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DOCKET NO. 51353

APPLICATION OF KICKAPOO FRESH	§	PUBLIC UTILITY COMMISSION
WATER SUPPLY DISTRICT AND	§	
G&W WATER SUPPLY	§	
CORPORATION FOR SALE,	§	OF TEXAS
TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS IN WALLER COUNTY	§	

JOINT SUPPLEMENTAL MOTION TO ADMIT EVIDENCE
AND PROPOSED NOTICE OF APPROVAL

COME NOW G&W Water Supply Corporation (“G&W”) and Kickapoo Fresh Water Supply District (“Kickapoo”) (collectively “Applicants”), together with the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, (collectively, the Parties), and file this Joint Supplemental Motion to Admit Evidence and Proposed Notice of Approval. In support thereof, the Parties show the following.

I. BACKGROUND

On September 21, 2020, G&W and Kickapoo filed with the Public Utility Commission of Texas (“Commission”) an application for sale, transfer, or merger of facilities and certificate rights in Waller County (the “Application”). Specifically, G&W seeks approval to acquire facilities and to decertify the entirety of Kickapoo’s water service area under certificate of convenience and necessity (CCN) No. 13204. G&W and Kickapoo currently have dual certification over the service area. As a result of the requested transaction, the service area will be singly certificated to G&W under CCN No. 12391 and Kickapoo’s CCN will be cancelled. The requested area includes approximately 495 acres and 50 connections.

On February 25, 2021, the administrative law judge (ALJ) filed Order No. 6 granting approval for the sale and transfer to proceed. On June 24, 2021, the Applicants filed closing documents. Order No. 9 filed on August 5, 2021, found that the closing documentation was sufficient and set an October 1, 2021, deadline for the parties to jointly

file a proposed notice of approval including proposed findings of fact, conclusions of law, and ordering paragraphs. On September 30, 2021, the parties filed an Agreed Motion for Extension. Order No. 10 granted the extension and established an October 15, 2021 deadline for the parties to file a joint motion to admit evidence and proposed notice of approval. This pleading is therefore timely filed.

II. JOINT SUPPLEMENTAL MOTION TO ADMIT EVIDENCE

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

1. Applicants' final closing documents filed on June 24, 2021 (Interchange Item No. 22);
2. Applicants' filing containing customer deposit information submitted on July 20, 2021 (Interchange Item No. 25);
3. Commission Staff's supplemental recommendation on sufficiency of closing documents filed on August 4, 2021 (Interchange Item No. 26);
4. The consent forms for G&W Water and Kickapoo filed on September 9, 2021 (Interchange Item No. 28);
5. The map and certificate included with this filing.

III. PROPOSED NOTICE OF APPROVAL

The Parties move for adoption of the attached Proposed Notice of Approval finally approving the application.

IV. CONCLUSION

The Parties respectfully request that the Commission grant the Motion to Admit Evidence and adopt the attached Proposed Notice of Approval.

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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CORPORATION

CERTIFICATE OF SERVICE

I certify that notice of the filing of this document was provided to all parties of record via electronic mail on October 14, 2021, in accordance with the Orders Suspending Rules filed in Project No. 50664.

Mary K. Sahs

Mary K. Sahs

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WATER SUPPLY DISTRICT AND	§	
G&W WATER SUPPLY	§	OF TEXAS
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JOINT PROPOSED NOTICE OF APPROVAL

This Order addresses the application of Kickapoo Fresh Water Supply District and G&W Water Supply Corporation for the sale, transfer, or merger of facilities and certificate rights in a dually certificated area of Waller County. The Commission approves the sale and transfer of all of Kickapoo's facilities under water certificate of convenience and necessity (CCN) number 13204 to G&W Water, the decertification of the service area currently certificated to Kickapoo under water CCN number 13204, and the cancellation of CCN number 13204.

I. Findings of Fact

The Commission makes the following findings of fact:

Applicants

1. Kickapoo is a water conservation and reclamation district created and organized under Article XVI, Section 59 of the Texas Constitution.
2. Kickapoo operates, maintains, and controls facilities for providing retail water service to the Kickapoo Preserve subdivision in Waller County under water CCN number 13204.
3. Kickapoo owns a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under public water system identification number 2370096.
4. G&W Water is a Texas non-profit water supply corporation registered with the Texas secretary of state under file number 106049001.
5. G&W Water operates, maintains, and controls facilities for providing retail

water utility service in Waller and Grimes counties under CCN number 12391. G&W Water currently provides wholesale water service to Kickapoo's certificated water service area through its assigned interest in the Spring Preserve Water Company, LLC wholesale water plant.

Application

6. On September 21, 2020, G&W Water and Kickapoo filed the application at issue in this proceeding.
7. In the application, the applicants seek approval of the following transaction: (a) G&W Water will acquire all of Kickapoo's facilities; (b) the water service area under CCN number 13204 will be decertified; and (c) Kickapoo's water CCN number 13204 will be cancelled.
8. The requested area consists of Kickapoo's entire water service area under CCN number 13204.
9. G&W Water's water CCN number 12391 encompasses Kickapoo's certificated area under CCN number 13204 and beyond.
10. The proposed transaction will result in the requested area being singly certificated under G&W Water's water CCN number 12391.
11. The requested area includes approximately 495 acres and 50 connections, which serve approximately 147 current customers.
12. The requested area is located approximately five miles northeast of downtown Waller, Texas, and is generally bounded on the north by Hegar Road, on the east by Kickapoo Road, on the south by Spring Creek, and on the west by Fields Store Road.
13. In Order No. 2 filed on October 22, 2020, the administrative law judge (ALJ) found the application sufficient.
14. The applicants filed supplemental financial information on January 12, 2021.

Notice

15. On November 4, 2020, G&W Water filed the affidavit of Jake Marcisz, president of G&W Water, attesting that notice was provided to all current customers, neighboring utilities, and affected parties on October 29, 2020.
16. In Order No. 3 filed on December 8, 2020, the ALJ found the notice sufficient.

Evidentiary Record

17. On February 23, 2021, the applicants and Commission Staff filed a joint motion to admit evidence.
18. In Order No. 5 filed on February 25, 2021, the ALJ admitted the following evidence into the record of this proceeding: (a) applicants' application and all attachments filed on September 21, 2020; (b) Commission Staff's comments on administrative completeness and proposed notice filed on October 21, 2020; (c) applicants' proof of notice and supporting documentation filed on November 4, 2020; (d) Commission Staff's recommendation on notice filed on December 7, 2020; (e) applicant's supplemental financial documentation filed on January 12, 2021; and (f) Commission Staff's recommendation on approval of the sale and transfer to proceed, CCN amendment and all attachments filed on January 28, 2021.
19. On October 15, 2021, the applicants and Commission Staff filed a supplemental joint motion to admit evidence.
20. In Order No. ____ filed on _____, the ALJ admitted the following evidence into the record of this proceeding: a) applicants' final closing documents filed on June 24, 2021; b) applicants' filing containing customer deposit information submitted on July 20, 2021; c) Commission Staff's recommendation on sufficiency of closing documents filed on August 4, 2021; d) consent forms for G&W Water and Kickapoo filed on September 9, 2021; and e) the map and certificate included with the proposed notice of approval filed on October 15, 2021.

Sale

21. In Order No. 7 filed on April 6, 2021, the ALJ filed a corrected order approving the sale and transaction to proceed and required the applicants to file proof that the transaction had closed, and customer deposits had been addressed. This corrected order clarified that the proceeding involved a water CCN and not a sewer CCN.
22. On June 24, 2021, the applicants filed executed closing documents.
23. On July 20, 2021, the applicants filed affidavits attesting that customer deposits were transferred to G&W Water.
24. In Order No. 9 filed on August 5, 2021, the ALJ found the closing documents sufficient.

System Compliance

25. Kickapoo's public water system is registered with the TCEQ under public water system identification number 2370096.
26. Kickapoo's public water system has violations for failure to maintain a service agreement and failure to maintain an up-to-date monitoring plan in the TCEQ database. These violations are expected to be resolved by G&W Water after approval of the transaction.
27. G&W Water has violations associated with one of its public water systems and included documentation in its application demonstrating that the violations are being addressed.
28. There is no evidence that G&W Water has a history of continuing mismanagement or misuse of revenues as a utility service provider.
29. G&W Water demonstrated a compliance status that is adequate for approval of the application.

Adequacy of Existing Service

30. Kickapoo is current providing water service to 147 existing customers in the requested area through public water system number 2370096, and such service has been continuous and adequate.

Need for Additional Service

31. There are currently about 147 existing customers in the requested area that are receiving water from Kickapoo's public water system number 2370096 and have an ongoing need for service.
32. This application is to transfer only existing facilities, customers, and service area.
33. There is no evidence in the record indicating a need for additional service.

Effect of Approving the Transaction

34. Approving the proposed transaction will result in G&W Water being the sole certificated entity for the requested area and will obligate G&W Water to provide adequate and continuous service to existing and future customers in the requested area.
35. There will be no effect on landowners as the area is currently dually certificated and does not contain any uncertificated area.
36. Retail public utilities in the proximate area were provided notice of the transaction. No protests, adverse, comments, or motions to intervene were filed by any adjacent retail public utility in this docket.
37. There will be no effect on any retail public utility servicing the proximate area.

Ability to Serve: Managerial and Technical

38. G&W Water has three active public water systems registered with the TCEQ under identification numbers 2370063, 2370085, and 0930048.
39. G&W Water employs TCEQ-licensed operators who will be responsible for the operation of the public water system being transferred.

40. The Spring Preserve Water System, TCEQ public water system identification number 2370095, is the wholesale water supplier for the Kickapoo Preserve subdivision
41. G&W Water filed a revised contract with the Spring Preserve Water System, in which the Spring Preserve Water System conveyed its interest to G&W Water; therefore, G&W Water is the current wholesale water service provider of Kickapoo's public water system number 2370096. The revised service contract is set to expire when the proposed transaction has been completed and G&W Water takes ownership and assumes operation of Kickapoo's public water system number 2370096.
42. G&W Water is the wholesale water provider for the requested area through its interest in the Spring Preserve Water System; therefore, G&W Water has access to an adequate supply of water and 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 TCEQ's rules.
43. G&W Water has the managerial and technical capability to provide continuous and adequate service to the requested area.

Ability to Serve: Financial Ability and Stability

44. G&W Water has a debt service coverage ratio greater than 1.25, satisfying the leverage test.
45. G&W Water 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 transaction, satisfying the operations test.
46. G&W Water demonstrated the financial capability and stability to provide continuous and adequate water service to the requested area.

Financial Assurance

47. There is no need to require G&W Water to provide a bond or other financial assurance to ensure continuous and adequate service.

Regionalization or Consolidation

48. Because the requested area will not require construction of a physically separate water system, consideration of regionalization or consolidation is not required

Feasibility of Obtaining Service from Additional Retail Public Utility

49. The requested area is currently being served by Kickapoo and there will be no changes to land uses or existing CCN boundaries.
50. Obtaining service from an adjacent retail public utility would likely increase costs to customers because new facilities would need to be constructed. At a minimum, an interconnect would need to be installed in order to connect to a neighboring retail public utility.
51. It is not feasible to obtain service from an adjacent retail public utility.

Environmental Integrity and Effect on the Land

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

Improvement in Service or Lowering of Cost to Consumers

53. G&W Water will continue to provide water service to the existing customers in the area. There will be an improvement of service as G&W Water already owns the facilities that provide wholesale water service to the area, meaning the Kickapoo Preserve Subdivision will not have to rely on service from a wholesale provider.
54. No lowering of costs to consumers will occur as a result of the proposed transaction. Current and future customers in the requested area will pay the rates under G&W Water's existing Commission-approved tariff.

Map and Certificate

55. On September 3, 2021, Commission Staff emailed the proposed map and certificate to the applicants.
56. On September 9, 2021, Kickapoo and G&W Water each filed a consent form concurring with the proposed final map and certificate.

57. On October 15, 2021, the proposed map and certificate were included as attachments to the joint supplemental motion to admit evidence and proposed notice of approval.

Informal Disposition

- 58. More than 15 days have passed since the completion of notice provided in this docket.
- 59. No person filed a protest or motion to intervene.
- 60. Kickapoo, G&W Water, and Commission Staff are the only parties to this proceeding.
- 61. No party requested a hearing, and no hearing is needed.
- 62. Commission Staff recommended approval of the application.
- 63. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

- 1. The Commission has jurisdiction over this proceeding under Texas Water Code (TWC) §§ 13.041, 13.241, 13.244, 13.246, 13.251, and 13.301.
- 2. The applicants are retail public utilities as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(41).
- 3. Public notice of the application was provided as required by TWC § 13.301(a) and 16 TAC § 24.239(a) through (c).
- 4. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,¹ the TWC, and Commission rules.
- 5. The applicants completed the sale within the time required by 16 TAC § 24.239(m).
- 6. The applicants complied with the requirements of 16 TAC § 24.239(k) with respect to customer deposits.
- 7. After consideration of the factors in TWC § 13.246(c) and 16 TAC §§ 24.227(e)

¹ Tex. Gov't Code §§ 2001.001-.903.

and 24.239(h)(5), G&W Water has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area as required by. TWC § 13.30l(b) and 16 TAC §24.239(e).

8. It is not necessary for G&W Water to provide a bond or other financial assurance under TWC §§ 13.246(d) and 13.301(c).
9. The applicants have demonstrated that the sale and transfer of Kickapoo's water facilities to G&W Water under water CCN number 12391, the decertification of the water service area held under CCN number 13204, and the cancellation of Kickapoo's CCN number 13204 will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public as required by TWC §13.30l(d) and (e).
10. G&W Water meets the requirements of TWC §§ 13.241(b) and 13.301(b) to provide water utility service.
11. G&W Water must record a certified copy of its certificate granted and map approved by this Notice of Approval, along with a boundary description of the service area, in the real property records of Waller 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).

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 approves the sale and transfer of Kickapoo's facilities held under Kickapoo's water CCN number 13204 to G&W Water, the decertification of the service area under water CCN number 13204, and the cancellation of water CCN number 13204, to the extent provided in 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. G&W Water must provide service to every customer or applicant for service within the approved areas under CCN number 12391 that requests water service and meets the terms of G&W Water's water service, and such service must be continuous and adequate.
5. G&W Water must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Waller County affected by the application and must submit to the Commission evidence of the recording no later than 45 days after the receipt of the Notice of Approval.
6. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas on the_____ day of October 2021.

**PUBLIC UTILITY COMMISSION OF
TEXAS**

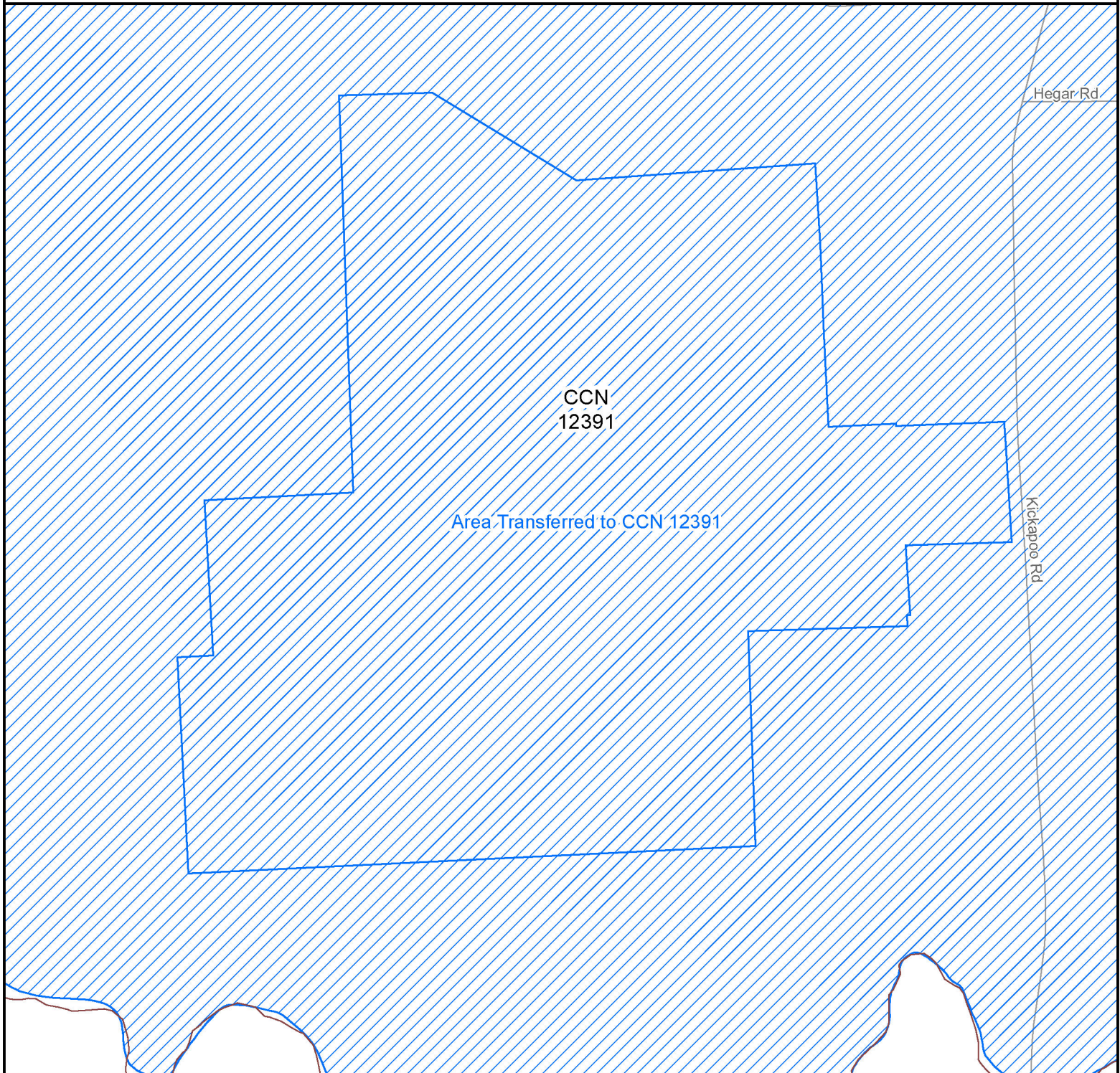
**HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE**

G & W Water Supply Corporation

Portion of Water CCN No. 12391

PUC Docket No. 51353

Transferred all of Kickapoo Fresh Water Supply District of Waller County, CCN No. 13204 in Waller County



Water CCN



12391 - G & W WSC

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Feet





Public Utility Commission of Texas

By These Presents Be It Known To All That

G & W Water Supply Corporation

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, G & W Water Supply Corporation is entitled to this

Certificate of Convenience and Necessity No. 12391

to provide continuous and adequate water utility service to that service area or those service areas in Grimes and Waller Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 51353 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the G & W Water Supply Corporation 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.