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DOCKET NO. 52048

APPLICATION OF THE CITY OF JUSTIN	§	
AND AQUA TEXAS, INC. FOR	§	
APPROVAL OF SERVICE AREA	§	PUBLIC UTILITY COMMISSION
CONTRACT UNDER TEXAS WATER	§	
CODE § 13.248 AND TO AMEND	§	OF TEXAS
CERTIFICATES OF CONVENIENCE AND	§	
NECESSITY IN DENTON COUNTY	§	

JOINT PROPOSED NOTICE OF APPROVAL AND MOTION TO ADMIT EVIDENCE

COME NOW City of Justin (Justin), Aqua Texas, Inc. (Aqua), and the Staff of the Public Utility Commission of Texas (Staff) (collectively, Parties) and submit this Joint Proposed Notice of Approval and Motion to Admit Evidence in response to Order No. 2. In support thereof, the Parties show the following:

I. BACKGROUND

On April 21, 2021, Justin and Aqua (Applicants) filed an application under Texas Water Code (TWC) § 13.248 for approval of a service area contract and to amend their water certificates of convenience and necessity (CCN) in Denton County.

Justin holds CCN No. 10167, and Aqua holds CCN No. 13201. The Applicants, by mutual agreement, seek approval to alter the boundaries of the certificates and transfer one separate affected service area comprising 202 acres and 0 current customers from Aqua to Justin. There is no transfer of assets or facilities between the Applicants.

The application was filed pursuant to TWC § 13.248 and 16 Tex. Admin. Code (TAC) § 24.253. Order No. 2, issued by the Commission Administrative Law Judge (ALJ) on May 25, 2021, established a deadline of July 19, 2021, for the parties to file proposed findings of fact, conclusions of law, and ordering paragraphs. Therefore, this pleading is timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

The parties request the entry of the following into the record of this proceeding:

1. The Application, filed on April 21, 2021, and all exhibits including the agreement between Justin and Aqua, and Justin's meeting minutes (Interchange Item No. 1);
2. Staff's Recommendation on Sufficiency of Application and Notice, filed on May 21, 2021 (Interchange Item No. 3);

3. Justin's executed consent form, filed on June 30, 2021 (Interchange Item No. 5);
4. Aqua's executed consent form, filed on July 2, 2021 (Interchange Item No. 6);
5. Staff's Recommendation on Final Disposition and supporting documentation, filed on July 12, 2021 (Interchange Item No. 7); and
6. The attached final map and certificates.

III. JOINT PROPOSED NOTICE OF APPROVAL

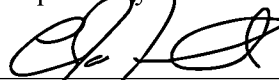
The Parties have agreed on the attached Joint Proposed Notice of Approval, which would grant the Application. Also attached are the final map and certificates consented to by the Applicants.

IV. CONCLUSION

Staff and Aqua have agreed that Justin is authorized to file this pleading on their behalf. Therefore, the Parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the findings of fact, conclusions of law, and ordering paragraphs from the attached Joint Proposed Notice of Approval be adopted.

Dated: July 19, 2021

Respectfully submitted,



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ATTORNEYS FOR CITY OF JUSTIN

CERTIFICATE OF SERVICE

I certify that a copy of this document was served via email on July 19, 2021, in accordance with the requirements of 16 Tex. Admin. Code § 22.74, Order No. 1 in PUC Docket No. 50946, and Order No. 1 in PUC Docket No. 50664


C. Joe Freeland

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JOINT PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of the City of Justin and Aqua Texas, Inc. for approval of a service-area contract to amend water certificates of convenience and necessity (CCNs) in Denton County. The application seeks to transfer 202 acres from Aqua Texas's service area under CCN number 13201 to City of Justin under CCN number 10167. The Commission approves the service-area contract and amends CCN numbers 10167 and 13201.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Aqua Texas is a Texas for-profit corporation registered with the Texas secretary of state under file number 0800304878.
2. Aqua Texas operates, maintains, and controls facilities for providing retail water service in Denton County under water CCN number 13201.
3. City of Justin is a municipality located in Denton County.
4. City of Justin operates, maintains, and controls facilities for providing water service in Denton County under CCN number 10167.

Application

5. On April 20, 2021, Aqua Texas and City of Justin executed a retail water service agreement (the service-area contract) to transfer 202 acres of service area from Aqua Texas under CCN number 13201 to City of Justin under CCN number 10167.

6. On April 21, 2021, Aqua Texas and City of Justin filed the application at issue in this proceeding for approval of the service-area contract and to amend CCN numbers 10167 and 13201.
7. The application included a copy of the service-area contract executed by Aqua Texas and City of Justin.
8. The 202 acres that will be transferred to City of Justin under CCN number 10167 are within Aqua Texas's certificated water service area in Denton County.
9. There are no customers or facilities within the 202 acres of service area to be transferred.
10. There will be no transfer of customers, assets, or facilities as a result of the service-area contract or application.
11. In Order No. 2 filed on May 25, 2021, the administrative law judge (ALJ) found the application administratively complete.

Notice

12. On March 29, 2021, the City of Justin's city council approved the service-area contract.
13. The application included a copy of the agenda and minutes from the March 29, 2021, council meeting as well as a supporting affidavit from Darrell Gentry, City of Justin's Director of Planning and Development.
14. In Order No. 2 filed on May 25, 2021, the ALJ found the notice sufficient.

Certificates and Map

15. On June 21, 2021, Commission Staff emailed its proposed map and certificates to the applicants.
16. On June 30, 2021, City of Justin filed its consent to the map and certificates provided by Commission Staff.
17. On July 2, 2021, Aqua Texas filed its consent to the map and certificates provided by Commission Staff.
18. On July 19, 2021, City of Justin filed the proposed map and certificates as attachments to the agreed motion to admit evidence.

Evidentiary Record

19. On July 19, 2021, the applicants and Commission Staff filed a joint motion to admit evidence and notice of approval.

20. In Order No. 3 filed on _____, 2021, the ALJ admitted the following evidence into the record of this proceeding: (a) the application, filed on April 21, 202, and all exhibits including the agreement between City of Justin and Aqua Texas, and City of Justin's meeting minutes; (b) Commission Staff's recommendation on sufficiency of application and notice, filed on May 21, 2021; (c) City of Justin's executed consent form, filed on June 30, 2021; (d) Aqua Texas's executed consent form, filed on July 2, 2021; (e) Commission Staff's recommendation on final disposition, filed on July 12, 2021; and (f) the map and certificates attached to the joint motion to admit evidence, filed on July 19, 2021.

Informal Disposition

21. More than 15 days have passed since the completion of the notice provided in this docket.
22. No person filed a protest or motion to intervene.
23. City of Justin, Aqua Texas, and Commission Staff are the only parties to this proceeding.
24. No party requested a hearing, and no hearing is needed.
25. Commission Staff recommended approval of the application.
26. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. City of Justin and Aqua Texas are retail public utilities as defined in Texas Water Code (TWC) § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
2. The Commission has jurisdiction over the application under TWC §§ 13.041 and 13.248 and 16 TAC § 24.253.
3. The application meets the requirements of 16 TAC § 24.253.
4. Public notice of the application was provided in compliance with TWC § 13.248 and 16 TAC § 24.253(c).
5. The application was processed in accordance with the TWC, the Administrative Procedure Act,¹ and Commission rules.
6. Under TWC § 13.248, contracts between retail public utilities designating areas to be served, when approved by the Commission, are valid and enforceable and incorporated into the affected CCNs.

¹ Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2016 & Supp. 2017).

7. Under TWC § 13.257(r) and (s), City of Justin and Aqua Texas are required to record a certified copy of the approved map for the certificate amendments, along with a boundary description of their respective service areas, in the real property records of Denton County within 31 days of receiving this Notice of Approval and to 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 application and service-area contract to the extent provided in this Notice of Approval.
2. The Commission amends City of Justin's water CCN number 10167 as described in this Notice of Approval and as shown in the map attached to this Notice of Approval.
3. The Commission amends Aqua Texas's water CCN number 13201 as described in this Notice of Approval and as shown in the map attached to this Notice of Approval.
4. City of Justin must serve every customer and qualified applicant for water service within the approved area under CCN number 10167, that requests water service and meets the terms of City of Justin's water service, and such service must be continuous and adequate.
5. The applicants must each comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Denton County affected by the application and submit to the Commission evidence of the recording no later than 45 days after receipt of this Notice of Approval.
6. The Commission denies all other motions and any other requests for general or specific relief not expressly granted herein.

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

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE