



Control Number: 50614



Item Number: 14

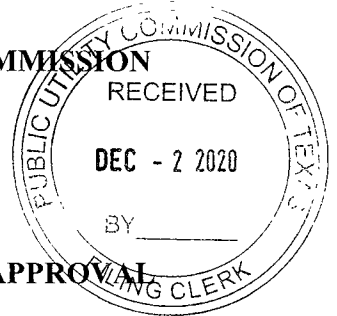
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DOCKET NO. 50614

**APPLICATION OF THE TOWN OF
CUT AND SHOOT TO AMEND ITS
WATER CERTIFICATE OF
CONVENIENCE AND NECESSITY IN
MONTGOMERY COUNTY**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**



JOINT MOTON 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 with agreement from the Town of Cut and Shoot (Cut and Shoot) (collectively, the Parties), files this Joint Motion to Admit Evidence and Proposed Notice of Approval. In support thereof, Staff shows the following:

I. BACKGROUND

On March 3, 2020, the Town of Cut and Shoot (Cut and Shoot) filed an application to amend its water Certificate of Convenience and Necessity (CCN) No. 11615 in Montgomery County, Texas. Cut and Shoot is requesting to decertify a portion of its service area consisting of approximately 23 acres and no current customer connections. Cut and Shoot filed supplemental information on April 6, 2020. Cut and Shoot filed proof of notice documentation on June 24, 2020 and June 25, 2020. Cut and Shoot filed consent forms to the map and certificate on November 16, 2020.

On September 3, 2020, the administrative law judge (ALJ) filed Order No. 4, requiring the Parties to file joint proposed findings of fact and conclusions of law by December 2, 2020. Therefore, this pleading is timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

The Parties request that the following evidence be admitted into the evidentiary record in this proceeding: (a) the Application of the Town of Cut and Shoot to Amend its Water Certificate of Convenience and Necessity in Montgomery County and all attachments, filed on March 3, 2020 (Interchange Item No. 1); (b) Staff's Recommendation on Administrative Completeness and Proposed Notice, filed on April 3, 2020 (Interchange Item No. 3); (c) Cut and Shoot's Revised General Location Map, filed on April 6, 2020 (Interchange Item No. 5); (d) Staff's Supplemental

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Recommendation on Administrative Completeness and Proposed Notice, filed on June 3, 2020 (Interchange Item No. 6); (e) Notice and Affidavits, filed on June 24, 2020 (Interchange Item No. 8); (f) Map of CCN Decertification Area Provided with Notice, filed June 25, 2020 (Interchange Item No. 9); (g) Staff's Recommendation on Sufficiency of Notice, filed on July 30, 2020 (Interchange Item No. 10); (h) Signed Consent Form of Cut and Shoot, filed on November 16, 2020 (Interchange Item No. 12); (i) Staff's Final Recommendation, filed on November 18, 2020 (Interchange Item No. 13).

III. JOINT PROPOSED NOTICE OF APPROVAL

The Parties respectfully request that the attached Proposed Notice of Approval granting Cut and Shoot's Application to amend water CCN No. 11615 be adopted.

IV. CONCLUSION

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

Dated: December 2, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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/s/ Robert Dakota Parish
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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 December 2, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Robert Dakota Parish
Robert Dakota Parish

DOCKET NO. 50614

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|-------------------------------------|----------|----------------------------------|
| APPLICATION OF THE TOWN OF | § | PUBLIC UTILITY COMMISSION |
| CUT AND SHOOT TO AMEND ITS | § | |
| WATER CERTIFICATE OF | § | OF TEXAS |
| CONVENIENCE AND NECESSITY IN | § | |
| MONTGOMERY COUNTY | § | |

PROPOSED NOTICE OF APPROVAL

This Proposed Notice of Approval addresses the application of the town of Cut and Shoot. (Cut and Shoot) to amend its water Certificate of Convenience and Necessity (CCN) No. 11615 to decertify a portion of its service area in Montgomery County. The Commission amends Cut and Shoot's water CCN No. 11615 to remove the requested service area.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant and Interested Parties

1. Cut and Shoot is a municipality that provides water service in the state of Texas.
2. Cut and Shoot operates, maintains, and controls facilities for providing water service under water CCN number 11615 in Montgomery County.
3. Cut and Shoot provides water service from Texas Commission on Environmental Quality (TCEQ)-registered public water systems (PWSs), identification number 1700592

Application

4. On March 3, 2020, Cut and Shoot filed an application to amend its water CCN number 11615 to decertify a portion of its service area in Montgomery County.
5. Cut and Shoot supplemented its application on April 6, 2020.
6. The requested water service area to be decertified consists of approximately 23 acres and no customer connections.
7. The requested decertified service area is located as follows. Approximately 2 miles northwest of downtown Cut and Shoot, bounded on the north by the Gulf Coast and Santa Fe Railroad, on the east by Willis-Waukegan Road, on the south by Frank Plunk Drive, and on the west by a line 1,090 feet west of and parallel to Willis-Waukegan Road.

8. In Order No. 3 filed on June 4, 2020, the administrative law judge (ALJ) found the application administratively complete.

Notice

9. On June 24, 2020, Cut and Shoot filed the affidavit of Shelley Young, Cut and Shoot's authorized representative, attesting that notice was mailed to neighboring utilities, county authorities, municipalities, and affected parties on June 4, 2020.
10. On June 24, 2020, Cut and Shoot filed a publisher's affidavit attesting to publication of notice in the *Conroe Courier*, a newspaper of general circulation in Montgomery County, on June 9, 2020 and June 16, 2020.
11. On June 25, 2020, Cut and Shoot filed the map that accompanied notice.
12. In Order No. 4 filed on September 3, 2020, the ALJ found the notice sufficient.

Map, Tariff, and Certificate

13. On September 30, 2020, Commission Staff emailed the final map and certificate to Cut and Shoot.
14. On November 16, 2020, Cut and Shoot filed consent to the map and certificate.
15. On December 2, 2020, Commission Staff filed the proposed map and certificate as attachments to its agreed motion to admit evidence and proposed notice of approval.

Evidentiary Record

16. On December 2, 2020, the Parties filed an agreed motion to admit evidence and proposed notice of approval.
17. In Order No. __ filed _____, the ALJ admitted the following evidence into the record of this proceeding: (a) the Application of the Town of Cut and Shoot to Amend its Water Certificate of Convenience and Necessity in Montgomery County, and all attachments, filed on March 3, 2020 (Interchange Item No. 1); (b) Staff's Recommendation on Administrative Completeness and Proposed Notice, filed on April 3, 2020 (Interchange Item No. 3); (c) Cut and Shoot's Revised General Location Map, filed on April 6, 2020 (Interchange Item No. 5); (d) Staff's Supplemental Recommendation on Administrative Completeness and Proposed Notice, filed on June 3, 2020 (Interchange Item No. 6); (e)

Notice and Affidavits, filed on June 24, 2020 (Interchange Item No. 8); (f) Map of CCN Decertification Area Provided with Notice, filed one June 25, 2020 (Interchange Item No. 9); (g) Staff's Recommendation on Sufficiency of Notice, filed on July 30, 2020 (Interchange Item No. 10); (h) Signed Consent Form of Cut and Shoot, filed on November 16, 2020 (Interchange Item No. 12); (i) Staff's Final Recommendation, filed on November 18, 2020 (Interchange Item No. 13).

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

18. Cut and Shoot currently provides water service to no customers in the requested water service area. The area is served by Cut and Shoot's PWS, identification number 1700592. The PWS does not have any violations listed in the TCEQ's database.

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

19. There is no need for additional service, as Cut and Shoot is requesting that the area be decertified.

Effect of Granting the Amendment – TWC § 13.246(c)(3), 16 TAC § 24.227(e)(2)

20. Builders FirstSource (or "landowner") wishes to receive service from a nearby provider and requested decertification from Cut and Shoot. Granting decertification of the requested area would release Cut and Shoot from its requirement to provide continuous and adequate service to the landowner and allow the landowner to make alternative arrangements for service.
21. A portion of Cut and Shoot's water CCN number 11615 will be decertified.
22. Notice was provided to landowners, county authorities, municipalities, retail public utilities, and affected parties within two miles from the outer boundary of the requested area. No adverse comments or motions to intervene were filed in this docket; therefore, there will be no effect on other landowners or adjacent public utilities in the proximate area.

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

23. Cut and Shoot is requesting that the area be decertified, thus they will no longer serve the decertified service area.

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

24. Builders FirstSource owns a 21-acre tract of land on Waukegan Road and intends to develop it as a lumber yard which requires regular water service and fire protection. Cut and Shoot does not have water lines in the area and has no plans to install them. Neighboring Crystal Springs Water Co., Inc. has agreed to install the necessary equipment at its nearby Forest Trace Water Plant to provide the required fire protection to the landowner.

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

25. There is no need for service, as Cut and Shoot is requesting that the area be decertified.

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

26. Because construction of a physically separate PWS is not necessary, regionalization or consolidation with another retail public utility was not considered.

Environmental Integrity – TWC § 13.246(c)(7), 16 TAC § 24.227(e)(7)

27. Decertification will have no impact on the environmental integrity of the land.

Improvement in Service or Lowering of Cost – TWC § 13.246(c)(8), 16 TAC § 24.227(e)(8)

28. No improvement in service or lowering of cost to customers in the requested areas will result from granting the CCN amendments because there are currently no customers receiving service in the requested area.

Effect on the Land – TWC § 13.246(c)(9), 16 TAC § 24.227(e)(9)

29. There are currently no customers in the decertified area; therefore, there will be no effect on the land.

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

30. There is no need to require Cut and Shoot to provide a bond or other financial assurance to ensure continuous and adequate service.

Informal Disposition

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

II. Conclusion of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this proceeding under TWC §§ 13.041, 13.241, 13.244, and 13.246, and 13.2551.
2. Cut and Shoot is a municipality as defined by TWC § 13.002(12) and 16 TAC § 24.3(21).
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. After consideration of the factors in TWC § 13.246(c) and 16 TAC § 24.227(e), Cut and Shoot has demonstrated that the amendment of its water CCN 11615 to decertify a portion of its service area will serve the public interest and is necessary for the service, accommodation, convenience, or safety of the public.
6. Cut and Shoot must file a certified copy of the approved map for the certificate amendment, along with a boundary description of the service, in the real property records of

¹ Administrative Procedure Act, Tex. Gov't Code §§ 2001.001–.902.

Montgomery County within 30 days of receiving this Notice of Approval and submit to the Commission evidence of the recording, as required by TWC § 13.257(r) and (s).

7. 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 Cut and Shoot's water CCN No. 11615 to decertify the portion of its service area as described in this Notice of Approval and shown on the attached map.
2. The Commission approves the map, and certificate attached to this Notice of Approval.
3. Cut and Shoot must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Montgomery County affected by the application and submit to the Commission evidence of the recording no later than 45 days after receipt of this Notice of Approval.
4. Within ten days of the date of this Notice of Approval, Commission Staff must provide a clean copy of the tariff approved by this Notice of Approval to Central Records to be marked *Approved* and filed in the Commission's tariff book.
5. 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

ADMINISTRATIVE LAW JUDGE



Public Utility Commission Of Texas

By These Presents Be It Known To All That

Town of Cut and Shoot

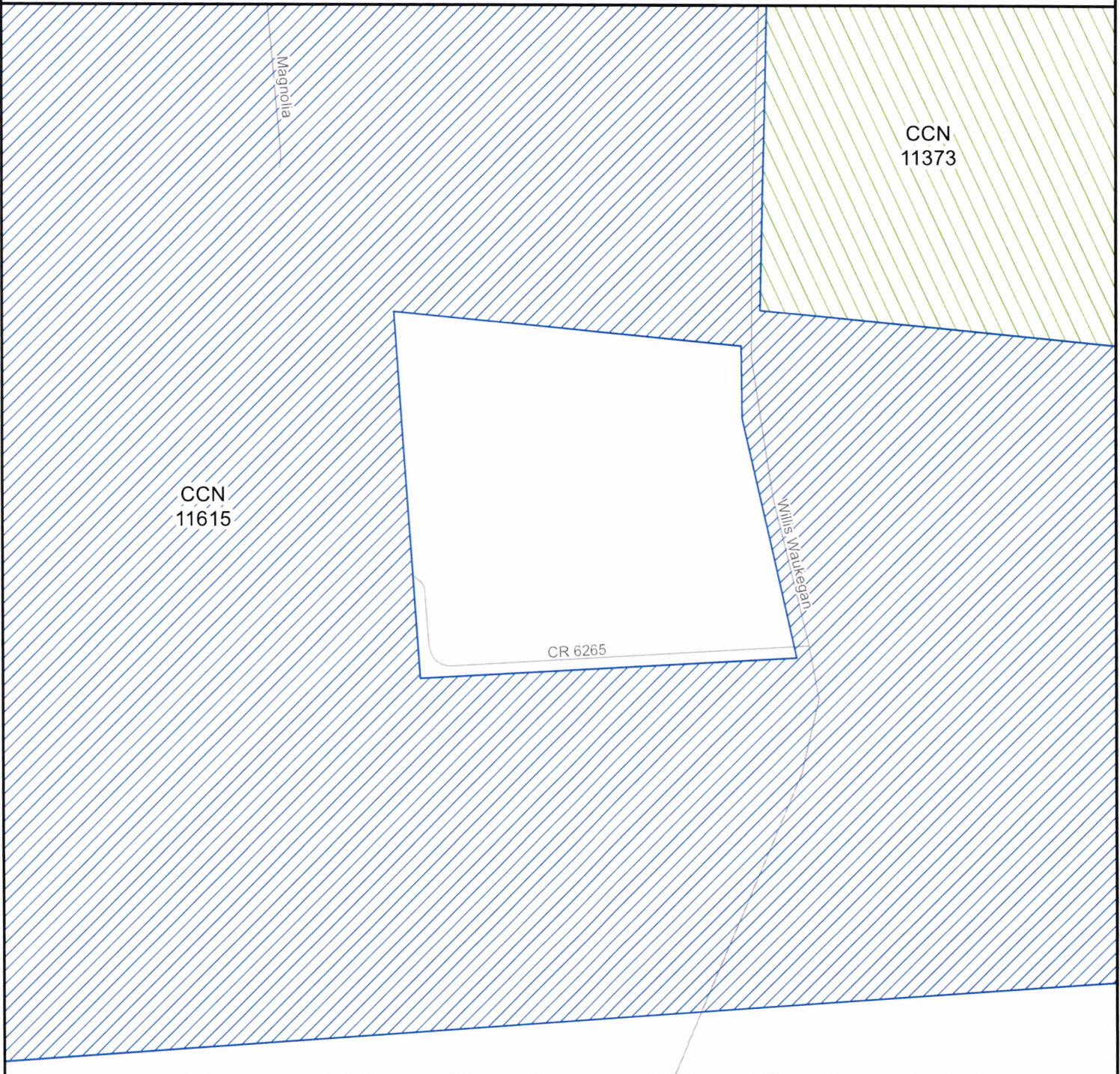
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Town of Cut and Shoot, is entitled to this

Certificate of Convenience and Necessity No. 11615

to provide continuous and adequate water utility service to that service area or those service areas in Montgomery County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 50614 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 Town of Cut and Shoot, 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, this _____ day of _____ 2020.

Town of Cut and Shoot
Portion of Water CCN No. 11615
PUC Docket No. 50614
Decertified a Portion of CCN No. 11615 in Montgomery County



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

Water CCN

-  11615 - Town of Cut and Shoot
-  11373 - Crystal Springs Water Co Inc

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Feet



Map by: Komal Patel
Date created: August 20, 2020
Project Path: n:\finalmapping\
50614TownofCutandShoot.mxd

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