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DOCKET NO. 50553

RECEIVED

APPLICATION OF COUNTY LINE §
SPECIAL UTILITY DISTRICT TO §
AMEND ITS CERTIFICATE OF §
CONVENIENCE AND NECESSITY §
AND TO DECERTIFY A PORTION OF §
POLONIA WATER SUPPLY §
CORPORATION'S CERTIFICATE OF §
CONVENIENCE AND NECESSITY IN §
HAYS AND CALDWELL COUNTIES §

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PUBLIC UTILITY COMMISSION
FILING OFFICE
OF TEXAS

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

On February 14, 2020, County Line Special Utility District (County Line SUD) filed an application to amend its water certificate of convenience and necessity (CCN) No. 10292 and to decertify a portion of Polonia Water Supply Corporation's (Polonia WSC) water CCN No. 10420 in Hays and Caldwell Counties. The Staff of the Public Utility Commission of Texas (Staff) reviewed the application as required by Texas Water Code (TWC) §§ 13.242 to 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237. Order No. 8, filed November 17, 2020, directed County Line SUD and Staff (collectively, the Parties) to jointly file proposed findings of fact and conclusions of law by December 18, 2020. Therefore, this pleading is timely filed.

I. MOTION TO ADMIT EVIDENCE

The Parties request the entry of the following items into the record of this proceeding: (a) County Line SUD's application filed on February 14, 2020 (AIS Item No. 1); (b) County Line SUD's Response to memo- revised maps and concept plan filed on April 17, 2020 (AIS Item No. 6); (c) County Line SUD's response to comments from May 15th memo filed on June 16, 2020 (AIS Item No. 9); (d) County Line SUD's affidavit filed on August 31, 2020 (AIS Item No. 13); (e) Staff's recommendation on sufficiency of notice filed on September 14, 2020 (AIS Item No. 14); (f) County Line SUD, and Polonia WSC's consent forms filed on November 13, 2020 (AIS Item Nos. 19 and 20); and (g) Staff's final recommendation and attachments filed on December 1, 2020 (AIS Item No. 23).

II. JOINT PROPOSED NOTICE OF APPROVAL

The Parties have agreed on the attached proposed notice of approval, which would approved County Line SUD's application to amend its water CCN No. 10292 and decertify a portion of Polonia WSC's water CCN No. 10420. The Parties request that the Commission adopt the findings of fact, conclusions of law, and ordering paragraphs from the notice of approval.

III. 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: February 1, 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 February 1, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Kourtnee Jinks

Kourtnee Jinks

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APPLICATION OF COUNTY LINE	§	PUBLIC UTILITY COMMISSION
SPECIAL UTILITY DISTRICT TO	§	
AMEND ITS CERTIFICATE OF	§	OF TEXAS
CONVENIENCE AND NECESSITY	§	
AND TO DECERTIFY A PORTION OF	§	
POLONIA WATER SUPPLY	§	
CORPORATION'S CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	
HAYS AND CALDWELL COUNTIES	§	

PROPOSED NOTICE OF APPROVAL

This notice of approval addresses the application of County Line Special Utility District (County Line SUD) to amend its water certificate of convenience and necessity (CCN) number 10292 and to decertify a portion of Polonia Water Supply Corporation's (Polonia WSC) water CCN number 10420. The application is approved, the requested area is added to water CCN number 10292.

I. Findings of Fact

The Commission makes the following findings of fact:

Applicant

1. County Line SUD is a special utility district operating in Hays and Caldwell Counties.
2. County Line SUD operates, maintains, and controls facilities that provide water service under CCN number 10292 in Hays and Caldwell Counties.

Application

3. On February 14, 2020, County Line SUD filed an application to amend its water CCN number 10292 in Hays and Caldwell Counties and to decertify a portion of Polonia WSC's water CCN number 10420.
4. The first requested area is located approximately 1 mile north of downtown Uhland, Texas, and is generally bounded on the north by Rohde Road; on the east by State Highway 21; on

the south by High Road; and on the west by the intersection of County Road 128 and High Road.

5. The second requested area is located approximately 1.8 miles southeast of downtown Uhland, Texas, and is generally bounded on the north by Cottonwood Trail (County Road 228A) and Plum Creek; on the east by Farm to Market Road 2001; on the south by Jolly Road (County Road 230); and on the west by the intersection of Farm to Market road 2720 and County Road 228.
6. The third requested area is located approximately 3.5 miles southwest of downtown Uhland, Texas, and is generally bounded on the north by the intersection of Drue Drive and Ranch to Market Road 150; on the east by State Highway 21; on the south by intersection of Farm to Market Road 1966 and State Highway 21; and on the west by County Road 158.
7. The requested area comprises 425 acres and includes 0 current customers.
8. In Order No. 4 filed on July 16, 2020, the administrative law judge (ALJ) found the application administratively complete.

Notice

9. On August 31, 2020, County Line SUD filed the affidavit of Jeff J. Kallus, County Line SUD's authorized representative, attesting that notice was mailed to neighboring utilities, county authorities, municipalities, and affected parties on July 28, 2020.
10. On August 31, 2020, County Line SUD filed the affidavit of Cyndy Slovak-Barton attesting to publication of notice in the *Hays Free Press*, a newspaper of general circulation in Hays County, on March 18, 2020 and March 25, 2020.
11. On August 31, 2020, County Line SUD filed the affidavit of Dana Garrett attesting to publication of notice in the *Lockhart Post Register*, a newspaper of general circulation in Hays and Caldwell Counties, on July 30, 2020 and August 6, 2020.
12. In Order No. 5 filed on September 15, 2020, the ALJ found the notice sufficient.

Maps and Certificates

13. On October 19, 2020, Commission Staff emailed the proposed maps and certificates to County Line SUD and Polonia WSC.
14. On November 13, 2020, County Line SUD filed its consent to the proposed maps and certificate.
15. On November 13, 2020, Polonia WSC filed its consent to the proposed maps.
16. On December 1, 2020, Commission Staff filed the proposed maps and certificates as attachments to its final recommendation.

Evidentiary Record

17. On February 1, 2021, the parties filed an agreed motion to admit evidence and proposed notice of approval.
18. In Order No. 9 issued on _____, 2021, the ALJ admitted the following into evidence: (a) County Line SUD's application filed on February 14, 2020 (AIS Item No. 1); (b) County Line SUD's Response to memo- revised maps and concept plan filed on April 17, 2020 (AIS Item No. 6); (c) County Line SUD's Response to Comments from May 15th Memo filed on June 16, 2020 (AIS Item No. 9); (d) County Line SUD's affidavit filed on August 31, 2020 (AIS Item No. 13); (e) Staff's recommendation on sufficiency of notice filed on September 14, 2020 (AIS Item No. 14); (f) County Line SUD, and Polonia WSC's consent forms filed on November 13, 2020 (AIS Item Nos. 19 and 20); and (g) Staff's final recommendation and attachments filed on December 1, 2020 (AIS Item No. 23).

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

19. A portion of the requested area is within the certificated water service areas of Polonia WSC; however, Polonia WSC is not currently providing service within the requested area.
20. County Line SUD has a TCEQ approved Public Water System (PWS) Identification number 1050038, and a Wastewater Discharge Permit number WQ 14222- 001.
21. County Line SUD does not have any violations listed in the TCEQ database.

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

22. The property owner is developing the requested area to single-family residential.
23. Water utility service is necessary in these proposed areas since individual water wells are not economically feasible.

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

24. Granting the amendment will decertify a portion of Polonia WSC's water CCN number 10420.
25. The amendment adds property that was previously within County Line SUD's CCN.
26. Most of the properties affected fall within both service areas and the amendment will clarify which area each utility will serve, helping in future infrastructure planning.

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

27. County Line SUD's CCN has a TCEQ approved PWS Identification number 1050038.
28. The TCEQ databases do not list any unresolved violations for PWS Identification number 1050038.

29. County Line SUD owns an elevated tank adjacent to one of the properties at issue that is capable of serving the requested area.

30. County Line SUD has an adequate number of licensed water operators to operate and maintain its water system.

31. County Line SUD has the managerial and technical capability to provide continuous and adequate service to the requested area.

Feasibility of Obtaining Service from Other Utilities—TWC § 13.246(c)(5); 16 TAC § 24.227(e)(5)

32. GoForth SUD, Polonia WSC, and Maxwell WSC are all retail public water or sewer utilities within one half mile from the outer boundary of the requested area but are not servicing the approximate area.

33. Obtaining service from another retail public utility would likely increase costs to customers because new facilities will need to be constructed.
34. County Line SUD owns an elevated tank adjacent to one of the properties at issue that is capable of serving the requested area.
35. Some of the areas requested, south of Uhland, includes properties, most of which are already partially inside County Line SUD's service area.

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

36. County Line SUD 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), (e)(6)

37. County Line SUD debt to equity ratio is calculated as follows: long-term debt of \$6,141,5753 divided by net assets of \$10,017,5044 equals 0.61, which is less than one.
38. County Line SUD had an increase in net assets of \$1,587,769 as of December 31, 2018, \$676,223 as of December 21, 2017, and \$521,662 as of December 31, 2016 and reported a cash and cash equivalents balance of \$1,578,626. Based on the history of the Applicant's financial increase in net assets, no operating shortages are expected in the first five years of operations.
39. County Line SUD 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(d), 16 TAC § 24.227(f)

40. There is no need to require County Line SUD to provide a bond or other financial assurance to ensure continuous and adequate service.

Environmental Integrity and Effect on the Land—TWC § 13.246(c)(7), (c)(9); 16 TAC § 24.227(e)(7), (e)(9)

41. Extending County Line SUD's existing water and wastewater system to the requested area will have minimal effect on the environmental integrity of the land.

Improvement in Service and Lowering of Cost—TWC § 13.246(c)(8); 16 TAC § 4.227(e)(8)

42. County Line SUD is already serving customers within a portion of the requested area and granting the CCN amendment will allow for service to future customers of the planned development.
43. There will be no change in cost to customers because County Line SUD will continue to charge its current rates.

Informal Disposition

44. More than 15 days have passed since the completion of notice provided in this docket.
45. No person filed a protest or motion to intervene.
46. County Line SUD and Commission Staff are the only parties to this proceeding.
47. No party requested a hearing and no hearing is needed.
48. Commission Staff recommended that the application be approved.
49. The decision is not adverse to any party.

II. Conclusions 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. County Line SUD is a retail public utility as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
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,¹ the TWC, and Commission rules.
5. County Line SUD possesses the financial, managerial, and technical capability to provide continuous and adequate service to the requested service area and its current service area in Hays and Caldwell Counties as required by TWC § 13.241(a) and 16 TAC § 24.227.
6. The amendment to water CCN number 10292 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. County Line SUD 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 Hays and Caldwell Counties within 30 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 County Line SUD's water CCN number 10292 as described in this Notice of Approval and shown on the attached map.
2. The Commission amends Polonia WSC's water CCN number 10420 as described in this Notice of Approval and shown on the attached map.
3. The Commission grants the certificates attached to this Notice of Approval.
4. County Line SUD must serve every customer and applicant for service within the approved area under CCN number 10292 who requests water service and meets the terms of County Line SUD's water service, and such service must be continuous and adequate.
5. County Line SUD must comply with the recording requirements in TWC §§ 13.257(r) and (s) for the areas in Hays and Caldwell Counties affected by this application.

¹ Tex. Gov't Code § 2001.

6. County Line SUD must file in this docket proof of the recording required in ordering paragraph four 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 _____ 2021.

ADMINISTRATIVE LAW JUDGE