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DOCKET NO. 50745

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PUBLIC UTILITY COMMISSION  
FILING CLERK

APPLICATION OF LAKESIDE §  
MUNICIPAL UTILITY DISTRICT NO. 3 §  
AND MANVILLE WATER SUPPLY §  
CORPORATION TO DECERTIFY AREA §  
FROM MANVILLE WATER SUPPLY §  
CORPORATION'S CERTIFICATE OF §  
CONVENIENCE AND NECESSITY IN §  
TRAVIS AND WILLIAMSON COUNTIES §

PUBLIC UTILITY COMMISSION  
OF TEXAS

**COMMISSION STAFF'S FINAL RECOMMENDATION AND REQUEST FOR CLARIFICATION**

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this final recommendation and request for clarification. Staff recommends that the application be approved. In support thereof, Staff would show the following:

**I. BACKGROUND**

On April 8, 2020, Lakeside Municipal Utility District No. 3 (Lakeside MUD No. 3) filed an application to decertify a portion of Manville Water Supply Corporation's (Manville WSC) certificate of convenience and necessity in Travis and Williamson Counties. Lakeside MUD No. 3 asserts that the area requested for decertification is encompassed by the boundaries of all phases of The Commons at Rowe Lane subdivision, which consists of 238 acres with 754 current customers. On July 7, 2020, Lakeside MUD No. 3 and Manville WSC filed an amended application, adding Manville WSC as a joint applicant, including additional information, and moving to restyle the docket.

On September 28, 2020, Order No. 6 was filed, requiring Staff to file a final recommendation on the application by December 3, 2020. This pleading, therefore, is timely filed.

**II. FINAL RECOMMENDATION**

As supported in the attached memorandum from Jolie Mathis, of the Commission's Infrastructure Division, Staff has reviewed the amended application and recommends that it be approved. Staff's review indicates that Lakeside MUD No. 3 meets the statutory requirements of

Texas Water Code (TWC) §§ 13.242 to 13.250 and 16 Texas Administrative Code §§ 24.225 to 24.237 and is capable of providing continuous and adequate service. Approving this application to amend a water CCN No. 11144 by decertification is necessary for the service, accommodation, convenience, and safety of the public.

### **III. REQUEST FOR CLARIFICATION**

Lakeside MUD No. 3 does not currently hold a CCN and is not seeking to obtain a CCN as part of the application, and approval of the application will result only in the decertification of a portion of Manville WSC's existing CCN. Because Lakeside MUD does not fall within the definition of utility in 16 TAC § 24.3(39) and is not a water supply corporation, it is not required to obtain a CCN before it can serve customers.<sup>1</sup> Accordingly, Staff is unsure that an analysis of the factors under TWC § 13.246(c) is required to support approval of the application, and has provided such an analysis of Lakeside MUD No. 3's managerial, and technical capability to serve the requested area out of an abundance of caution.<sup>2</sup> However, Staff seeks clarification regarding whether findings of fact addressing the criteria in TWC § 13.246(c) should be included in the joint proposed order that is due to be filed by the parties on December 14, 2020.

### **IV. CONCLUSION**

Staff respectfully requests the issuance of an order consistent with the foregoing recommendation.

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<sup>1</sup> 16 TAC § 24.225(a).

<sup>2</sup> Staff's analysis did not include a review of Lakeside MUD No. 3's financial capability.

Dated: December 3, 2020

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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Division Director

Eleanor D'Ambrosio  
Managing Attorney

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**DOCKET NO. 50745**

**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 3, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Creighton R. McMurray  
Creighton R. McMurray

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Creighton McMurray, Attorney  
Legal Division

**FROM:** Jolie Mathis, Utility Engineering Specialist  
Infrastructure Division

**DATE:** December 3, 2020

**RE:** **Docket No. 50745**, *Application of Lakeside Municipal Utility District No. 3 and Manville Water Supply Corporation to Decertify Area from Manville Water Supply Corporation's Certificate of Convenience and Necessity in Travis and Williamson Counties*

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On April 8, 2020, Lakeside Municipal Utility District No. 3 (Lakeside MUD No. 3) filed an application to decertify area from Manville Water Supply Corporation's (Manville WSC) water Certificate of Convenience and Necessity (CCN) No. 11144 in Travis and Williamson Counties, Texas under Texas Water Code (TWC) §§ 13.242 to 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237. On July 7, 2020, the application was amended to include Manville WSC as a joint applicant.

### **Background**

Lakeside MUD No. 3 and Manville WSC are seeking to amend a water CCN by decertification for the service area containing approximately 283 acres and 754 existing customers.

### **Notice**

The comment period ended October 9, 2020, and no protests or opt-out requests were received.

### **Factors Considered**

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

***TWC § 13.246(c)(1) requires the Commission to consider the adequacy of service currently provided to the requested area.***

Lakeside MUD No. 3 has a Texas Commission on Environmental Quality (TCEQ) approved Public Water System (PWS) Identification No. 2270422. Lakeside MUD No. 3 does not have any violations listed in the TCEQ database

***TWC § 13.246(c)(2) requires the Commission to consider the need for service in the requested area.***

The wholesale water supply contract between Manville WSC and Lakeside MUD No. 3 requires that the area within Lakeside MUD No. 3's boundaries that includes The Commons at Rowe Lane subdivision be removed from Manville WSC's CCN No. 11144. There are 942 single family residential lots, an amenity center, and three irrigation lines that require service in the requested area.

***TWC §§ 13.241(b) and 13.246(c)(3) require the Commission to consider 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.***

There will be no effect on Lakeside MUD No. 3, Manville WSC, landowners, or other retail public utilities. This application seeks to decertify area to be served by Lakeside MUD No. 3 that is already within Lakeside MUD No. 3's boundaries from Manville WSC's existing CCN No. 11144. Manville WSC supplies treated water to Lakeside MUD No. 3 under a wholesale water supply contract. After decertification, treated water will continue to be supplied under this contract, at the same quantity and cost to landowners in Lakeside MUD No. 3.

***TWC § 13.246(c)(4) requires the Commission to consider the ability of the applicant to provide adequate service.***

Manville WSC is supplying water to Lakeside MUD No. 3 under the wholesale water supply contract attached to the amended application as Exhibit A. This contract will remain in effect after the decertification of Lakeside MUD No. 3 from the CCN, which will allow Lakeside MUD No. 3 to continue to provide continuous and adequate retail service.

***TWC § 13.246(c)(5) requires the Commission to consider the feasibility of obtaining service from an adjacent retail public utility.***

There are no other water providers in the area as it is currently certificated to Manville WSC, and Lakeside MUD No. 3 is already providing service to customers in the area.

***TWC § 13.241(d) requires the applicant to demonstrate to the Commission 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.***

Construction of a physically separate water system is not necessary for Lakeside MUD No. 3 to serve the requested area.

***TWC § 13.246(c)(6) requires the Commission to consider the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service.***

Since this is a decertification only, no financial review was done.

***TWC § 13.246(d) allows the Commission to require an 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.***

Since this is a decertification only, no financial review was done.

***TWC §§ 13.246(c)(7) and (9) require the Commission to consider the environmental integrity and the effect on the land to be included in the certificate.***

This application is to decertify the area within Lakeside MUD No. 3's boundaries that includes The Commons at Rowe Lane subdivision from Manville WSC's CCN No. 11144. No physical changes are being made to the land as a result of this decertification. Therefore, decertification will have no effect on the environmental integrity of the land.

***TWC § 13.246(c)(8) requires the Commission to consider the probable improvement in service or lowering of cost to consumers.***

Lakeside MUD No. 3 will continue to provide water service to the existing customers in the area with no change to the cost to customers.

Based on the mapping review by Tracy Montes, Infrastructure Division and my technical and managerial review, I recommend that Lakeside MUD No. 3 is capable of providing continuous and adequate service, and approving this application to amend water CCN No. 11144 is necessary for the service, accommodation, convenience, and safety of the public.

Lakeside MUD No. 3 filed its consent to the attached map and certificate on November 23, 2020.

Manville WSC filed its consent to the attached map and certificate on November 23, 2020.



# **Public Utility Commission of Texas**

**By These Presents Be It Known To All That**

## **Manville Water Supply Corporation**

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, Manville Water Supply Corporation is entitled to this

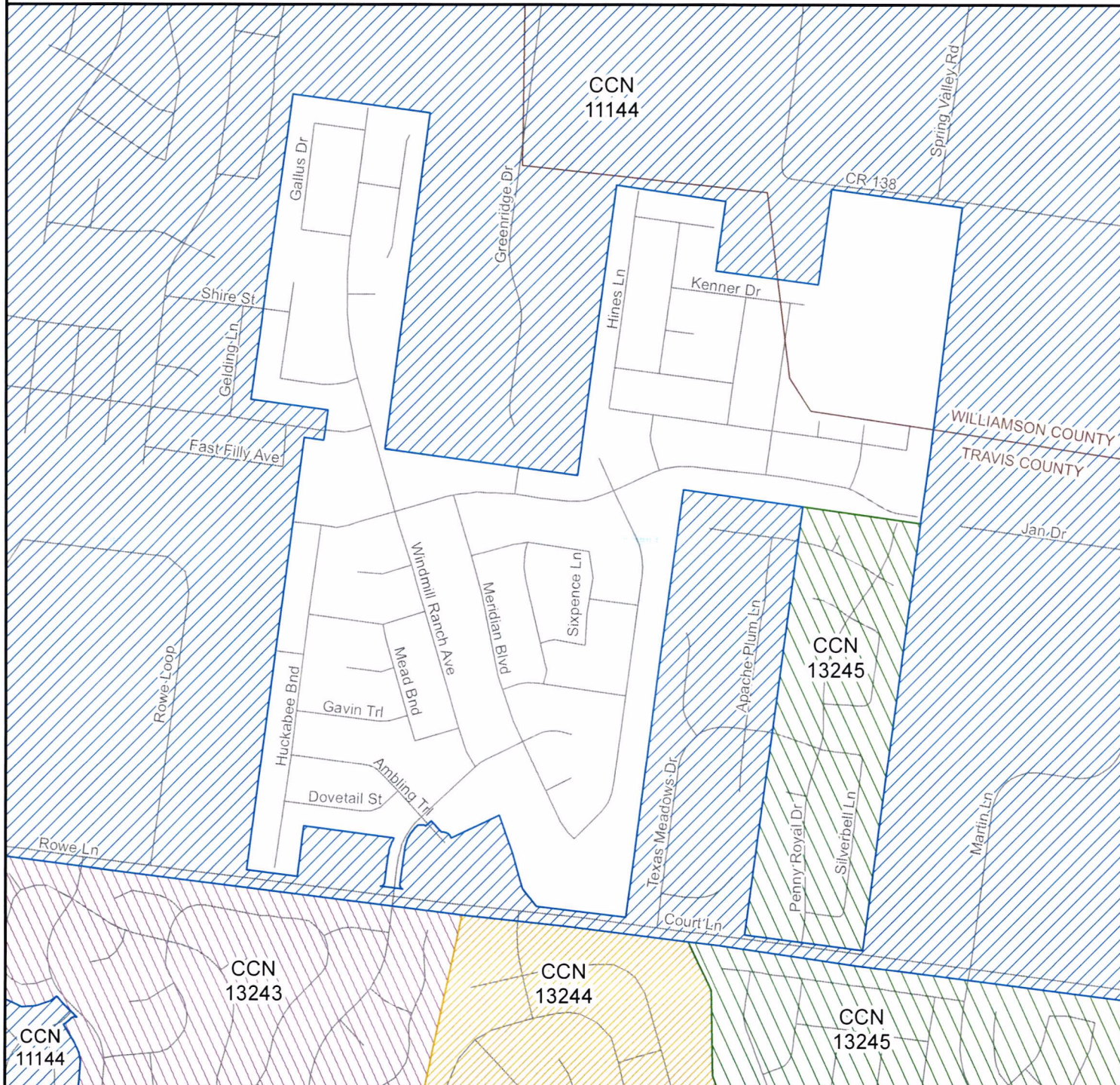
### **Certificate of Convenience and Necessity No. 11144**

to provide continuous and adequate water utility service to that service area or those service areas in Travis and Williamson Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 50745 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 Manville Water Supply Corporation 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.



Manville Water Supply Corporation  
 Portion of Water CCN No. 11144  
 PUC Docket No. 50745  
 Lakeside MUD 3 Decertified a Portion of CCN No. 11144 in Travis and Williamson Counties



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

**Water CCN**

-  11144 - Manville WSC
-  13245 - Lakeside WCID 2C
-  13244 - Lakeside WCID 2B
-  13243 - Lakeside WCID 1

0 450 900  
 Feet



Map by: Komal Patel  
 Date created: November 2, 2020  
 Project Path: n:\finalmapping\  
 50745ManvilleWSC.mxd