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DOCKET NO. 51124

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PUBLIC UTILITY COMMISSION
OF TEXAS
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**PETITION OF THE CITY OF PHARR §
AND THE CITY OF SAN JUAN FOR §
APPROVAL OF SERVICE AREA §
CONTRACT UNDER THE TEXAS §
WATER CODE § 13.248 AND TO AMEND §
CERTIFICATES OF CONVENIENCE §
AND NECESSITY IN HIDALGO §
COUNTY §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

On July 29, 2020, the City of Pharr (Pharr) and the City of San Juan (San Juan) (collectively, Petitioners) filed a petition for approval of a service area contract under Texas Water Code (TWC) § 13.248 to amend Pharr’s sewer certificate of convenience and necessity (CCN) in Hidalgo County. The Petitioners request that Pharr’s sewer CCN number 20643 be amended to reflect the dual certification of approximately 4,620 acres within San Juan’s existing sewer CCN number 20791. The Petitioners’ service area contract is being reviewed in accordance with 16 Texas Administrative Code (TAC) § 24.253.

On January 14, 2021, the administrative law judge filed Order No. 5, which established a deadline of February 5, 2021 for the Petitioners along with the Staff of the Public Utility Commission of Texas (Staff) (collectively, the Parties) to file joint proposed findings of fact and conclusions of law. Therefore, this pleading is timely filed.

I. MOTION TO ADMIT EVIDENCE

The Parties move to admit the following evidence into the record of this proceeding:

1. The Petition, and all accompanying exhibits, filed on July 29, 2020 (Interchange Item No. 1);
2. Pharr’s supplements to the petition, filed on September 2, 2020 and October 5 and 15, 2020 (Interchange Item Nos. 5, 6, and 8);
3. Commission Staff’s Second Supplemental Recommendation on Administrative Completeness and Sufficiency of Notice, filed on November 13, 2020 (Interchange Item No. 10);

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4. Pharr's and San Juan's Consent Forms, concurring with the final map and certificates, filed on January 22, 2021 (Interchange Item No. 14); and
5. Commission Staff's Final Recommendation and all accompanying attachments except for the certificate for CCN No. 20791, filed on January 29, 2021 (Interchange Item No. 16).

II. PROPOSED NOTICE OF APPROVAL

The Parties move for adoption of the attached Joint Proposed Notice of Approval, which would approve the petition and amend Pharr's sewer CCN No. 20643 for dual certification with 4,620 acres of San Juan's sewer CCN No. 20791 in Hidalgo County. The Parties note that Staff provided, and San Juan consented, to a certificate. However, the Parties agree that no service area will be added or removed from San Juan's sewer CCN No. 20791 as a result of the dual certification. Accordingly, San Juan does not need a new certificate as a result of this proceeding. The Joint Proposed Notice of Approval includes findings of fact to reflect address this issue.

III. CONCLUSION

For the reasons detailed above, the Parties respectfully requests that the Commission grant this Motion to Admit Evidence and adopt the attached joint proposed notice of approval.

Dated: February 4, 2021

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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/s/ Daniel Moore

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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 February 4, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Daniel Moore

Daniel Moore

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PETITION OF THE CITY OF PHARR	§	PUBLIC UTILITY COMMISSION
AND THE CITY OF SAN JUAN FOR	§	
APPROVAL OF SERVICE AREA	§	OF TEXAS
CONTRACT UNDER THE TEXAS	§	
WATER CODE § 13.248 AND TO AMEND	§	
CERTIFICATES OF CONVENIENCE	§	
AND NECESSITY IN HIDALGO	§	
COUNTY	§	

JOINT PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the petition of the City of Pharr (Pharr) and the City of San Juan (San Juan) for approval of a service-area contract under Texas Water Code (TWC) § 13.248 and to amend Pharr’s sewer certificate of convenience and necessity (CCN) number 20643 in Hidalgo County for dual certification with approximately 4,620 acres of San Juan’s sewer CCN number 20791. The Commission approves the service-area contract and amends sewer CCN number 20643.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioners

1. Pharr is a home rule municipality.
2. Pharr operates, maintains, and controls facilities providing retail sewer service in Hidalgo County under CCN number 20643.
3. San Juan is a home rule municipality.
4. San Juan operates, maintains, and controls facilities providing retail sewer service in Hidalgo County under CCN number 20791.

Petition

5. On May 26, 2020, Pharr and San Juan entered into a service-area contract whereby they agreed to dual certification of approximately 4,620 acres between San Juan’s sewer CCN number 20791 and Pharr’s sewer CCN number 20643.

6. On July 29, 2020, Pharr and San Juan filed a petition for approval of the service-area contract and to amend Pharr's sewer CCN number 20643 for dual certification with approximately 4,620 acres of San Juan's sewer CCN number 20791.
7. On September 2, 2020, October 5 292, and October 15, 2020, the petitioners filed supplemental information,
8. The approximate 4,620 acres is currently within San Juan's service area under sewer CCN number 20791 in Hidalgo County.
9. There are no current customers in the area that will be dually certified.
10. There are no transfers of sewer assets or facilities between San Juan and Pharr as a result of the service-area contract.
11. The service-area contract will ensure that Pharr and San Juan will be certificated to provide retail sewer services to a new development in the requested area.
12. In Order No. 4 filed on November 17, 2020, the administrative law judge (ALJ) found the petition administratively complete.

Notice

13. The petition included a copy of the service-area contract executed by authorized representatives of San Juan and Pharr.
14. On May 12, 2020, San Juan's City Council considered and approved the service-area contract at an open meeting.
15. On May 18, 2020, Pharr's City Council considered and approved the service-area contract at an open meeting.
16. The petition included a copy of the agenda and minutes from the relevant San Juan and Pharr city council meetings and supporting affidavits from representatives of both petitioners attesting to public notice of the respective city council meetings.
17. In Order No. 4 filed on November 17, 2020, the ALJ found the notice sufficient.

Maps and Certificates

18. On December 10, 2020, Commission Staff emailed the proposed sewer CCN map and certificates to San Juan and Pharr.
19. On January 22, 2021, San Juan filed its consent to the proposed sewer CCN map and certificates.

20. On January 22, 2021, Pharr filed its consent to the proposed sewer CCN map and certificates.
21. Although San Juan consented to a certificate, San Juan will not be issued a new certificate because the dual certification that will result from the service-area contract will not add or remove area from San Juan's existing CCN.
22. On January 29, 2021, Commission Staff filed a recommendation on final disposition that included the proposed map and certificates as attachments.

Evidentiary Record

23. On February 5, 2021, the parties filed a joint motion to admit evidence.
24. In Order No. ____ filed on _____ 2021, the ALJ admitted the following evidence into the record of this proceeding: (a) the petition and all accompanying exhibits filed on July 29, 2020; (b) supplements to the petition filed on September 2, 2020 and October 5 and 15, 2020; (c) Commission Staff's second supplemental recommendation on administrative completeness and sufficiency of notice filed on November 13, 2020; (d) Pharr's and San Juan's consent forms, concurring with the final map and certificates filed on January 22, 2021; and (e) Commission Staff's final recommendation, and all accompanying attachments except for the certificate for CCN No. 20791, filed on January 29, 2021.

Informal Disposition

25. More than 15 days have passed since the completion of the notice provided in this docket.
26. No person filed a protest or motion to intervene.
27. San Juan, Pharr, and Commission Staff are the only parties to this proceeding.
28. No party requested a hearing and no hearing is needed.
29. Commission Staff recommended approval of the petition.
30. 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 the petition under TWC §§ 13.041 and 13.248.
2. San Juan and Pharr are retail public utilities as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).

3. Under TWC § 13.248, contracts between retail public utilities designating areas, when approved by the Commission, are valid and enforceable.
4. The petition meets the requirements of 16 TAC § 24.253.
5. Notice of the petition complies with TWC § 13.248 and 16 TAC § 24.253(c).
6. The Commission processed the petition in accordance with the requirements of the Administrative Procedure Act,¹ the TWC, and Commission rules.
7. Pharr must record a certified copy of the approved map for the certificate amendment, along with a boundary description of its sewer service area, in the real property records of Hidalgo County within 31 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).
8. The requirements for informal disposition under 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 approves the service-area contract to the extent provided in this Notice of Approval.
2. The Commission amends Pharr's CCN number 20643, as described in this Notice of Approval.
3. The Commission approves the map attached to this Notice of Approval.
4. The Commission issues the certificate attached to this Notice of Approval.
5. Pharr must serve every customer and applicant for sewer service within the approved area under CCN number 20643 that requests sewer service and meets the terms of Pharr's sewer service and such service must be continuous and adequate.
6. Pharr must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Hidalgo County affected by the petition and submit to the Commission evidence of the recording no later than 45 days after receipt of this Notice of Approval.
7. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

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

Signed at Austin, Texas the ____ day of _____, 2021.