



## Filing Receipt

**Received - 2022-07-08 03:56:45 PM**  
**Control Number - 52002**  
**ItemNumber - 55**

**DOCKET NO. 52002**

|                                     |          |                                  |
|-------------------------------------|----------|----------------------------------|
| <b>APPLICATION OF CPR WATER</b>     | <b>§</b> | <b>PUBLIC UTILITY COMMISSION</b> |
| <b>SUPPLY COMPANY, LLC FOR A</b>    | <b>§</b> |                                  |
| <b>WATER CERTIFICATE OF</b>         | <b>§</b> | <b>OF TEXAS</b>                  |
| <b>CONVENIENCE AND NECESSITY IN</b> | <b>§</b> |                                  |
| <b>SMITH COUNTY</b>                 | <b>§</b> |                                  |

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

CPR Water Supply Company, LLC (CPR Water) and the Staff (Staff) of the Public Utility Commission of Texas (Commission) (collectively, the Parties), file this Motion to Admit Evidence and Proposed Notice of Approval. In support thereof, the Parties would show the following:

**I. BACKGROUND**

On April 9, 2021, CPR Water filed an application to obtain a water Certificate of Convenience and Necessity (CCN) in Smith County. The requested service area consists of 151 acres and zero current customers. CPR Water supplemented the application on June 8 and 11, November 15 and 30, and December 13, 2021, as well as on February 16, March 2, 4, and 14, and April 11, 2022. CPR Water filed a signed consent form on March 7, 2022.

. On March 7, 2022, CPR Water filed its consent form approving the map and the certificate transmitted by email on March 4, 2022. On April 25, 2022, Staff recommended the application be approved. On August 2, 2022, CPR Water filed proof of Notice and Affidavits.

**II. JOINT MOTION TO ADMIT EVIDENCE**

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

1. The Application of CPR Water to Obtain a CCN in Smith County filed on April 9, 2021 (Interchange Item No. 1).
2. Affidavits of Notice filed by CPR Water on August 2, 2021 (Interchange Item No. 10).

3. CPR Water's response to Staff's First Request for Information filed on August 19, 2021 (Interchange Item No. 14).
4. CPR Water's response to Staff's Second Request for Information filed on August 27, 2021 (Interchange Item No. 17).
5. Confidential information filed by CPR Water on September 7, 2021, in response to certain application questions. (Interchange Item No. 18).
6. CPR Water's response to Staff's Third Request for Information filed on November 15, 2021 (Interchange Item No. 27).
7. CPR Water's response to Staff's Fourth Request for Information filed on December 13, 2021 (Interchange Item No. 32).
8. CPR Water's signed consent form concurring with Staff's proposed final maps, and certificate and Staff's proposed final tariff filed on March 7, 2022 (Interchange Item No. 40).
9. CPR Water's response to Staff's Fifth Request for Information filed on April 11, 2021 (Interchange Item No. 46).
10. Staff's recommendation approving the application to obtain a water CCN, filed on April 25, 2021 (Interchange Item No. 47).
11. The CCN maps consented to by CPR Water on March 7, 2022, included as *Attachment A* to this filing; and
12. The proposed tariff, consented to by CPR Water on March 7, 2022, included as *Attachment B* to this filing.

### **III. PROPOSED NOTICE OF APPROVAL**

The Parties respectfully request that the Commission adopt the findings of fact, conclusions of law, and ordering paragraphs contained in the attached proposed notice of approval.

#### **IV. CONCLUSION**

The Parties respectfully request that the Commission grant the joint motion to admit evidence and adopt the attached proposed notice of approval.

**Date:** \_\_\_\_\_, 2022

**CPR WATER SUPPLY COMPANY, LLC**

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Respectfully submitted,

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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 July 8, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Phillip Lehmann  
Phillip Lehmann

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| <b>SMITH COUNTY</b>                 | <b>§</b> |                                  |

**PROPOSED NOTICE OF APPROVAL**

This Notice of Approval addresses the April 9, 2021, application of CPR Water Supply Company, LLC (CPR Water) for a water Certificate of Convenience and Necessity (CCN) in Smith County. The Commission approves the application and grants CPR Water's water CCN number 13298 covering 151 acres.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicants**

1. CPR Water is a limited partnership registered with the Texas Secretary of State under file number 803829494.

**Procedural History and Application**

2. On April 9, 2021, CPR Water filed an application, seeking a new water CCN in Smith County.
3. The requested service area consists of 151 acres and zero current customers.
4. The requested area is approximately 4 miles southwest of downtown Noonday, Texas and is generally bounded on the north by SH 155 and FM 344; on the east by CR 189 N; on the south by Saline Bay (Lake Palestine), and on the west by SH 155.
5. In Order No. 3 filed on July 7, 2021, the ALJ found the application administratively complete.

### **Notice**

6. On August 2, 2021, CPR Water filed the affidavit of Bret Fenner, the authorized representative for CPR Water, attesting that notice was provided to all neighboring utilities, and affected Parties on July 16, 2021.
7. In Order No. 4 filed on August 20, the ALJ found notice sufficient.

### **Evidentiary Record**

13. In Order No. \_\_ issued on June \_\_, 2022, the ALJ admitted the following evidence into the record: 1 The Application of CPR Water to Obtain a CCN in Smith County filed on April 9, 2021 (Interchange Item No. 1); 2 Affidavits of Notice filed by CPR Water on August 2, 2021 (Interchange Item No. 10); 3 CPR Water's response to Staff's First Request for Information filed on August 19, 2021 (Interchange Item No. 14); 4 CPR Water's response to Staff's Second Request for Information filed on August 27, 2021 (Interchange Item No. 17); 5 Confidential information filed by CPR Water on September 7, 2021, in response to certain application questions. (Interchange Item No. 18); 6 CPR Water's response to Staff's Third Request for Information filed on November 15, 2021 (Interchange Item No. 27); 7 CPR Water's response to Staff's Fourth Request for Information filed on December 13, 2021 (Interchange Item No. 32); 8 CPR Water's signed consent form concurring with Staff's proposed final maps, and certificate and Staff's proposed final tariff filed on March 7, 2022 (Interchange Item No. 40); 9 CPR Water's response to Staff's Fifth Request for Information filed on April 11, 2021 (Interchange Item No. 46); 10 Staff's recommendation approving the application to obtain a water CCN, filed on April 25, 2021 (Interchange Item No. 47); 11 The CCN maps consented to by CPR Water on March 7, 2022, included as *Attachment A* to this filing; and 12 The

proposed tariff, consented to by CPR Water on March 7, 2022, included as *Attachment B* to this filing.

8. On June \_\_, 2022, CPR Water and Staff filed a joint motion to admit evidence and proposed notice of approval.

**Adequacy of Existing Service—TWC § 13.246(c)(1); 16 TAC § 24.227(d)(1)**

9. There is currently no water service in the requested area.
10. Additional construction is necessary for CPR Water to serve the requested area.

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

11. There is a need for service as CPR is developing a mixed-use development including commercial development and a recreational park in the requested area. The requested area was released via a streamlined expedited release request in Docket No. 50581.

**Effect of Granting the Certificate—TWC §§ 13.241(b) and 13.246(c)(3); 16 TAC § 24.227(e)(3)**

12. There will be no effect on any retail public utility servicing the proximate area. All retail public utilities in the proximity were provided notice of the CCN amendment requested in this application and did not request to intervene.
13. Granting CPR Water the certificate would enable CPR Water to provide adequate and continuous water service to the requested area.

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

14. CPR Water's PWS was conditionally approved for construction by the TCEQ and was registered under PWS identification number 2120112.
15. The water system will be activated when CPR notifies TCEQ or when an investigation by the TCEQ determines the water system is providing service to at least 15 service connections or 25 individuals.
16. CPR is expected to have 150 connections when the area is fully developed. The proposed design capacity of the water system will be sufficient for the expected 150 connections.

17. CPR Water will be capable of providing drinking water that meets the requirements of Texas Health and Safety Code, Chapter 341, and TWC, Chapter 13, and will have access to an adequate supply of water.
18. CPR has the managerial and technical ability to serve the requested area.

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

19. CPR Water's affiliate John Rudisill's (Rudisill) financial statements report a debt-to-equity ratio of 0.44, satisfying the leverage test. Rudisill also provided a written guarantee that he is capable, available, and willing to cover temporary cash shortages for costs associated with this application.
20. CPR Water has demonstrated that it has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations. Specifically, although there are projected operating shortages for CPR Water to cover in the first year, Rudisill's financial statements indicate he has the ability to cover the cash shortages. Additionally, CPR Water's affiliate, Rudisill, provided an affidavit containing a written guarantee to cover the temporary cash shortage and Rudisill satisfies the leverage test. Rudisill's financial statements indicate Rudisill possess sufficient cash reserves to pay for the water plant and distribution lines to serve the requested area. CPR Water additionally provided a letter from BancorpSouth indicating they have obtained a line of credit sufficient to pay for the infrastructure cost. Sufficient cash and net operating income available to cover possible future shortages provide an indication of financial stability and financial and managerial capacity. Therefore, CPR Water meets the operations test.
21. CPR Water has demonstrated the financial capability and stability to provide continuous and adequate water service to the proposed service area.

**Financial Assurance—TWC § 13.246(d)**

22. There is no need to require CPR Water to provide a bond or other financial assurance to ensure continuous and adequate service.

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

23. CPR Water provided copies of the requests for service sent to neighboring utilities. Only one utility provided a response stating that they had capacity to provide service to eight lots. CPR is expected to have 150 connections when the area is fully developed. CPR Water is developing the requested area. TCEQ has approved plans for CPR to build facilities in the requested area to serve future customers and will have sufficient capacity to serve the area.
24. It is not feasible to obtain service from an adjacent retail public utility.

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

25. The environmental integrity of the land will be minimally affected as facilities are constructed to provide service to the requested area.
26. Where new construction is planned, proper construction protocols will be followed to ensure that the environmental integrity of the land will not be disrupted or negatively affected.

**Improvement of Service or Lowering Cost to Consumers—TWC § 13.246(c)(8); 16 TAC §§ 24.227(e)(8)**

27. Future residents of the planned development will have water service.
28. CPR Water will provide water service to approximately 150 customers in Smith County. The proposed tap fee for CPR Water's customers is based on the average cost of similar investor-owned utilities. As a reference, CPR Water has proposed a \$650.00 tap fee, which is the current approved fee for nearby Lakeshore Utility Company, Inc. The proposed tap fee is reasonable with respect to the average tap fee for the requested area and CPR's responses to various requests for information.
29. In order to true-up the proposed tap fees and rates, CPR Water must file a rate application with actual financial information with the Commission within 18 months from the date service begins per 16 § TAC 24.25(b)(1)(C).

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

30. The requested area was released from South Utility Company via a streamlined expedited release request in Docket No. 50581 and Southern Utility Company was compensated in that docket. TCEQ has approved plans for CPR to build facilities in the requested area to serve future customers and will have sufficient capacity to serve the area.
31. CPR Water provided copies of the requests for service sent to neighboring utilities. Only one utility provided a response stating they had capacity to provide service to eight lots. CPR is expected to have 150 connections when the area is fully developed. Therefore, concerns of regionalization or consolidation do not apply.

**Informal Disposition**

32. More than 15 days have passed since completion of the notice provided in this docket.
33. No party filed a protest or motion to intervene.
34. CPR Water and Staff are the only Parties to this proceeding.
35. No party requested a hearing, and no hearing is necessary.
36. Staff recommended approval of the application.
37. 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 TWC §§ 13.041, 13.241, 13.244, 13.246.
2. CPR Water is a retail public utility as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
3. Notice of this application complies with TWC § 13.246 and 16 TAC § 24.235.

4. The Commission processed the application as required by the TWC, the Administrative Procedure Act,<sup>1</sup> and Commission rules.
5. The application meets the requirements set forth in TWC 13.241 and 13.246 and 16 TAC 13.241(a) and (b) and 16 TAC 24.227.
6. CPR Water has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested service areas as required by TWC § 13.241(a) and (b) and 16 TAC § 24.227.
7. The issuance of new water CCN No. 13298 is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.246(c) and 16 TAC § 24.227(e).
8. Under TWC 13.257® and 16 TAC 24.235(f), CPR Water must record a certified copy of the approved certificates and maps, along with a boundary description of the service area, in the real property records of Smith County within 31 days of this Notice of Approval and must submit evidence of the recording to the Commission.
9. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

### **III. Ordering Paragraphs**

In accordance with the preceding findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission approves the application and grants CPR Water's water CCN number 12983 as consistent with this Notice and shown on the map attached to this Notice of Approval.
2. The Commission grants the certificate attached to this Notice of Approval.
3. The Commission approves the tariff filed with Staff's final recommendation and attached to this Notice of Approval.

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

4. CPR Water must serve every customer and applicant for water service within the area certified under CCN number 12983 and such service must be continuous and adequate.
5. CPR Water must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Smith County affected by this application.
6. CPR Water must file in this docket proof of the recording required in ordering paragraph five not later than 45 days after the date of this Notice of Approval.
7. CPR Water must provide notice to the Commission once billing for service begins under 16 TAC 24.25(b)(1)(vi).
8. CPR Water must file a rate application in order to true-up the rates approved in this docket with the Commission within 18 months from the date service begins under 16 TAC 24.25(b)(1)(C).
9. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

**Signed at Austin, Texas this \_\_\_\_ day of \_\_\_\_\_, 2022.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**ADMINISTRATIVE LAW JUDGE**