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DOCKET NO. 52522

APPLICATION OF THE CITY OF	§	PUBLIC UTILITY COMMISSION
LINDALE AND LINDALE RURAL	§	
WATER SUPPLY CORPORATION	§	OF TEXAS
FOR APPROVAL OF A SERVICE	§	
AREA CONTRACT UNDER TEXAS	§	
WATER CODE § 13.248 AND TO	§	
AMEND CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY IN	§	
SMITH COUNTY	§	

NOTICE OF APPROVAL

This Notice of Approval addresses the application of the City of Lindale and Lindale Rural Water Supply Corporation for approval of a service-area contract under Texas Water Code (TWC) § 13.248 and to amend certificates of convenience and necessity (CCNs) in Smith County. The applicants seek to transfer 28.72 acres of certificated service area from Lindale Rural WSC under water CCN 10758 to Lindale under CCN number 12795. The Commission approves the service-area contract and amends CCN numbers 10758 and 12795 accordingly.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Lindale is a municipality located in Smith County.
2. Lindale operates, maintains, and controls facilities for providing retail water service in Smith County under CCN number 12795.
3. Lindale Rural WSC is a Texas nonprofit corporation registered with the Texas secretary of state under filing number 23858901.
4. Lindale Rural WSC operates, maintains, and controls facilities for providing retail water service in Smith County under CCN number 10758.

Application

5. On July 9, 2021, Lindale and Lindale Rural WSC entered into an agreement (the service-area contract) whereby they agreed to transfer 28.72 acres of certificated service area from

Lindale Rural WSC under water CCN number 10758 to Lindale under water CCN number 12795.

6. On September 3, 2021, Lindale and Lindale Rural WSC filed the application at issue in this proceeding, seeking approval of the service-area contract and to amend CCN numbers 10758 and 12795.
7. The 28.72 acres that will be transferred to Lindale's service area under water CCN number 12795 are within Lindale Rural WSC's certificated service area in Smith County.
8. There are no customers, tangible assets, or facilities within the 28.72 acres of service area being transferred.
9. There will be no transfer of customers, tangible assets, or facilities as a result of the service-area contract or application.
10. In Order No. 2 filed on October 7, 2021, the administrative law judge (ALJ) found the application administratively complete.

Notice

11. On June 1, 2021, Lindale's city council considered and approved the service-area contract at a public meeting.
12. The application included a copy of the agenda and minutes from the June 1, 2021 council meeting as well as a supporting affidavit from Carolyn Caldwell, Lindale's city manager.
13. On May 28, 2021, Lindale Rural WSC's board of directors approved the service-area contract.
14. The application included a copy of the agenda and minutes from the May 28, 2021 board of directors' meeting as well as a supporting affidavit from Jamie Davlin, Lindale Rural WSC's general manager.
15. In Order No. 2 filed on October 7, 2021, the ALJ found the notice sufficient.

Map and Certificates

16. On November 4, 2021, Commission Staff emailed its proposed map and certificates to Lindale and Lindale Rural WSC.

17. On November 11, 2021, Lindale and Lindale Rural WSC filed their consents to the proposed map and certificates.
18. On December 10, 2021, the parties filed the proposed map and certificates as attachments to their joint motion to admit evidence and proposed notice of approval.

Evidence

19. On December 10, 2021, the parties filed a joint motion to admit evidence.
20. In Order No. 4 filed on January 13, 2022, the ALJ admitted the following evidence into the proceeding: (a) the application and all attachments filed on September 3, 2021; (b) revised map and digital data filed on September 29, 2021; (c) Commission Staff's recommendation on administrative completeness and notice filed on October 6, 2021; (d) Lindale and Lindale Rural WSC's consent to the final map and certificates filed on November 11, 2021; (e) Commission Staff's final recommendation filed on November 30, 2021; and (f) the map and certificates as attached to the joint proposed notice of approval and motion to admit evidence filed on December 10, 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. Lindale, Lindale Rural WSC, and Commission Staff are the only parties to this proceeding.
24. No party requested a hearing and no hearing is needed.
25. Commission staff recommend 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. The Commission has authority over the application under TWC §§ 13.041 and 13.248.
2. Lindale and Lindale Rural WSC are retail public utilities as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).

3. Under TWC § 13.248, contracts between retail public utilities designating areas to be served by those retail public utilities, when approved by the Commission, are valid and enforceable and incorporated into the affected CCNs.
4. The application meets the requirements of TWC § 13.248 and 16 TAC § 24.253.
5. Public notice of the application was provided in compliance with TWC § 13.248 and 16 TAC § 24.253(c).
6. The application was processed in accordance with the TWC, the Administrative Procedure Act,¹ and Commission rules.
7. Under TWC § 13.257(r) and (s), Lindale and Lindale Rural WSC must record a certified copy of the approved map and its respective certificate, along with a boundary description of its 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.
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 service-area contract to the extent provided in this Notice of Approval.
2. The Commission amends Lindale's water CCN number 12795, as described in this Notice of Approval, and as shown on the map attached to this Notice of Approval.
3. The Commission amends Lindale Rural WSC's water CCN number 10758, as described in this Notice of Approval, and as shown on the map attached to this Notice of Approval.
4. The Commission approves the map attached to this Notice of Approval.
5. The Commission issues the certificates attached to this Notice of Approval.

¹ Tex. Gov't Code §§ 2001.001-.903.

6. Lindale must provide service to every customer and qualified applicant for water service within the approved service area under CCN number 12795 that requests water service and meets the terms of Lindale's water service, and such service must be continuous and adequate.
7. Lindale Rural WSC must provide service to every customer and qualified applicant for water service within the approved service area under CCN number 10758, that requests water service and meets the terms of Lindale Rural WSC's water service, and such service must be continuous and adequate.
8. Lindale and Lindale Rural WSC must each comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Smith County affected by the application and file in this docket proof of the recording no later than 45 days after the date of this Notice of Approval.
9. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted herein.

Signed at Austin, Texas the 3rd day of February, 2022.

PUBLIC UTILITY COMMISSION OF TEXAS





CHRISTINA DENMARK
ADMINISTRATIVE LAW JUDGE

City of Lindale
Portion of Water CCN No. 12795
PUC Docket No. 52522
13.248 Agreement Amended CCN No. 12795 and
Decertified a Portion of Lindale Rural Water Supply Corporation, CCN No. 10758 in Smith County



Water CCN

-  12795 - City of Lindale
-  10758 - Lindale Rural WSC

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Feet





Public Utility Commission of Texas

By These Presents Be It Known To All That

Lindale Rural 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, Lindale Rural Water Supply Corporation is entitled to this

Certificate of Convenience and Necessity No. 10758

to provide continuous and adequate water utility service to that service area or those service areas in Smith County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 52522 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 Lindale Rural 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.



Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Lindale

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, the City of Lindale is entitled to this

Certificate of Convenience and Necessity No. 12795

to provide continuous and adequate water utility service to that service area or those service areas in Smith County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 52522 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 Lindale 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.