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DOCKET NO. 50814

**APPLICATION OF WEST HARRISON
WATER SUPPLY CORPORATION TO
AMEND ITS WATER CERTIFICATE
OF CONVENIENCE AND NECESSITY
IN HARRISON COUNTY**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

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

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission) and files this Motion to Admit Evidence and Proposed Notice of Approval with agreement from West Harrison Water Supply Corporation (West Harrison WSC) (collectively, the Parties). In support, the Parties show the following:

I. BACKGROUND

On May 4, 2020, West Harrison WSC filed an application to amend its water certificate of convenience and necessity (CCN) No. 12728 in Harrison County, Texas under Texas Water Code (TWC) §§ 13.242 to 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237. On May 13, 2020, West Harrison WSC filed supplemental information, and on July 1, 2020, West Harrison WSC amended the application to increase the acreage of the requested area from approximately 437 acres to approximately 447 acres.

On September 14, 2020, the administrative law judge (ALJ) filed Order No. 6, which set a deadline of December 11, 2020 for the Parties to file joint proposed findings of fact and conclusions of law. This pleading, therefore, is timely filed.

II. MOTION TO ADMIT EVIDENCE

The Parties respectfully request that the following documents be admitted into evidence in this proceeding:

- a. West Harrison WSC's application and attachments, filed on May 4, 2020 (Interchange Item No. 1);
- b. West Harrison WSC's Response to email requesting PDF maps and digital data files, filed on May 13, 2020 (Interchange Item No. 3);

- c. Commission Staff's Recommendation on Administrative Completeness and Proposed Notice, filed on June 8, 2020 (Interchange Item No. 4);
- d. West Harrison WSC's response to Order No. 1, filed on June 24, 2020 (Interchange Item No. 7);
- e. West Harrison WSC's response to Staff RFI No. 1-1, filed on June 25, 2020 (Interchange Item No. 8);
- f. West Harrison WSC's Response to Administrative Completeness and Proposed Notice, filed on July 1, 2020 (Interchange Item No. 9);
- g. Commission Staff's Supplemental Recommendation on Administrative Completeness and Proposed Notice, filed on August 3, 2020 (Interchange Item No. 12);
- h. West Harrison WSC's Response to Order No. 4, filed on August 13, 2020 (Interchange Item No. 15);
- i. Commission Staff's Supplemental Recommendation on Sufficiency of Notice, filed on September 9, 2020 (Interchange Item No. 17);
- j. West Harrison WSC's response to staff questions 2-1 through 2-3, filed on November 3, 2020 (Interchange Item No. 20);
- k. West Harrison WSC's consent form, filed on November 16, 2020 (Interchange Item No. 21);
- l. Commission Staff's Final Recommendation on the Application and attachments, filed on December 4, 2020 (Interchange Item No. 22); and
- m. the proposed map and certificate attached to the Proposed Notice of Approval, filed on December 11, 2020.

III. PROPOSED NOTICE OF APPROVAL

The Parties have agreed on the attached Proposed Notice of Approval, which would grant West Harrison WSC's application to amend water CCN No. 12728. The Parties request that the Commission adopt the findings of fact, conclusions of law, and ordering paragraphs from the Notice of Approval.

IV. 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: December 11, 2020

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 on December 11, 2020 in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Merritt Lander
Merritt Lander

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APPLICATION OF WEST HARRISON	§	PUBLIC UTILITY COMMISSION
WATER SUPPLY CORPORATION TO	§	
AMEND ITS WATER CERTIFICATE	§	OF TEXAS
OF CONVENIENCE AND NECESSITY	§	
IN HARRISON COUNTY	§	

PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of West Harrison Water Supply Corporation (West Harrison WSC) to amend its water certificate of convenience and necessity (CCN) number 12728 to add 447 acres to its water service area in Harrison County. The Commission approves the application.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. West Harrison WSC is a non-profit, member-owned, member-controlled Cooperative Corporation registered with the Texas Secretary of State under charter number 0119606201.
2. West Harrison WSC operates, maintains, and controls facilities that provide water service under CCN number 12728 in Harrison County.

Application

3. On May 4, 2020, West Harrison WSC filed an application to amend its water CCN number 12728 in Harrison County.
4. West Harrison WSC filed a supplement to the application on May 13, 2020.
5. West Harrison WSC filed an amendment to the application on July 1, 2020
6. The requested area includes 447 acres, 3 existing customers, and areas for which there have been 16 requests for service.
7. The requested area is located approximately 4.7 miles southeast of downtown Hallsville, Texas, and is generally bounded on the north by Interstate Highway 20; on the east by FM 3251; on the south by Red Oak Road; and on the west by Finklea Road.

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

Notice

9. On August 13, 2020, West Harrison WSC filed the affidavit of Eddy Daniel, West Harrison WSC's authorized representative, attesting that notice was mailed to neighboring utilities, county authorities, municipalities, and affected parties on August 5, 2020.
10. On August 13, 2020, West Harrison WSC filed a publisher's affidavit attesting to publication of notice in the *Marshall News Messenger*, a newspaper of general circulation in Harrison County, on August 6, 2020 and August 13, 2020.
11. In Order No. 6 filed on September 14, 2020, the ALJ found the notice sufficient.

Evidentiary Record

12. On December 11, 2020, Commission Staff filed an agreed motion to admit evidence.
13. In Order No. 7 filed on _____, 2020, the ALJ admitted the following evidence into the record of this proceeding: (a) West Harrison WSC's application and attachments, filed on May 4, 2020; (b) West Harrison WSC's response to email requesting PDF maps and digital data files, filed on May 13, 2020; (c) Commission Staff's recommendation on administrative completeness and proposed notice, filed on June 8, 2020; (d) West Harrison WSC's response to Order No. 1, filed on June 24, 2020; (e) West Harrison WSC's response to Staff RFI No. 1-1, filed on June 25, 2020; (f) West Harrison WSC's response to administrative completeness and proposed notice, filed on July 1, 2020; (g) Commission Staff's supplemental recommendation on administrative completeness and proposed notice, filed on August 3, 2020; (h) West Harrison WSC's response to Order No. 4, filed on August 13, 2020; (i) Commission Staff's supplemental recommendation on sufficiency of notice, filed on September 9, 2020; (j) West Harrison WSC's response to staff questions 2-1 through 2-3, filed on November 3, 2020; (k) West Harrison WSC's consent form, filed on November 16, 2020; (l) Commission Staff's final recommendation on the application and

attachments, filed on December 4, 2020; and (m) the map and certificate attached to the Proposed Notice of Approval, filed on December 11, 2020.

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

14. West Harrison WSC currently serves the requested area through Texas Commission on Environmental Quality (TCEQ)-approved public water system (PWS) number 1020078. West Harrison WSC does not have any violations listed in the TCEQ database.
15. No additional construction is necessary for West Harrison WSC to serve the requested area.

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

16. There is a need for service. West Harrison WSC currently serves 3 customers in the requested area. West Harrison WSC desires to include these customers, meters, and distribution lines within its CCN boundaries.
17. West Harrison WSC has received 16 requests for service in the requested area.

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

18. The requested area is adjacent to West Harrison WSC's existing CCN boundary. Service to the requested area has been accomplished by waterline extensions. Granting the CCN amendment will add these customers and water lines to West Harrison's service area.
19. Granting the CCN amendment will not adversely affect any landowners who will be able to obtain water service from West Harrison WSC rather than drilling a well.
20. There will be no effect on any other retail public utility servicing the proximate area because the requested area is uncertificated.

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

21. West Harrison WSC provides service through TCEQ-approved public water system number 1020078, which has adequate capacity to meet the current and projected demands in the requested area.
22. West Harrison WSC does not have any violations listed in the TCEQ database.
23. West Harrison WSC has access to an adequate supply of water and is capable of providing water that meets the requirements of chapter 341 of the Texas Health and Safety Code, chapter 13 of the TWC, and the TCEQ's rules.
24. West Harrison WSC employs TCEQ-licensed water operators who operate its public water system.
25. West Harrison WSC 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)

26. There are no other water providers in the area; thus, it is not feasible for another utility to provide water service to the requested area.
27. Water utilities within a two-mile radius were properly noticed and no protests or opt-out requests were received.

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

28. West Harrison WSC has a debt service coverage ratio of 1.72, which is greater than 1.25, satisfying the leverage test.
29. West Harrison WSC has sufficient cash on hand to cover any projected operations or maintenance shortages during the first five years of operations, satisfying the operations test.
30. West Harrison WSC has the financial ability and stability to provide continuous and adequate service to the requested area.

Environmental Integrity—TWC § 13.246(c)(7), (c)(9); 16 TAC § 24.227(e)(7), (e)(9)

31. The land and the environmental integrity of the requested area will not be affected as no construction is needed to provide service to the requested area.

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

32. West Harrison WSC will continue to provide water service to the existing customers in the requested area with no change in the cost of service to customers.

Financial Assurance—TWC § 13.246(d), 16 TAC § 24.227(f)

33. There is no need to require West Harrison WSC to provide a bond or other financial assurance to ensure continuous and adequate service.

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

34. Construction of a physically separate water system is not required for West Harrison WSC to serve the requested area.

Map, Tariff, and Certificate

35. On November 13, 2020, Commission Staff emailed its proposed map and certificate to West Harrison WSC.
36. On November 16, 2020, West Harrison WSC filed its consent to the proposed map and certificate.
37. On December 11, 2020, the proposed map and certificate were included as an attachment to the agreed motion to admit evidence and proposed notice of approval.

Informal Disposition

38. More than 15 days have passed since the completion of notice provided in this docket.
39. No person filed a protest or motion to intervene.
40. Commission Staff and West Harrison WSC are the only parties to this proceeding.
41. No party requested a hearing and no hearing is necessary.
42. Commission Staff recommended approval of the application.
43. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law:

1. The Commission has authority over this proceeding under TWC §§ 13.041, 13.241 and 13.246.
2. West Harrison WSC is a retail public utility as defined in TWC § 13.002(19) and 16 TAC § 24.3(31) and a water supply corporation as defined in 16 TAC § 24.3(40).
3. Notice of the application was provided in compliance 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 considering the factors in TWC § 13.246(c) and 16 TAC § 24.227(e), West Harrison WSC has demonstrated adequate financial, managerial, and technical capability to provide continuous and adequate service to the requested service area and its current service areas in Harrison County as required by TWC § 13.241(a) and 16 TAC § 24.227.
6. West Harrison WSC has demonstrated that the amendment to water CCN number 12728 will serve the public interest and is necessary for the service, accommodation, convenience, or safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(c).
7. West Harrison WSC must record a certified copy of its approved map and certificate, along with a boundary description of the service area, in the real property records of Harrison County within 31 days of receiving this Notice of Approval and submit evidence of the recording to the Commission in accordance with TWC § 13.257(r) and (s).
8. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

¹ Tex Gov't Code §§ 2001.001-902.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission amends West Harrison WSC's water CCN number 12728 to include the requested area 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. West Harrison WSC must serve every customer and applicant for service within the approved areas under CCN number 12728 who requests water service and meets the terms of West Harrison WSC's water service, and such service must be continuous and adequate.
4. West Harrison WSC must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Harrison County affected by the application and file evidence of the recording in this docket no later than 30 days after receipt of this Notice of Approval.
5. 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.
6. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the ____ day of _____, 2020.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE