



Control Number: 51161



Item Number: 20

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**DOCKET NO. 51161**

**APPLICATION OF POSSUM  
KINGDOM WATER SUPPLY  
CORPORATION TO AMEND A  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY IN PALO PINTO  
COUNTY**

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2021 APR 23 AM 9:53  
**PUBLIC UTILITY COMMISSION  
OF TEXAS**

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

On August 12, 2020, Possum Kingdom Water Supply Corporation (PKWSC) filed an application to amend its water certificate of convenience and necessity (CCN) No. 12890 in Palo Pinto County. The revised requested service area consists of 169 acres and no current connections.

On February 8, 2021, the administrative law judge filed Order No. 5, which established a deadline of April 29, 2021 for the Staff of the Public Utility Commission of Texas (Staff) and PKWSC to file joint proposed findings of fact 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. The Application of Possum Kingdom Water Supply Corporation to Amend its Certificate of Convenience and Necessity in Palo Pinto County, filed on August 12, 2020 (Interchange Item No. 1);
2. Commission Staff's Recommendation on Administrative Completeness and Proposed Notice, filed on September 11, 2020 (Interchange Item No. 3);
3. PKWSC's Supplemental Information, filed on September 14, 2020 (Interchange Item No. 4);
4. PKWSC's Response to Commission Staff's First Request for Information, filed on September 29, 2020 (Interchange Item No. 7);
5. PKWSC's Notice and Affidavit, filed on October 12, 2020 (Interchange Item No. 8);
6. Commission Staff's Recommendation on Sufficiency of Notice, filed on November 5, 2020 (Interchange Item No. 9);
7. PKWSC's Response to Commission Staff's Second Request for Information, filed on November 19, 2020 (Interchange Item No. 12);

8. PKWSC's Amended Application, filed on January 7, 2021 (Interchange Item No. 15);
9. Commission Staff's Recommendation on Sufficiency of Supplemental Mapping, filed on February 8, 2021 (Interchange Item No. 17);
10. PKWC's signed Consent Form, filed on March 26, 2021 (Interchange Item No. 18);  
and
11. Commission Staff's Final Recommendation, filed on February 15, 2021 (Interchange Item No. 19).

## **II. PROPOSED NOTICE OF APPROVAL**

The attached Proposed Notice of Approval would grant PKWC's application to amend water CCN number 12890.

## **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: April 29, 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 April 29, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Daniel Moore

Daniel Moore

**DOCKET NO. 51161**

<b>APPLICATION OF POSSUM</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>KINGDOM WATER SUPPLY</b>	<b>§</b>	
<b>CORPORATION TO AMEND A</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CERTIFICATE OF CONVENIENCE</b>	<b>§</b>	
<b>AND NECESSITY IN PALO PINTO</b>	<b>§</b>	
<b>COUNTY</b>	<b>§</b>	

**PROPOSED NOTICE OF APPROVAL**

This Notice of Approval addresses the application of Possum Kingdom Water Supply Corporation to amend its water certificate of convenience and necessity (CCN) number 12890 in Palo Pinto County. The Commission amends PKWC's water CCN number 12890 to add the 169 acres to the requested area.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicant**

1. PKWSC is a Texas non-profit, member-owned, member-controlled cooperative corporation organized under chapter 67 of the Texas Water Code (TWC) and registered with the Texas secretary of state under filing number 01232231.
2. PKWSC operates, maintains, and controls facilities for providing water service under CCN number 12890 in Palo Pinto County.
3. PKWSC owns a public water system that is approved by the Texas Commission on Environmental Quality (TCEQ) and registered under identification number 1820076.

**Application**

4. On August 12, 2020, PKWSC filed the application at issue to amend its water CCN number 12890 in Palo Pinto County to add 1,096 acres.
5. PKWSC filed a supplement to the application on September 14, 2020 and an amendment to the application to reduce the amount of acreage in the originally requested area on January 7, 2021.
6. As amended, the total requested area to be certificated to PKWSC's CCN number 12890 is approximately 169 acres and includes zero current customers.

7. The originally requested area is located approximately eight miles west of downtown Graford, Texas, generally bounded on the north by the Hills Over PK Lake Subdivision; on the east by a line approximately two miles west of Dark Valley Creek; on the south by state highway 16; and on the west by state highway 16.
8. As amended, the requested area is wholly located within the boundaries described in finding of fact 7.
9. In Order No. 2 filed on September 14, 2020, the administrative law judge (ALJ) found the application administratively complete.
10. In Order No. 5 filed on February 8, 2021, the ALJ found PKWSC's revised mapping reducing the requested area to 169 acres sufficient.

#### **Notice**

11. On October 12, 2020, PKWSC filed the affidavit of Jeremiah Gore, General Manager of PKWSC, attesting that notice was mailed to neighboring utilities, county authorities, municipalities, and affected parties on September 21, 2020.
12. On October 12, 2020, PKWSC filed a publisher's affidavit attesting to the publication of notice in the *Graham Leader*, a newspaper of general circulation in Palo Pinto County, on September 19 and 26, 2020.
13. In Order No. 3 filed on November 6, 2020, the ALJ found the notice sufficient.

#### **Map and Certificate**

14. On March 18 and March 24, 2021, Commission Staff emailed the proposed final map and certificate to PKWSC.
15. On March 26, 2021, PKWSC filed its consent to the proposed map and certificate.
16. On February 15, 2021, Commission Staff filed the map and certificate as attachments to its final recommendation.

#### **Evidentiary Record**

17. On April 29, 2021, the parties filed an agreed motion to admit evidence and proposed notice of approval.
18. In Order No. \_\_ filed on \_\_\_\_, 2021, the ALJ admitted the following evidence into the record of this proceeding: (a) PKWSC's application and all attachments filed on August 12, 2020; (b) Commission Staff's recommendation on administrative completeness and

proposed notice filed on September 11, 2020; (c) PKWSC's supplemental information filed on September 14, 2020; (d) PKWSC's response to Commission Staff's first request for information filed on September 29, 2020; (e) PKWSC's notice and affidavit filed on October 12, 2020; (f) Commission Staff's recommendation on sufficiency of notice filed on November 5, 2020; (g) PKWSC's response to Commission Staff's second request for information filed on November 19, 2020; (h) PKWSC's amended application filed on January 7, 2021; (i) Commission Staff's recommendation on sufficiency of supplemental mapping filed on February 8, 2021; (j) PKWC's signed consent form filed on March 26, 2021; and (k) Commission Staff's final recommendation, and all attachments, filed on February 15, 2021.

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

19. PKWSC owns a TCEQ approved public water system registered under identification number 1820076.
20. PKWSC does not have any unresolved violations listed in the TCEQ database.
21. There are no customers in the requested area.

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

22. There is a need for service as there is a request for service from a developer for a residential subdivision with approximately 170 connections that will be located in the requested area.

**Effect of Granting the Amendment—TWC § 13.256(c)(3), 16 TAC § 24.227(e)(3)**

23. Granting the CCN amendment will obligate PKWSC to provide service to all of the requested area and such service must be continuous and adequate.
24. Nearby water utilities were properly noticed and no protests or motions to intervene were filed.
25. All landowners with a tract of land of 25 acres or more that are located within the requested area received notice and did not file comments or a request to opt out.

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

26. PKWSC will extend water service to the proposed subdivision using public water system number 1820076, which has adequate capacity to meet the projected demands, and PKWSC

received approval from the TCEQ on September 22, 2020 for the construction of a booster pump station that is needed to provide service to the requested area..

27. PKWSC has access to an adequate supply of water to serve the requested area, and its public water system 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 rules of the TCEQ.
28. PKWSC employs TCEQ-licensed operators to operate and maintain its public water system.
29. PKWSC has the managerial and technical capability to provide continuous and adequate service to the requested area.

**Feasibility of Obtaining Service from Adjacent Utilities—TWC § 13.246(c)(5); 16 TAC § 24.227(e)(5)**

30. The developer of the future subdivision requested water service from PKWSC.
31. PKWSC received approval from the TCEQ for the construction of a proposed booster pump to serve future customers in the requested area.
32. PKWSC is the only utility located within half a mile of the requested area that can provide water service necessary to meet the needs of the developer.
33. It is not feasible to obtain service from an adjacent retail public utility.

**Ability to Serve; Financial Ability and Stability—TWC §§ 23.241(a), 13.246(c)(6), 16 TAC §§ 24.11(e), 24.227(a), (e)(6)**

34. PKWSC has a debt to equity ratio of less than one, satisfying the leverage test.
35. PKWSC has demonstrated that it has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations after completion of the CCN amendment, satisfying the operations test.
36. PKWSC has the financial ability and financial stability to pay for the facilities necessary to provide continuous and adequate service to the requested area.

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

37. There is no need to require PKWSC to provide a bond or other financial assurance to ensure continuous and adequate service to the requested area.
38. The developer will pay for the infrastructure necessary to serve the proposed subdivision.

**Environmental Integrity and Effect on the Land—TWC § 13.246(c)(7), (c)(9); 16 TAC §§ 24.227(e)(7), (e)(9)**

39. The environmental integrity and effect on the land in the requested area will be minimally affected as the booster pump station is constructed.

**Improvement in Service and Lowering of Cost—TWC § 13.246(c)(8); 16 TAC § 24.245(e)(9)**

40. Water service to the requested area will improve because PKWSC will be obligated to provide service to future customers in the requested area.
41. PKWSC will provide water service to future customers in the requested area with the same level of service and at the same rates it currently charges.

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

42. PKWSC will not need to construct a physically separate water system to provide service the requested area. Accordingly, concerns of regionalization or consolidation do not apply.

**Informal Disposition**

43. More than 15 days have passed since the completion of notice provided in this docket.
44. No person filed a protest or motion to intervene.
45. PKWSC and Commission Staff are the only parties to this proceeding.
46. No party requested a hearing and no hearing is needed.
47. Commission Staff recommended approval of the application.
48. 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 §§ 13.041, 13.241, 13.244, and 13.246.
2. PKWSC 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. PKWSC provided notice of the application that complies with TWC § 13.246 and 16 TAC § 24.235.
4. The application, as amended, meets the requirements set forth in TWC § 13.244 and 16 TAC §§ 24.25 and 24.227.

5. The Commission processed the application as required by the TWC, the Administrative Procedure Act,<sup>1</sup> and Commission rules.
6. After consideration of the factors in TWC § 13.246(c) and 16 TAC § 24.227(e), PKWSC demonstrated adequate financial, managerial, and technical capability to provide continuous and adequate service to the requested service area in Palo Pinto County as required by TWC § 13.241 and 16 TAC § 24.227.
7. PKWSC has demonstrated that the amendment of its water CCN number 12890 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(d).
8. PKWSC 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 Palo Pinto County within 30 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).
9. The requirements for informal disposition in 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 amends PKWSC's water CCN number 12890 to add 169 acres as described in this Notice of Approval and shown on the attached map.
2. The Commission approves the map and certificate filed by Commission Staff on April 15, 2021 and attached to this Notice of Approval.
3. PKWSC must serve every customer and applicant for service within the approved area under water CCN number 12890 who requests water service and meets the terms of PKWSC's water service, and such service must be continuous and adequate.
4. PKWSC must comply with the recording requirements in TWC §§ 13.257(r) and (s) for the areas in Palo Pinto County affected by the application and submit to the Commission evidence of the recording no later than 45 days after receipt of this Notice of Approval.

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<sup>1</sup> Tex. Gov't Code §§ 2001.001–.903.

5. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

**Singed at Austin, Texas the \_\_\_\_ day of \_\_\_\_ 2021.**