



Control Number: 50955



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APPLICATION OF THE CITY OF §
DRIPPING SPRINGS TO AMEND ITS §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY IN HAYS COUNTY §

PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
OF TEXAS

COMMISSION STAFF’S FINAL RECOMMENDATION ON THE APPLICATON

On June 18, 2020, the City of Dripping Springs (Dripping Springs) filed an application to amend its water certificate of convenience and necessity (CCN) No. 13030 in Hays County. The requested service area consists of 1,067 acres and no current customers.

On December 3, 2020, the administrative law judge (ALJ) filed Order No. 4, requiring Commission Staff (Staff) to file a final recommendation on the application by March 5, 2021. Therefore, this pleading is timely filed.

I. FINAL RECOMMENDATION

Staff has reviewed the application and supplemental information and, as supported by the attached memoranda of Jolie Mathis, Infrastructure Division, recommends approval of the application. Staff’s review indicates that Dripping Springs meets the applicable technical, managerial, and financial requirements of Chapter 13 of the Texas Water Code and Title 16, Chapter 24 of the Texas Administrative Code and, therefore, is capable of providing continuous and adequate service. Additionally, Staff’s review suggests that approval of the application is necessary for the service, accommodation, convenience, and safety of the public.

II. CONCLUSION

For the reasons discussed above, Staff respectfully requests that Dripping Spring’s application be approved.

20

Dated: March 5, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

Heath D. Armstrong
Managing Attorney

/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 March 5, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Robert Dakota Parish
Robert Dakota Parish

Public Utility Commission of Texas

Memorandum

TO: Robert Parish, Attorney
Legal Division

FROM: Jolie Mathis, Utility Engineering Specialist
Infrastructure Division

DATE: March 5, 2021

RE: *Docket No. 50955, Application of the City of Dripping Springs to Amend Its Certificate of Convenience and Necessity in Hays County*

1. Application

The City of Dripping Springs (Dripping Springs) filed with the Public Utility Commission of Texas (Commission) an application to amend its water Certificate of Convenience and Necessity (CCN) No. 13030 in Hays County, Texas under Texas Water Code (TWC) §§ 13.242 to 13.250 and the 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237.

Dripping Springs is seeking to amend a water CCN for the service area containing 1,067 acres and 0 current customers.

2. Notice

The deadline to intervene was December 14, 2020; there were no motions to intervene, protests, or opt-out requests received.

3. Factors Considered

TWC §§ 13.241 and 13.246, and 16 TAC §§ 24.11(e) and 24.227 require the Commission to consider certain factors when granting or amending a water or sewer CCN. Therefore, the following factors were considered.

3.1. *Consideration of the adequacy of service currently provided to the requested area and system compliance (TWC § 13.246(c)(1); 16 TAC § 24.227(a) and (e)(1)).*

Dripping Springs has a Texas Commission on Environmental Quality (TCEQ) approved public water systems (PWS) registered as City of Dripping Springs PWS ID No. 1050187 and Driftwood Golf and Ranch Club PWS ID No. 1050208. Dripping Springs does not have any violations listed in the TCEQ database. The Driftwood MMD Development is currently under construction with some sections complete. The Driftwood Conservation District Development water distribution system is in the design phase. Master meter

construction is complete. Plans and Specifications were submitted to TCEQ September 9, 2019.

There are no current customers in the requested area.

3.2. *Consideration of the need for additional service in the requested area (TWC § 13.246(c)(2); 16 TAC § 24.227(e)(2)).*

There is a need for service to the Driftwood Conservation District and Driftwood MMD for residential and commercial development. The Developer is currently under contract to purchase 472 acres of the Property and the Developer plans to construct a golf course and residential development on the land once it is purchased from the owner, as described in the agreement for the provision of nonstandard retail water service. The owner will also retain 50 acres of the property and plans to construct a commercial development on the owner retained land.

3.3. *Consideration of 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 (TWC §§ 13.241(b) and 13.246(c)(3), 16 TAC § 24.227(e)(3)).*

Dripping Springs will be the certificated entity for the requested area and be required to provide adequate and continuous service to the requested area.

The landowners in the areas will have a water provider available when they need to request water service.

There will be no effect on any retail public utility servicing the proximate area. All retail public utilities in the proximate area were provided notice of the transaction taking place in this application and did not request to intervene.

3.4. *Consideration of the managerial and technical ability of the applicant to provide adequate service (TWC § 13.246(c)(4); 16 TAC § 24.227(a) and (e)(4)).*

Dripping Springs has a Texas Commission on Environmental Quality (TCEQ) approved public water systems (PWS) registered as City of Dripping Springs PWS ID No. 1050187 and Driftwood Golf and Ranch Club PWS ID No. 1050208. Dripping Springs does not have any violations listed in the TCEQ database. The Driftwood MMD Development is currently under construction with some sections complete. The Driftwood Conservation District Development water distribution system is in the design phase. Master meter construction is complete. Plans and Specifications were submitted to TCEQ September 9, 2019.

3.5 *Consideration of the feasibility of obtaining service from an adjacent retail public utility (TWC § 13.246(c)(5); 16 TAC § 24.227(e)(5)).*

Dripping Springs received a request for service for the requested area from Driftwood MMD Development. Service was requested from neighboring utilities and none of them were able to provide service. Dripping Springs has approved TCEQ plans to build facilities in the requested area to serve future customers and will have sufficient capacity to serve the area. Therefore, it is not feasible to obtain service from an adjacent retail public utility.

3.6. Consideration of the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service (TWC § 13.246(c)(6); 16 TAC §§ 24.227(a) and (e)(6), 24.11(e)).

Fred Bednarski, Financial Analyst in the Rate Regulation Division, provided the following analysis.

An owner or operator of a retail public utility must have the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and requested utility service areas, as established by 16 TAC § 24.11. Dripping Springs must demonstrate that it meets one of the five leverage tests under 16 TAC § 24.11(e)(2) as well as the operations test under 16 TAC § 24.11(e)(3).

Leverage test

My analysis is based on financial statements ending September 30, 2019 in attachment FB-1. These financial statements contain an unqualified auditor's opinion from Donald L. Allman, CPA, PC stating that the financial statements present fairly, in all material respects, the financial position of Dripping Springs as of September 30, 2019.

Based upon my review of Dripping Springs' financial statements, I calculate debt service equal to 3.17. The debt service coverage ratio is net operating income of \$5,547,011 before depreciation expense of \$884,598 and interest expense of \$127,354 divided by annual debt service of \$1,752,843 for fiscal year 2021. Because the ratio is greater than 1.25, the Applicant meets the leverage test specified in 16 TAC § 24.11(e)(2)(B).

Operations test

An owner or operator must demonstrate sufficient available cash to cover projected cash shortages for operations and maintenance expense during the first five years of operations, as required by 16 TAC § 24.11(e)(3).

Dripping Springs' 2019 financial statements include net income of \$4,535,059 and an unrestricted cash and cash equivalents balance of \$13,388,233, indicating the Applicant will have sufficient cash to cover projected shortages.

Capital improvements needed to provide continuous and adequate service to the requested area will be paid for by the Developer and Driftwood Conservation District. Sufficient cash and net operating income available to cover possible future shortages provide an indication of financial stability and financial and managerial capability. Therefore, the Applicant meets the operations test specified in 16 TAC § 24.11(e)(3).

3.7. Requirement of the 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 (TWC §§ 13.246(d); 16 TAC § 24.227(f)).

Fred Bednarski provided the following.

As explained in the discussion of TWC § 13.246(c)(6) and 16 TAC §§ 24.227(a), (e)(6), and 24.11(e) the Applicants meet the financial tests. Therefore, no additional financial assurance is needed.

- 3.8. *Consideration of the environmental integrity and the effect on the land to be included in the certificated area (TWC § 13.246(c)(7) and (9); and 16 TAC § 24.227(e)(7) and (9)).*

The land will be disturbed initially for the installation of utility, roadway, and storm water infrastructure to the proposed developments.

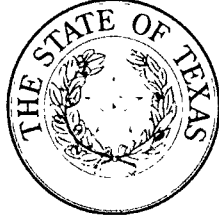
- 3.9. *Consideration of the probable improvement in service or lowering of cost to consumers (TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)).*

This factor is not applicable because there are no homes currently receiving service in the requested service area.

Recommendation

Based on the mapping review by Gary Horton, Infrastructure Division, the financial and managerial review by Fred Bednarski, Rate Regulation Division, and my technical and managerial review, I recommend that Dripping Springs meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations, is capable of providing continuous and adequate service and approving this application to amend a water CCN No. 13030 is necessary for the service, accommodation, convenience and safety of the public.

Dripping Springs consented to the attached map, and certificate on March 2, 2021.



Public Utility Commission of Texas

By These Presents Be It Known To All That

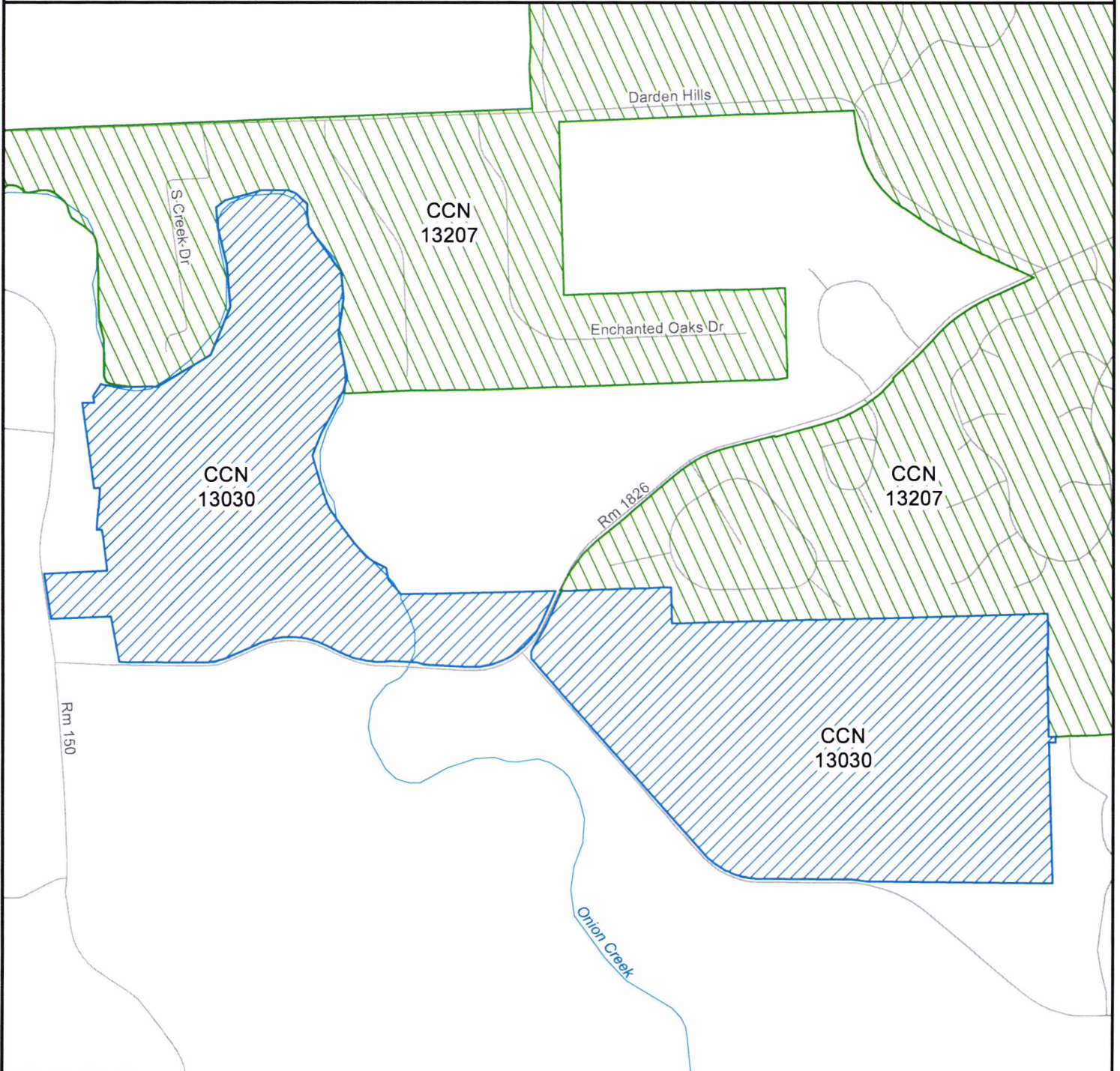
City of Dripping Springs

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, the City of Dripping Springs is entitled to this

Certificate of Convenience and Necessity No. 13030

to provide continuous and adequate water utility service to that service area or those service areas in Hays County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 50955 are on file at the Commission offices in Austin, Texas; and are a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty City of Dripping Springs 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.

City of Dripping Springs
Portion of Water CCN No. 13030
PUC Docket No. 50955
Amended CCN No. 13030 in Hays County



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

Water CCN



13030 - City of Dripping Springs



13207 - West Travis County Public Utility Agency

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Feet



Map by: Komal Patel
Date created: February 9, 2021
Project Name: 50955CityofDS.mxd