021 (Interchange Item No. 44).

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

23. There is a need for service as there are 14 existing customers being served by Nevada SUD in the requested area and potential new customers as well.
24. There are also 59 existing customers being served by Caddo Basin SUD in the requested area that also need service.
25. 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.

Need for Service - TWC § 13.246(c)(2); 16 TAC § 24.227(e)(2)

26. There are 14 existing customer connections in the requested area already being served.
27. There are 59 existing customers in the requested area already being served by Caddo Basin SUD.

Effect of Granting the Certificate - TWC § 13.246(c)(3); 16 TAC § 24.227(e)(3)

28. Granting the CCN request will obligate Nevada SUD to provide water service to future customers in the 1,378-acre requested service area.
29. No protests, adverse comments, or motions to intervene were filed by any adjacent retail public utility in this docket.
30. There will be no effect on any retail public utility serving the proximate area.
31. The landowners in the areas will have a water provider available when they need to request water service.

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

32. Nevada SUD has a TCEQ approved PWS registered as Nevada SUD, PWS ID No. 0430053.
33. Nevada SUD does not have any violations listed in the TCEQ database.

34. Nevada SUD has the managerial and technical capability to provide continuous and adequate service to the requested area.

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

35. 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, Josephine's and Copeville SUD's service areas.
36. Caddo Basin SUD has customers and water transmission facilities in the vicinity of the proposed developments and desires to transfer to Nevada SUD that portion of Caddo Basin SUD's certificated service area, facilities and customers containing the property.
37. 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.
38. 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.

Regionalization or Consolidation - TWC § 13.241(d) and 16 TAC § 24.227(b)

39. 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, there is no issue of regionalization or consolidation.

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)

40. Nevada SUD has a debt to equity ratio that is less than 1.0, which meets one of the five leverage tests.
41. Nevada SUD demonstrated it has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations after approval of the CCN amendment, satisfying the operations test.

42. Nevada SUD demonstrated the financial ability and stability to pay for the facilities necessary to provide continuous and adequate service to the requested area.

Financial Assurance - TWC § 13.246(d); 16 TAC § 24.227(f)

43. There is no need to require Nevada SUD 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(e)(7)

44. The environmental integrity of the land will be minimally affected as the distribution lines to provide service to the requested area are installed.

Effect on the Land - TWC § 13.246(c)(9); 16 TAC § 24.227(e)(9)

45. The land will be minimally affected as the distribution lines to provide service to the requested area are installed.

Improvement in Service - TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)

46. Nevada SUD will continue to provide water service to the existing customers in the area with no change to the service to customers.
47. Caddo Basin SUD customers in the requested area will have service provided by Nevada SUD.

Lowering of Cost - TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)

48. Nevada SUD will continue to provide water service to the existing customers in the area with no change to the cost to customers.
49. Caddo Basin SUD customers in the requested area will be served by Nevada SUD and their cost will be the same as Nevada SUD customers in the service area.

Written Consent of Certificate Holder – TWC § 13.254(a); 16 TAC § 24.245(h)

50. Nevada SUD, Caddo Basin SUD, Copeville SUD, and Josephine entered into a Retail Water Service Transfer Agreement in which the parties consented to the transfer of portions of Caddo Basin SUD, Copeville SUD, and Josephine service area to Nevada SUD.
51. This agreement is reflected in Nevada SUD's initial application filed on December 30, 2019.
52. Nevada SUD filed the consent forms of Caddo Basin SUD, Copeville SUD, and Josephine which reflect the decertification of portions of those entities service areas.

Informal Disposition

53. More than 15 days have passed since the completion of notice provided in this docket.
54. No person filed a protest or motion to intervene.

55. Commission Staff, Nevada SUD, Caddo Basin SUD, Copeville SUD and Josephine are the only parties to this proceeding.
56. No party requested a hearing and no hearing is needed.
57. 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 TWC §§ 13.041, 13.241, 13.244, and 13.246.
2. Nevada SUD is a retail public utility as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
3. Nevada SUD's notice 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,¹ the TWC, and Commission rules.
5. The application meets the requirements set forth in TWC § 13.244 and 16 TAC §§ 24.25 and 24.277.
6. After consideration of the factors in TWC § 13.246(c) and 16 TAC § 24.227(e), Nevada SUD has demonstrated adequate financial, managerial, and technical capability to providing continuous and adequate service to the requested service area as required by TWC § 13.241 and 16 TAC § 24.227.
7. It is not necessary for Nevada SUD to provide a bond or other financial assurance under TWC § 13.246(d).
8. Nevada SUD has demonstrated that amending water CCN number 12175 and decertifying portions of Caddo Basin SUD's water CCN No. 10165, Copeville SUD's water CCN No. 11376, and Josephine's water CCN No. 12307 is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(d).
9. Neither Nevada SUD nor Caddo Basin SUD are required to possess a CCN as a matter of obligation and thus a proceeding under 16 TAC § 24.239 is not necessary for Caddo Basin

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

SUD to transfer a portion of its service area that contains 59 current customers to Nevada SUD.

10. Under TWC § 13.257(r) and (s), Nevada SUD must record a certified copy of the approved map and certificate, along with a boundary description of the service area, in the real property records of Collin County within 30 days of this Order and must submit evidence of the recording to the Commission.
11. 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 Nevada SUD's water CCN number 12175 as described in this notice of approval and shown on the attached map.
2. The Commission amends Caddo Basin SUD's water CCN number 10165 as described in this notice of approval and shown on the attached map.
3. The Commission amends Copeville SUD's water CCN number 11376 as described in this notice of approval and shown on the attached map.
4. The Commission amends Josephine's water CCN number 12307 as described in this notice of approval and shown on the attached map.
5. The Commission approves the certificate and map attached to this Notice of Approval.
6. Nevada SUD must serve every customer and applicant for service within the approved area under CCN number 12175 who requests water service and meets the terms of Nevada SUD's water service, and such service must be continuous and adequate.
7. Nevada SUD must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas Collin County affected by this application and file in this docket proof of the recording no later than 30 days after the date of this notice of approval.
8. 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 _____ 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE