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DOCKET NO. 51801

APPLICATION OF THE CITY OF	§	PUBLIC UTILITY COMMISSION
SCHERTZ TO AMEND ITS SEWER	§	
CERTIFICATE OF CONVENIENCE	§	OF TEXAS
AND NECESSITY IN COMAL COUNTY	§	

AGREED MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

On February 8, 2021, the City of Schertz (Schertz) filed an application to amend its sewer Certificate of Convenience and Necessity (CCN) No. 20271 in Comal County, Texas under Texas Water Code (TWC) §§ 13.242-13.250 and 16 Texas Administrative Code (TAC) §§ 24.225-24.237.

On September 15, 2021, the administrative law judge (ALJ) filed Order No. 7, ordering the Staff (Staff) of the Public Utility Commission of Texas (Commission) and Schertz (collectively, the Parties) to file joint proposed findings of fact and conclusions of law by November 19, 2021. Therefore, this pleading is timely filed.

I. MOTION TO ADMIT EVIDENCE

The Parties request the entry of the following items into the record of this proceeding: (a) Schertz's application filed on February 8, 2021 (Interchange Item No. 1); (b) Schertz's supplements to the application filed on February 11, 2021, March 16, 2021, August 3, 2021, and August 11, 2021 (Interchange Item Nos. 3, 6, 18, and 20); (c) Staff's Supplemental Recommendation on Administrative Completeness filed on May 10, 2021 (Interchange Item No. 7); (d) Schertz' proof of notice filed on June 18, 2021, June 28, 2021, and July 19, 2021 (Interchange Item Nos. 9, 11, and 14); (e) Staff's Second Supplemental Recommendation on Sufficiency of Notice filed on September 10, 2021 (Interchange Item No. 21); (f) Schertz's consent form filed on October 18, 2021 (Interchange Item No. 23); (g) Staff's Final Recommendation and attachments filed on November 5, 2021 (Interchange Item No. 24) and (h) the attached map and certificate.

II. JOINT PROPOSED NOTICE OF APPROVAL

The Parties have agreed on the attached proposed notice of approval, which would grant Schertz's application to amend water CCN No. 20271 in Comal County. The Parties request that the Commission adopt the findings of fact, conclusions of law, and ordering paragraphs included in the proposed notice of approval.

III. CONCLUSION

The Parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the attached proposed notice of approval be adopted.

Dated: November 19, 2021

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Rachelle Nicolette Robles
Division Director

Rustin Tawater
Managing Attorney

/s/ Robert Dakota Parish
Robert Dakota Parish
State Bar No. 24116875
1701 N. Congress Avenue
P.O. Box 13480
Austin, Texas 78711-3480
(512) 936-7442
(512) 936-7268 (facsimile)
Robert.Parish@puc.texas.gov

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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 on November 19, 2021 in accordance with the Order Suspending Rules filed in Project No. 50664.

/s/ Robert Dakota Parish
Robert Dakota Parish

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APPLICATION OF THE CITY OF	§	PUBLIC UTILITY COMMISSION
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PROPOSED NOTICE OF APPROVAL

This notice of approval addresses the application of the City of Schertz (Schertz) to amend its sewer certificate of convenience and necessity (CCN) in Comal County. The Commission amends sewer CCN number 20271 for Schertz.

I. Findings of Fact

The Commission makes the following findings of fact:

Applicant

1. Schertz is a city in Bexar, Comal, and Guadalupe counties in Texas.
2. Schertz is a retail public utility that provides water service to customers in Comal County.
3. Schertz operates, maintains, and controls facilities that provide water service in Comal County.

Application

4. On February 8, 2021, Schertz filed an application to amend its sewer CCN number 20271 in Comal County.
5. Schertz filed supplemental information on February 11, 2021, March 16, 2021, August 3, 2021, and August 11, 2021
6. The requested area consists of 150 acres and 0 existing customers.
7. The requested area is located approximately 5 miles north-northwest of downtown Schertz. It is generally bounded on the north by Union Pacific Railroad, on the east by Doerr Lane, on the south by Union Pacific Railroad, and on the west by Cibolo Creek.
8. In Order No. 3 filed on May 11, 2021, the administrative law judge (ALJ) found the application administratively complete.

Notice

9. On June 18, 2021, Schertz filed the affidavit of Stephen Mayfield, authorized representative for Schertz, testifying that notice was mailed to current customers, landowners, neighboring utilities, and affected parties on June 8, 2021.
10. On August 11, 2021, Schertz filed a revised publisher's affidavit attesting to publication of notice in the *San Antonio Express*, a publication of general circulation in Comal County, on June 9, 2021, and June 16, 2021.
11. In Order No. 7 filed on September 15, 2021, the ALJ found the notice sufficient.

Map and Certificate

12. On October 15, 2021, Commission Staff emailed the proposed map and certificate to Schertz.
13. On October 18, 2021, Schertz filed its consent to the proposed map and certificate.
14. On November 19, 2021, Commission Staff filed the proposed map and certificate as attachments to the Agreed Motion to Admit Evidence.

Evidentiary Record

15. On November 19, 2021, Commission Staff filed an agreed motion to admit evidence and proposed notice of approval.
16. In Order No. 8 filed on _____, 2021, the ALJ admitted the following into evidence: (a) Schertz's application filed on February 8, 2021 (Interchange Item No. 1); (b) Schertz's supplements to the application filed on February 11, 2021, March 16, 2021, August 3, 2021, and August 11, 2021 (Interchange Item Nos. 3, 6, 18, and 20); (c) Staff's Supplemental Recommendation on Administrative Completeness filed on May 10, 2021 (Interchange Item No. 7); (d) Schertz' proof of notice filed on June 18, 2021, June 28, 2021, and July 19, 2021 (Interchange Item Nos. 9, 11, and 14); (e) Staff's Second Supplemental Recommendation on Sufficiency of Notice filed on September 10, 2021 (Interchange Item No. 21); (f) Schertz's consent form filed on October 18, 2021 (Interchange Item No. 23); (g) Staff's Final Recommendation and attachments filed on November 5, 2021 (Interchange Item No. 24) and (h) the attached map and certificate.

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

17. There is a need for service as the area is being developed and will need sewer services. Additionally, the area has been annexed into the city limits of Schertz.
18. Schertz purchases sewer service from Cibolo Creek Municipal Authority (Cibolo Creek). Cibolo Creek has a Texas Commission on Environmental Quality (TCEQ) approved wastewater treatment plant registered as Odo J Riedel Regional Water Reclamation Plant, Wastewater Discharge Permit No. WQ-00112690001.

Need for Service - TWC § 13.246(c)(2); 16 TAC § 24.227(e)(2)

19. The requested area is being developed and sewer services will be needed once the development is completed. Additionally, the area has been annexed into the city limits of Schertz.

Effect of Granting the Certificate - TWC § 13.246(c)(3); 16 TAC § 24.227(e)(3)

20. Granting the CCN request will obligate Schertz to provide sewer service to future customers in the 150-acre requested service area.
21. No protests, adverse comments, or motions to intervene were filed by any adjacent retail public utility in this docket.
22. There will be no effect on any retail public utility serving the proximate area.
23. The landowners in the areas will have a sewer provider available when they need to request sewer service.

Ability to Serve: Managerial and Technical - TWC §§ 13.241(a), (b), 13.246(c)(4); 16 TAC § 24.227(a), (e)(4)

24. Schertz purchases sewer service from Cibolo Creek. Cibolo Creek has a TCEQ approved wastewater treatment plant registered as Odo J Riedel Regional Water Reclamation Plant, Wastewater Discharge Permit No. WQ-00112690001.
25. Cibolo Creek has no violations listed in the TCEQ's database.
26. Cibolo Creek and Schertz has the managerial and technical capability to provide continuous and adequate service to the requested area.
27. Schertz will need to install collection lines to provide sewer service, but no additional construction will be required to serve the requested area.
28. Schertz has had five complaints filed against it with the Commission dating back to 2014. The complaints were regarding city billing, which is not overseen by the

Commission, therefore each of these customers was sent a non-jurisdictional complaint letter and referred back to Schertz.

Feasibility of Obtaining Service from Adjacent Utilities - TWC § 13.246(c)(5) and 16 TAC § 24.227(e)(5)

29. There are no current customers in the requested area.
30. Schertz indicated that the requested area is in development and inside the city limits. Therefore, it is not feasible to obtain service from an adjacent retail public utility.

Regionalization or Consolidation - TWC § 13.241(d) and 16 TAC § 24.227(b)

31. The requested area is inside Schertz's city limits. Therefore, concerns of regionalization or consolidation do not apply.

Ability to Serve: Financial Ability and Stability - TWC §§ 13.241(a), 13.246(c)(6); 16 TAC §§ 24.11(e), 24.227(a), (e)(6)

32. Schertz has a debt to equity ratio that is less than 1.0, which meets one of the five leverage tests.
33. Schertz's financial statements include \$4,972,125 in net income and a cash and cash equivalents balance of \$2,061,479 that indicate Schertz will have sufficient cash to cover projected shortages.
34. Schertz has installed sewer mains adjacent to the requested area to serve the property. Any additional capital improvements needed to provide continuous and adequate service to the requested area will be paid for by the developer or property owner.
35. Schertz demonstrated it has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations after approval of the CCN amendment, satisfying the operations test.
36. Schertz demonstrated the financial ability and 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 Schertz to provide a bond or other financial assurance to ensure continuous and adequate service.

Environmental Integrity - TWC § 13.246(c)(7); 16 TAC § 24.227(e)(7)

38. The environmental integrity of the land will be minimally affected as collection lines are installed to provide sewer service to the requested area.

Effect on the Land - TWC § 13.246(c)(9); 16 TAC § 24.227(e)(9)

39. The land will be minimally affected as collection lines are installed to provide sewer service to the requested area.

Improvement in Service - TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)

40. Future residents of the planned development will have sewer service available.

Lowering of Cost - TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)

41. No lowering of cost to customers in the requested area will result from granting the CCN as there are currently no customers in the requested area.

Informal Disposition

42. More than 15 days have passed since the completion of notice provided in this docket.
43. No person filed a protest or motion to intervene.
44. Commission Staff and Schertz are the only parties to this proceeding.
45. No party requested a hearing and no hearing is needed.
46. The decision is not adverse to any party.

II. Conclusion of Law

The Commission makes the following conclusions of law:

1. The Commission has jurisdiction over this proceeding under TWC §§ 13.041, 13.241, 13.244, and 13.246.
2. Schertz is a retail public utility as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
3. Schertz's notice complies with TWC § 13.246 and 16 TAC § 24.235.
4. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,¹ the TWC, and Commission rules.
5. The application meets the requirements set forth in TWC § 13.244 and 16 TAC §§ 24.25 and 24.277.
6. After consideration of the factors in TWC § 13.246(c) and 16 TAC § 24.227(e), Schertz has demonstrated adequate financial, managerial, and technical capability to providing

¹ Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2008 & Supp. 2014).

continuous and adequate service to the requested service area as required by TWC § 13.241 and 16 TAC § 24.227.

7. It is not necessary for Schertz to provide a bond or other financial assurance under TWC § 13.246(d).
8. Schertz has demonstrated that amending sewer CCN number 20271 is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(d).
9. Under TWC § 13.257(r) and (s), Schertz 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 Comal County within 30 days of this Order and must submit evidence of the recording to the Commission.
10. 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 Schertz sewer CCN number 20271 as described in this notice of approval and shown on the attached map.
2. The Commission approves the certificate and map attached to this Notice of Approval.
3. Schertz must serve every customer and applicant for service within the approved area under sewer CCN number 20271 who requests sewer service and meets the terms of Schertz' sewer service, and such service must be continuous and adequate.
4. Schertz must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Comal County affected by this application and file in this docket proof of the recording no later than 30 days after the date of this notice of approval.
5. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

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

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE



Public Utility Commission of Texas

By These Presents Be It Known To All That

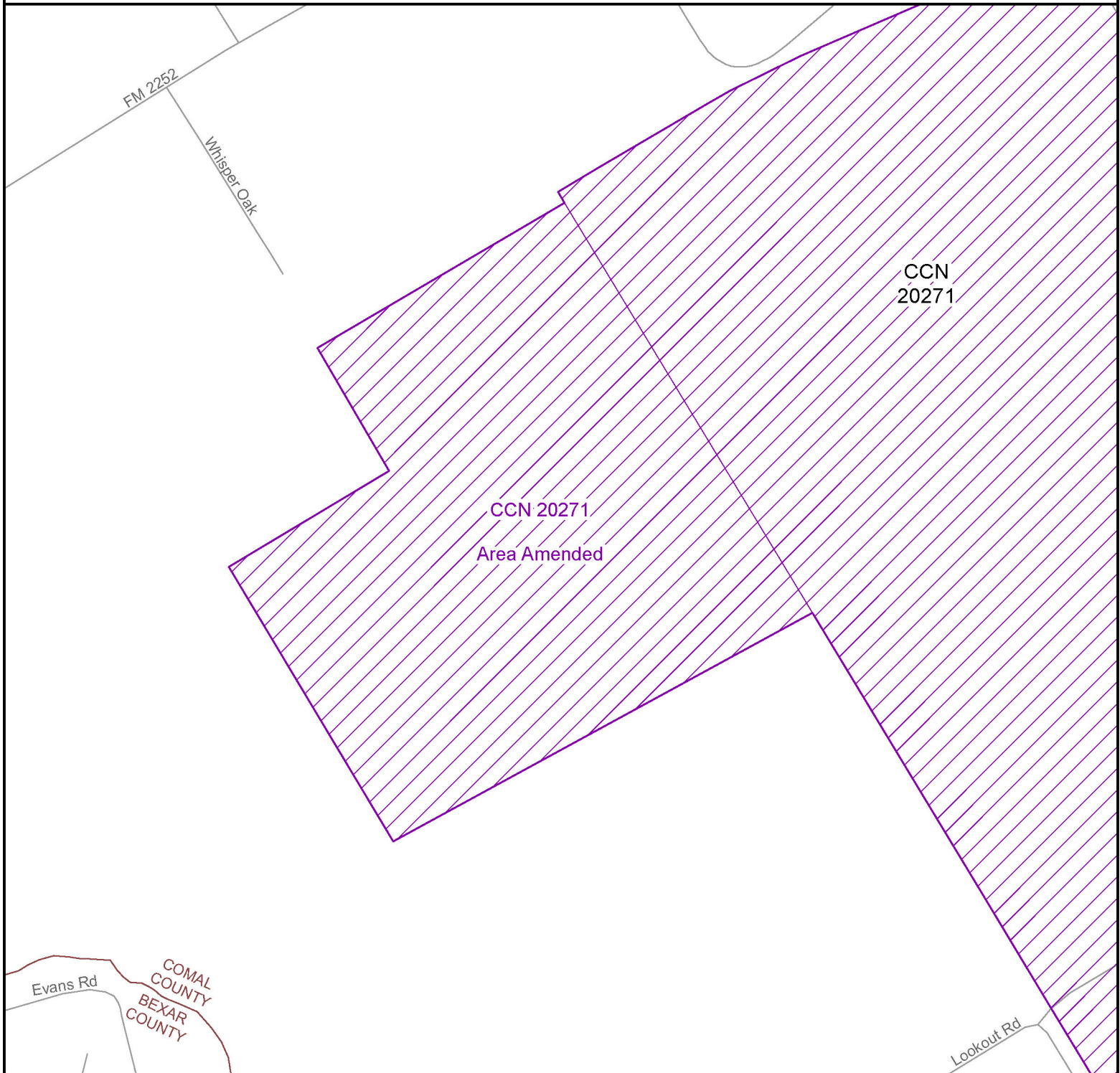
City of Schertz

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, City of Schertz is entitled to this


Certificate of Convenience and Necessity No. 20271

to provide continuous and adequate sewer utility service to that service area or those service areas in Bexar, Comal, and Guadalupe Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 51801 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 City of Schertz 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.

City of Schertz
Portion of Sewer CCN No. 20271
PUC Docket No. 51801
Amended CCN No. 20271 in Comal County



Sewer CCN

 20271 - City of Schertz

0 400 800
Feet

