



## Filing Receipt

**Received - 2021-11-02 10:35:14 AM**  
**Control Number - 51353**  
**ItemNumber - 33**

**DOCKET NO. 51353**

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

**NOTICE OF APPROVAL**

This Notice of Approval 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 transfer of the facilities, customers, and service area held by Kickapoo under certificate of convenience and necessity (CCN) number 13204 to G & W Water and the cancellation of Kickapoo's 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.

6. 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**

7. On September 21, 2020, G & W Water and Kickapoo filed the application at issue in this proceeding.
8. The applicants seek approval of the following transaction: (a) G & W Water will acquire all of Kickapoo's facilities and water service area under CCN number 13204; and (b) Kickapoo's CCN number 13204 will be cancelled.
9. The requested area consists of Kickapoo's entire water service area under CCN number 13204.
10. G & W Water's CCN number 12391 encompasses Kickapoo's certificated area under CCN number 13204 and beyond.
11. The proposed transaction will result in the requested area being singly certificated under G & W Water's CCN number 12391.
12. The requested area includes approximately 495 acres and 50 connections, which serve approximately 147 current customers.
13. 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.
14. In Order No. 2 filed on October 22, 2020, the administrative law judge (ALJ) found the application sufficient.
15. The applicants filed supplemental financial information on January 12, 2021.

#### **Notice**

16. 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.
17. In Order No. 3 filed on December 8, 2020, the ALJ found the notice sufficient.

**Evidentiary Record**

18. On February 23, 2021, the applicants and Commission Staff filed a joint motion to admit evidence.
19. 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) applicants' 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.
20. On October 14, 2021, the applicants and Commission Staff filed a joint supplemental motion to admit evidence.
21. In Order No. 11 filed on October 26, 2021, the ALJ admitted the following supplemental evidence into the record of this proceeding: (a) applicants' final closing documents filed on June 24, 2021; (b) applicants' customer deposit information filed on July 20, 2021; (c) Commission Staff's supplemental recommendation on sufficiency of closing documents filed on August 4, 2021; (d) the consent forms of G & W Water and Kickapoo filed on September 9, 2021; and (e) the final map and certificate, attached to the supplemental joint motion to admit evidence and proposed notice of approval, filed on October 14, 2021.

**Sale**

22. In Order No. 6 filed on February 25, 2021, the ALJ approved the sale and transaction to proceed and required the applicants to file proof that the transaction had closed.
23. On April 5, 2021, G & W Water filed a request to modify Order No. 6 to reflect the type of CCN being amended.

24. In Corrected Order No. 7 filed on April 6, 2021, the ALJ granted G & W Water's request to modify the incorrect reference to G & W Water's CCN in ordering paragraph five of Order No. 6.
25. On June 24, 2021, the applicants filed notice that the sale and transfer had been executed on April 15, 2021.
26. On July 20, 2021, the applicants' filed signed affidavits confirming the transfer of Kickapoo's customer deposits to G & W Water and that none remain outstanding.
27. In Order No. 9 filed on August 5, 2021, the ALJ found the closing documentation, as supplemented, sufficient.

**System Compliance**

28. Kickapoo's public water system is registered with the TCEQ under public water system identification number 2370096.
29. 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.
30. 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.
31. There is no evidence that G & W Water has a history of continuing mismanagement or misuse of revenues as a utility service provider.
32. G & W Water demonstrated a compliance status that is adequate for approval of the application.

**Adequacy of Existing Service**

33. Kickapoo is currently 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**

34. 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.
35. This application is to transfer only existing facilities, customers, and service area.
36. There is no evidence in the record indicating a need for additional service.

**Effect of Approving the Transaction**

37. 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 continuous and adequate service to existing and future customers in the requested area.
38. There will be no effect on landowners as the area is currently dually certificated and does not contain any uncertificated area.
39. 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.
40. There will be no effect on any retail public utility servicing the proximate area.

**Ability to Serve: Managerial and Technical**

41. G & W Water has three active public water systems registered with the TCEQ under identification numbers 2370063, 2370085, and 0930048.
42. G & W Water employs TCEQ-licensed operators who will be responsible for the operation of the public water system being transferred.
43. The Spring Preserve Water System, identification number 2370095, is the wholesale water supplier for the Kickapoo Preserve subdivision.
44. 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.

45. 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 Texas Water Code (TWC), and the TCEQ's rules.
46. 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**

47. G & W Water has a debt service coverage ratio greater than 1.25, satisfying the leverage test.
48. 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.
49. G & W Water demonstrated the financial capability and stability to provide continuous and adequate water service to the requested area.

**Financial Assurance**

50. 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**

51. 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**

52. The requested area is currently being served by Kickapoo and there will be no changes to land uses or existing CCN boundaries.
53. 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.

54. It is not feasible to obtain service from an adjacent retail public utility.

**Environmental Integrity and Effect on the Land**

55. 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**

56. 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.
57. 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**

58. On September 3, 2021, Commission Staff emailed Kickapoo and G & W Water the proposed map and certificate related to this docket.
59. On September 9, 2021, Kickapoo and G & W Water filed their consent forms concurring with the final proposed map and certificate.
60. On October 14, 2021, the final map and certificate were filed as attachments to the joint supplement motion to admit evidence and proposed notice of approval.

**Informal Disposition**

61. More than 15 days have passed since the completion of the notice provided in this docket.
62. No person filed a protest or motion to intervene.
63. Kickapoo, G & W Water, and Commission Staff are the only parties to this proceeding.
64. No party requested a hearing and no hearing is needed.
65. Commission Staff recommended approval of the application.



66. 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 this proceeding under TWC §§ 13.041, 13.241, 13.242, 13.244, 13.246, 13.251, 13.254, and 13.301.
2. Kickapoo and G & W Water are retail public utilities as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. Kickapoo's and G & W Water's application meets the requirements of TWC § 13.244 and 16 TAC § 24.233.
4. The applicants provided notice of the application that complies with TWC §§ 13.246(a) and 13.301(a)(2) and 16 TAC §§ 24.235 and 24.239(a) through (c).
5. The Commission processed this application as required by the TWC, the Administrative Procedure Act,<sup>1</sup> and Commission rules.
6. Kickapoo and G & W Water completed the sale and transfer within the time required by 16 TAC § 24.239(m).
7. The applicants complied with the requirements of 16 TAC § 24.239(k) with respect to customer deposits.
8. After consideration of the factors in TWC § 13.246(c), G & W Water demonstrated it is capable of rendering continuous and adequate service to every customer within requested area, as required by TWC § 13.251.
9. G & W Water demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area as addressed in TWC §§ 13.241(a) and 13.301(b).
10. It is not necessary for G & W Water to provide bond or other financial assurance under TWC §§ 13.246(d) and 13.301(c).

---

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

11. Kickapoo and G & W Water demonstrated that the transfer of Kickapoo's water facilities and service area under CCN number 13204 to G & W Water and the cancellation of Kickapoo's CCN number 13204 will serve the public interest and is necessary for the continued service, accommodation, convenience, and safety of the public, as required by TWC §§ 13.246(b) and 13.301(d) and (e).
12. Under TWC § 13.257(r) and (s), G & W Water 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 Waller County within 31 days of this Notice of Approval and submit evidence of the recording to the Commission.
13. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

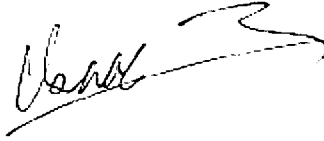
### **III. Ordering Paragraphs**

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission approves the sale and the transfer of all of Kickapoo's facilities, customers, and service area under CCN number 13204 to G & W Water.
2. The Commission approves the cancellation of Kickapoo's CCN number 13204.
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. G & W Water must provide service to every customer or qualified applicant for service within the approved area under CCN number 12391 that requests service and meets the terms of G & W Water's water service, and such service must be continuous and adequate.
6. 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 file in this docket proof of the recording no later than 45 days after receipt of the Notice of Approval.
7. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

**Signed at Austin, Texas the 2nd day of November 2021.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

A handwritten signature in black ink, appearing to read 'Isaac Ta', written over a horizontal line.

---

**ISAAC TA  
ADMINISTRATIVE LAW JUDGE**

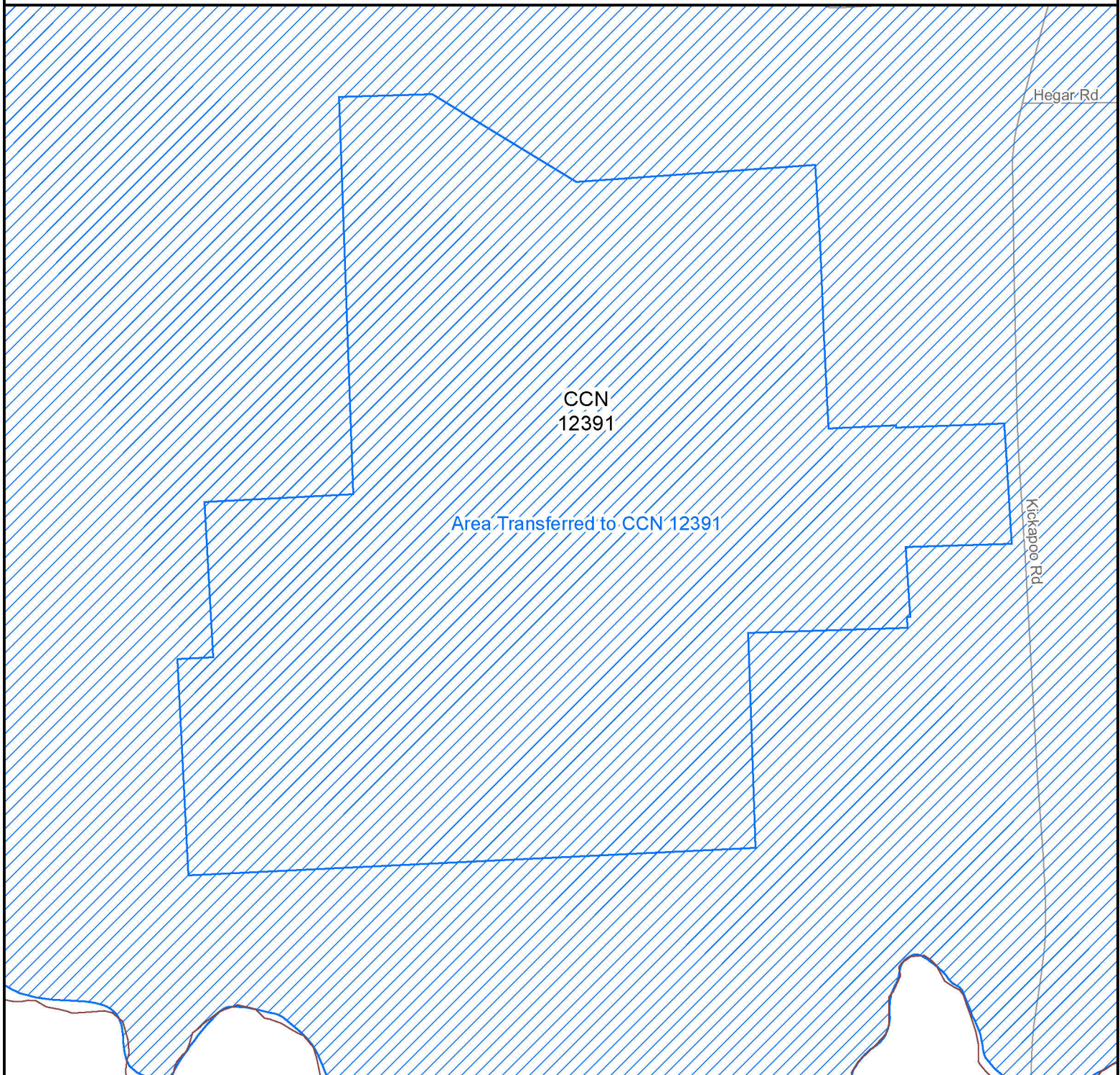


G & W Water Supply Corporation

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

0 500 1,000  
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.