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Addendum StartPage: 0

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PUBLIC UTILITY COMMISSION
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DOCKET NO. 51199

**PETITION OF TRINITY BAY
CONSERVATION DISTRICT AND GULF
COAST AUTHORITY FOR APPROVAL
OF SERVICE AREA CONTRACT
UNDER TEXAS WATER CODE § 13.248
AND TO AMEND CERTIFICATES OF
CONVENIENCE AND NECESSITY IN
CHAMBERS COUNTY**

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**BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS**

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

COME NOW, Trinity Bay Conservation District (“TBCD”) and Gulf Coast Authority (“GCA”) (collectively, “Petitioners”), together with the Staff (“Commission Staff”) of the Public Utility Commission of Texas (“Commission”) (collectively, “the Parties”), and file this First Amended Joint Proposed Notice of Approval and Motion to Admit Evidence. In support thereof, the Parties respectfully show as follows:

I. BACKGROUND

1. On July 9, 2020, GCA and TBCD entered into an Agreement Designating Retail Sewer Service Territory (service area contract) whereby they agreed to transfer a portion of GCA’s certificate of convenience and necessity (“CCN”) located at or near Hankamer, Texas that is east of the Trinity River within the eastern portion of Chambers County (“requested area”).
2. On August 20, 2020, GCA and TBCD filed a petition with the Commission for approval a service area contract and to amend their sewer CCNs in Chambers County under Texas Water Code (TWC) § 13.248 and 16 Texas Administrative Code (TAC) § 24.253. GCA holds CCN No. 20465 and TBCD holds CCN No. 20399.
3. The Petitioners, by mutual agreement, seek approval to alter the boundaries of their

respective CCNs and transfer the requested area comprised of approximately 65,875 acres, that is undeveloped by GCA to TBCD who: a) operates a wastewater facility; and b) provides sewer services to approximately four hundred (400) households and/or businesses in this requested area.

4. On September 23, 2020, the administrative law judge (“ALJ”) filed Order No. 2 in this proceeding, requiring the Parties to file the First Amended Joint Proposed Notice of Approval and Motion to Admit Evidence, and ordering paragraphs by December 10, 2020. This pleading is therefore timely filed.

II. JOINT 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 August 20, 2020 (Interchange Item No. 1);
2. The Petitioners’ supplemental information, filed on September 15, 2020 (Interchange Item No. 3);
3. Commission Staff’s recommendation on administrative completeness, notice, and proposed procedural schedule, filed on September 21, 2020 (Interchange Item No. 4);
4. GCA’s consent form, concurring with the proposed final map and certificates, filed on November 9, 2020 (Interchange Item No. 8);
5. TBCD’s consent form, concurring with the proposed final map and certificates, filed on November 9, 2020 (Interchange Item No. 9); and
6. Commission Staff’s final recommendation, including all attachments thereto, filed on December 3, 2020 (Interchange Item No. 10).

TBCD has communicated with counsel for Commission Staff and GCA regarding this motion and each Party’s counsel has represented agreement to this motion.

III. FIRST AMENDED PROPOSED NOTICE OF APPROVAL

The Parties move for adoption of the First Amended Proposed Notice of Approval attached hereto as Attachment No. 1, which would approve the Petition to amend CCN Nos. 20465 and 20399 in Chambers County, Texas. The undersigned has provided a copy of this filing to Commission Staff and to GCA and both have indicated their support for this filing, as written, as well as approval of the petition and the service area contract.

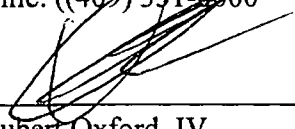
V. CONCLUSION

The Parties respectfully request that the ALJ grant this First Amended Joint Proposed Notice of Approval and Motion to Admit Evidence for approval.

Respectfully Submitted,

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By: 
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ATTORNEY FOR TRINITY BAY
CONSERVATION DISTRICT

CERTIFICATE OF SERVICE

I certify that a copy of this document was served via email on December, 2020, in accordance with the requirements of 16 Tex. Admin. Code § 22.74, Order No. 1 in Docket No. 51999.

ATTACHMENT 1
FIRST AMENDED JOINT PROPOSED NOTICE OF APPROVAL

DOCKET NO. 51199

**PETITION OF TRINITY BAY
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**PUBLIC UTILITY COMMISSION
OF TEXAS**

FIRST AMENDED NOTICE OF APPROVAL

This First Amended Notice of Approval addresses the August 20, 2020 petition of Trinity Bay Conservation District (TBCD) and Gulf Coast Authority (GCA) for approval of a service area contract and to amend sewer certificates of convenience and necessity (CCN) in Chambers County. The petition seeks to transfer approximately 65,875 acres from the service area held under GCA's sewer CCN number 20465 to TBCD's CCN number 20366. The Commission approves the service area contract and amends sewer CCN numbers 20465 and 20366 accordingly.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioners

1. GCA is a conservation and reclamation district created under Chapter 409, Acts of the 61st Legislature of Texas, Regular Session, 1969, as amended (originally codified as Article 7621-d-2, Vernon's Texas Civil Statutes).
2. GCA provides sewer utility service in Chambers County, Harris County, and Galveston County under CCN number 20465.
3. TBCD is a conservation and reclamations district created pursuant to Chapter 282, Acts of the 51st Legislature of Texas, Regular session, 1949 (Article 8280-135, Vernon's Texas Civil Statutes).

4. TBCD provides retail sewer utility service in the eastern portions of Chambers County (i.e., east of the Trinity River) under CCN number 20399.

Petition

5. On July 9, 2020, the petitioners entered into a service area contract to transfer approximately 65,875 acres of the service area held by GCA under sewer CCN number 20465 to TBCD's sewer CCN number 20399.
6. On August 20, 2020, the petitioners filed a petition for approval of the service area contract and to amend their sewer CCNs to reflect the transfer of the requested area.
7. The approximately 65,875-acre requested area that is the subject of the service area contract is currently undeveloped by GCA, and GCA does not currently provide sewer service to any landowner or resident within the requested area or own or operate any wastewater treatment facilities to provide sewer service within the requested area.
8. TBCD operates a wastewater treatment facility and provides sewer service to nearly four hundred customers in the requested area. No existing customers' services will change because of this transfer nor will there be a change in sewer rates for existing customers because of this CCN transfer.
9. The service area contract does not transfer customers or assets or facilities between the petitioners.
10. On September 15, 2020, the petitioners supplemented the petition.
11. In Order No. 2 filed on September 23, 2020, the administrative law judge (ALJ) deemed the petition administratively complete.

Notice

12. The petition included a copy of the service area contract executed by authorized

representatives of GCA and TBCD.

13. TBCD's Board of Directors considered and approved the service area contract at an open meeting on June 19, 2020.
14. The President of TBCD's Board of Directors, acting with delegated authority, considered and executed the service area contract on July 9, 2020.
15. GCA's Board of Directors considered and approved the service area contract at an open meeting held on July 9, 2020.
16. GCA's General Manager, acting with delegated authority, considered and executed the service area contract on that same day, July 9, 2020.
17. The petition included a copy of the agenda and minutes from the relevant TBCD and GCA open meetings and supporting affidavits from both petitioners.
18. In Order No. 2 filed on September 23, 2020, the ALJ found the notice sufficient.

Certificates and Maps

19. On November 5, 2020, Commission Staff emailed its proposed final map and certificates to the petitioners.
20. On November 9, 2020, GCA and TBCD filed their consent forms, concurring with the final map and certificates proposed by Commission Staff.
21. On December 3, 2020, Commission Staff filed the proposed final map and certificates as attachments to its final recommendation.

Evidentiary Record

22. On December 8, 2020, the parties filed a Motion to Admit Evidence as part of its First Amended Joint Proposed Notice of Approval.
23. In Order No. ____ filed on _____, 2020, the ALJ admitted the following

evidence into the record of the proceeding:

- a. The petition and all attachments, filed on August 20, 2020;
- b. The petitioners' supplemental information, Exhibit 3-Digital mapping data of relevant CCN area, filed on September 15, 2020;
- c. Commission Staff's recommendation on administrative completeness, notice, and proposed procedural schedule, filed on September 21, 2020
- d. The petitioners' executed consent forms concurring with Commission Staff's proposed final map and certificates, filed on November 9, 2020; and
- e. Commission Staff's recommendation on final disposition of the petition, filed on December 3, 2020.

Informal Disposition

24. More than 15 days have passed since the completion of the notice provided in this docket.
25. No person filed a protest or motion to intervene.
26. Commission Staff, TBCD, and GCA are the only parties to this proceeding.
27. No party requested a hearing and no hearing is necessary.
28. Commission Staff recommended approval of the petition, as supplemented.
29. 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 Texas Water Code (TWC) §§ 13.041 and 13.248.
2. Trinity Bay Conservation District and Gulf Coast Authority 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 area to be served

by those retail public utilities, 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 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. Under TWC § 13.257(r) and (s), TBCD and GCA are each required to record a certified copy of the approved CCN map, along with a boundary description of their respective service areas, in the real property records of each county in which the service area or a portion of the service area is located within 31 days of receiving this First Amended Notice of Approval, and submit to the Commission evidence of the recording.
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 between TBCD and GCA to the extent provided in this First Amended Notice of Approval.
2. The Commission amends GCA's sewer CCN number 20465 as described in this First Amended Notice of Approval and shown in the map attached to this First Amended Notice of Approval.
3. The Commission amends TBCD's sewer CCN number 20399 as described in this First

¹ Tex. Gov't Code §§ 2001.001-.093.

Amended Notice of Approval and shown in the map attached to this First Amended Notice of Approval.

4. The Commission approves the map attached to this First Amended Notice of Approval.
5. The Commission issues the certificates attached to this First Amended Notice of Approval.
6. GCA must serve every customer and qualified service applicant for sewer service within the approved area under CCN number 20465 areas who requests sewer service and meets the terms of GCA's sewer service and such service must be continuous and adequate.
7. TBCD must serve every customer and qualified service applicant for sewer service within the approved area under CCN number 20399 areas who requests sewer service and meets the terms of TBCD's sewer service and such service must be continuous and adequate.
8. GCA and TBCD must each comply with the recording requirements under TWC § 13.257(r) and (s) for the areas in Chambers County affected by the petition and, within 45 days of receiving this First Amended Notice of Approval, submit to the Commission evidence of the recording.
9. The Commission denies all other motions and any other requests for general or specific relief, if not been expressly granted.

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

**PUBLIC UTILITY COMMISSION OF
TEXAS**

ADMINISTRATIVE LAW JUDGE