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DOCKET NO. 50861

APPLICATION OF MANVILLE	§	PUBLIC UTILITY COMMISSION
WATER SUPPLY CORPORATION TO	§	
AMEND ITS CERTIFICATE OF	§	OF TEXAS
CONVENIENCE AND NECESSITY IN	§	
LEE AND WILLIAMSON COUNTIES	§	

JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

On May 18, 2020, Manville Water Supply Corporation (Manville WSC) filed an application to amend its water Certificate of Convenience and Necessity (CCN) No. 11144 in Lee and Williamson Counties. The revised requested service area consists of 3,414.5 acres and 54 current connections.

On May 24, 2021, the administrative law judge filed Order No. 9, which established a deadline of August 6, 2021 for Manville WSC and the Staff (Staff) of the Public Utility Commission of Texas (Commission) (collectively, the parties) to file joint proposed findings of facts and conclusions of law. Therefore, this pleading is timely filed.

I. MOTION TO ADMIT EVIDENCE

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

1. Manville WSC's Application and all attachments, filed on May 18, 2020 (Interchange Item No. 1);
2. Manville WSC's Supplemental Application, filed June 10, 2020 (Interchange Item No. 5);
3. Manville WSC's Supplemental Information, filed July 30, 2020 (Interchange Item No. 7);
4. Manville WSC's Supplemental Information, filed August 11, 2020 (Interchange Item No. 10);
5. Commission Staff's Second Supplemental Recommendation on Administrative Completeness and Proposed Notice, filed on October 9, 2020 (Interchange Item No. 11);
6. Manville WSC's Response to Commission Staff's First Request for Information, filed on October 19, 2020 (Interchange Item No. 14);

7. Manville WSC's Notice and Affidavit, filed on November 5, 2020 (Interchange Item No. 15);
8. Mr. Baker's Opt-out Request, filed on November 9, 2020 (Interchange Item No. 16);
9. Manville WSC's Revised Mapping Data, filed on November 12, 2020 (Interchange Item No. 18);
10. Manville WSC's Publisher's Affidavit for Williamson County, filed on December 29, 2020 (Interchange Item No. 21);
11. Manville WSC's Publisher's Affidavit for Lee County, filed on January 5, 2021 (Interchange Item No. 22);
12. Commission Staff's Supplemental Recommendation on Sufficiency of Notice and Recommendation on Sufficiency of Mapping, filed on January 25, 2021 (Interchange Item No. 23);
13. Manville WSC's Response to Commission Staff's Second Request for Information, filed on February 22, 2021 (Interchange Item No. 26);
14. Manville WSC's Revised Mapping and Acreage Data, filed on April 22, 2021 (Interchange Item Nos. 29 and 30);
15. Commission Staff's Recommendation on Sufficiency of Amended Mapping, filed on May 21, 2021 (Interchange Item No. 33);
16. Manville WSC's signed Consent Forms, filed on July 12, 2021 (Interchange Item No. 35); and
17. Commission Staff's Final Recommendation, filed on July 23, 2021 (Interchange Item No. 36).

II. PROPOSED NOTICE OF APPROVAL

The attached Proposed Notice of Approval would grant Manville WSC's application to amend water CCN number 11144.

III. CONCLUSION

The parties respectfully request that the items listed above be admitted as evidence and that the attached Proposed Notice of Approval be adopted.

Dated: August 6, 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 August 6, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Daniel Moore
Daniel Moore

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PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of Manville Water Supply Corporation to amend its water Certificate of Convenience and Necessity (CCN) number 11144 in Lee and Williamson Counties. The Commission amends Manville WSC's water CCN number 11144 to add the requested area.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Manville WSC is a Texas non-profit corporation registered with the Texas secretary of state under file number 26785701.
2. Manville WSC operates, maintains, and controls facilities for providing retail water service under CCN number 11144 in Lee, Travis, and Williamson Counties.
3. Manville WSC owns and operates a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under identification number 2270033.

Application

4. On May 18, 2020, Manville WSC filed an application to amend its water CCN number 11144 in Lee and Williamson Counties.
5. Manville WSC filed supplements to the application on June 10, July 30, and August 11, 2020.
6. In Order No. 4 filed on October 12, 2020, the administrative law judge (ALJ) found the application, as supplemented, administratively complete.
7. On November 12, 2020 and on April 22, 2021, Manville WSC supplemented its application with revised mapping data.

8. Manville WSC's application, as supplemented, seeks to amend its water CCN number 11144 to add approximately 3,414.5 acres and 54 existing customers to its certificated service area.
9. The requested area is located approximately 4.5 miles northeast of downtown Elgin and is generally bounded on the north by CR 491; on the east by County Road 304; on the South by FM 696; and on the west by intersections of N. County Line and CR 463.
10. In Order Nos. 6 and 9, filed on January 27 and May 24, 2021, the ALJ found the revised mapping sufficient.

Notice

11. On November 5, 2020, Manville WSC filed the affidavit of Tony Grat, Manville WSC's authorized representative, attesting that notice was mailed to neighboring utilities, county authorities, municipalities, and affected parties on October 14, 2020.
12. On December 29, 2020, Manville WSC filed a publisher's affidavit attesting to publication of notice in *The Taylor Press*, a newspaper of general circulation in Williamson County, on December 13 and December 20, 2020.
13. On January 5, 2021, Manville WSC filed a publisher's affidavit attesting to publication of notice in *The Lexington Leader*, a newspaper of general circulation in Lee County, on December 17 and December 24, 2020.
14. In Order No. 6 filed on January 27, 2021, the ALJ found the notice sufficient.

Exclusion from the Proposed CCN Amendment

15. On November 9, 2020, Berry Baker, a landowner with a tract of land that is at least 25 acres and that is wholly or partially located within the proposed service area, timely filed an opt-out request.
16. On November 13, 2020, Manville WSC supplemented its application with revised mapping data excluding the land owned by Mr. Baker from the proposed CCN area.

Maps and Certificate

17. On June 25, 2021, Commission Staff emailed the proposed final map and certificate to Manville WSC.
18. On July 12, 2021, Manville WSC filed its consent to the proposed final map and certificate.
19. On August 6, 2021, the proposed map and certificate were included as attachments to the agreed motion to admit evidence.

Evidentiary Record

20. On August 6, 2021, the parties filed a joint motion to admit evidence.
21. In Order No. __ filed on August __ 2021, the ALJ admitted the following evidence into the record of this proceeding: (a) the application and all attachments filed on May 18, 2020; (b) Manville WSC's s supplemental application filed June 10, 2020; (c) Manville WSC's supplemental information filed July 30, 2021; (d) Manville WSC's supplemental information filed August 11, 2021; (e) Commission Staff's second supplemental recommendation on administrative completeness and proposed notice filed on October 9, 2020; (f) Manville WSC's response to Commission Staff's first request for information filed on October 19, 2020; (g) Manville WSC's notice and affidavit filed on November 5, 2020; (h) Mr. Baker's opt-out request filed on November 9, 2020; (i) Manville WSC's revised mapping data filed on November 12, 2020 (j); Manville WSC's publisher's affidavit for Williamson County filed on December 29, 2020 (k); Manville WSC's publisher's affidavit for Lee County filed on January 5, 2021 (l); Commission Staff's supplemental recommendation on sufficiency of notice and recommendation on sufficiency of mapping filed on January 25, 2021; (m) Manville WSC's response to Commission Staff's second request for information filed on February 22, 2021; (n) Manville WSC's revised mapping and acreage data filed on April 22, 2021; (o) Commission Staff's recommendation on sufficiency of amended mapping filed on May 21, 2021 (p); Manville WSC's signed consent form filed on July 12, 2021; (q) Commission Staff's final recommendation filed on July 23, 2021; and (r) the map and certificate attached to the joint motion to admit evidence.

Adequacy of Existing Service

22. Manville WSC currently provides retail water service to 54 existing customers in the requested area through public water system number 2270033 and such service has been continuous.
23. Manville WSC does not have violations listed in the TCEQ database.
24. The Commission's complaint records, show 4 complaints against Manville WSC involving outages and disconnection of service.

Need for Service

25. There is a need for service because Manville is currently serving 54 existing customers in the requested area.

Effect of Granting the Amendment

26. Granting the CCN amendment will allow Manville WSC to continue serving its 54 existing customers and will obligate Manville WSC to provide service to future customers in the requested area.
27. Landowners in the requested area will benefit from granting the CCN because they will be able to obtain water service from Manville WSC rather than having to drill individual wells.
28. There will be no effect on any retail public utility servicing the proximate area.
29. All retail public utilities in the proximate area were provided notice of the CCN amendment requested in this proceeding and none requested to intervene.

Ability to Serve: Managerial and Technical

30. Manville WSC currently provides water service to 54 customers in the requested area through public water system number 2270033.
31. Manville WSC does not have any violations listed in the TCEQ database.
32. Manville WSC is capable of providing water that meets the requirements of chapter 341 of the Texas Health and Safety Code, chapter 13 of the Texas Water Code (TWC), and the TCEQ's rules.
33. Manville WSC has the managerial and technical capability to provide continuous and adequate service to the requested area.

Feasibility of Obtaining Service from Other Utilities

34. Manville WSC's water service area is adjacent to the requested area.
35. Water utilities within a two-mile radius were properly noticed and none requested to intervene.
36. Manville WSC currently provides service to 54 customers in the requested area.
37. It is not feasible to obtain service from an adjacent retail public utility.

Ability to Serve: Financial Ability and Stability

38. Manville WSC has a debt-to-equity ratio that is less than 1.0, satisfying the leverage test.

39. Manville WSC demonstrated that it has sufficient cash on hand to cover any projected operations and maintenance shortages during the first five years of operations after approval of the CCN amendment, satisfying the operations test.
40. Manville WSC has the financial ability and stability to provide continuous and adequate service to the requested area.

Financial Assurance

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

Environmental Integrity and Effect on the Land

42. There will be no effects on environmental integrity and on the land because no additional construction is needed to provide service to the requested area.

Improvement in Service or Lowering of Cost

43. Manville WSC will continue to provide water service to the existing customers in the requested area.
44. Manville WSC will provide water and sewer service to the future customers in the requested area with the same level of service and at the same rates it currently charges.

Regionalization and Consolidation

45. Because construction of a physically separate water system is not required for Manville WSC to serve the requested area, concerns of regionalization or consolidation are not applicable.

Informal Disposition

46. More than 15 days have passed since the completion of notice provided in this docket.
47. All opt-out requests, protest and motions to intervene have been addressed or withdrawn.
48. Manville WSC and Commission Staff are the only parties to this proceeding.
49. No party requested a hearing and no hearing is needed.
50. Commission Staff recommended that the application be approved.
51. The 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 §§ 13.241, 13.242, 13.244, and 13.246.
2. Manville WSC is a retail public utility as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31) and a water supply corporation as defined by TWC § 13.002(24) and 16 TAC § 24.3(40).
3. Manville WSC's application meets the requirements of TWC § 13.244.
4. Manville WSC provided notice of the application that complies with TWC § 13.246 and 16 TAC § 24.235.
5. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act¹, the TWC, and Commission rules.
6. After consideration of the factors in TWC §§ 13.241(a) and 13.246(c) and 16 TAC § 24.227(e), Manville WSC demonstrated adequate financial, managerial, and technical capability to provide continuous and adequate service in the requested service area and its current service area in Lee and Williamson Counties, as required by TWC § 13.241(a) and 16 TAC § 24.227.
7. Regionalization or consolidation concerns under TWC § 13.241(d) do not apply in this proceeding because construction of a physically separate water system is not required.
8. It is not necessary for Manville WSC to provide a bond or other financial assurance under TWC § 13.246(d) or 16 TAC § 24.227(f).
9. Manville WSC demonstrated that the amendment to water CCN number 11144 to include the requested area is necessary for the service, accommodation, convenience, or safety of the public, as required by TWC § 13.246(b) and 16 TAC § 24.227(d).
10. Under TWC § 13.257(r) and (s), Manville WSC 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 Lee and Williamson Counties within 31 days of receiving this Notice of Approval and 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.

¹ Tex. Gov't Code Ann. §§ 2001.001–2001.903.

III. Ordering Paragraphs

In accordance with these findings of facts and conclusions of law, the Commission issues the following orders.

1. The Commission amends Manville WSC's CCN number 11144 to add 3,414.5 acres to its certificate service area as described in this Notice of Approval and shown on the map attached to this Notice of Approval.
2. The Commission approves the map attached to this Notice of Approval.
3. The Commission issues the certificate attached to this Notice of Approval.
4. Manville WSC must provide service to every customer and applicant for service within the approved area under CCN number 11144 who requests water service and meets the terms of Manville WSC's water service, and such service must be continuous and adequate.
5. Manville WSC must comply with the recording requirements of TWC § 13.257(r) and (s) for the areas in Lee and Williamson Counties affected by the application and file in this docket proof of the recording no later than 45 days after receipt of this Notice of Approval.
6. 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 August 2021.