



Filing Receipt

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DOCKET NO. 53148

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

JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

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

I. BACKGROUND

On January 26, 2022, the City of Lindale and LRWSC (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 Smith County. City of Lindale holds CCN No. 12795, and LRWSC holds CCN No. 10758. The Applicants, by mutual agreement, request that the CCNs be amended to reflect the dual certification of approximately 69 acres. The agreement does not contemplate a transfer of facilities or customers between the Applicants.

The application was filed pursuant to TWC § 13.248 and 16 Texas Administrative Code (TAC) § 24.253. Order No. 2, issued by the Commission Administrative Law Judge (ALJ) on March 1, 2022, established a deadline of April 22, 2022, 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 and all exhibits including the agreement between City of Lindale and LRWSC, City of Lindale's City Council meeting agenda and minutes, and LRWSC's Board of Directors meeting agenda and minutes, filed on January 26, 2022 (Interchange Item No. 1);
2. Applicants' Digital Mapping Data, filed on February 1, 2022 (Interchange Item No. 3);

3. Applicants' Supplement to the Application, filed on February 23, 2022 (Interchange Item No. 4);
4. Commission Staff's Recommendation on Administrative Completeness and Proposed Schedule, filed on February 25, 2022 (Interchange Item No. 5);
5. Commission Staff's Recommendation on Final Disposition and Supporting Documentation, filed on March 25, 2022 (Interchange Item No. 7);
6. LRWSC's and City of Lindale's executed consent forms, filed on April 4, 2022, and April 5, 2022, respectively (Interchange Item Nos. 8 and 9); and
7. 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 LRWSC have agreed that the City of Lindale 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: April 21, 2022

Respectfully submitted,




C. Joe Freeland
State Bar No. 07417500
Mathews & Freeland, LLP
8140 N. MoPac Expy, Ste 4-240
Austin, Texas 78759
T: (512) 404-7800 F: (512) 703-2785

ATTORNEYS FOR CITY OF LINDALE

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 April 21, 2022, in accordance with the Orders Suspending Rules filed in Project No. 50664.



C. Joe Freeland



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 by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 53148 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

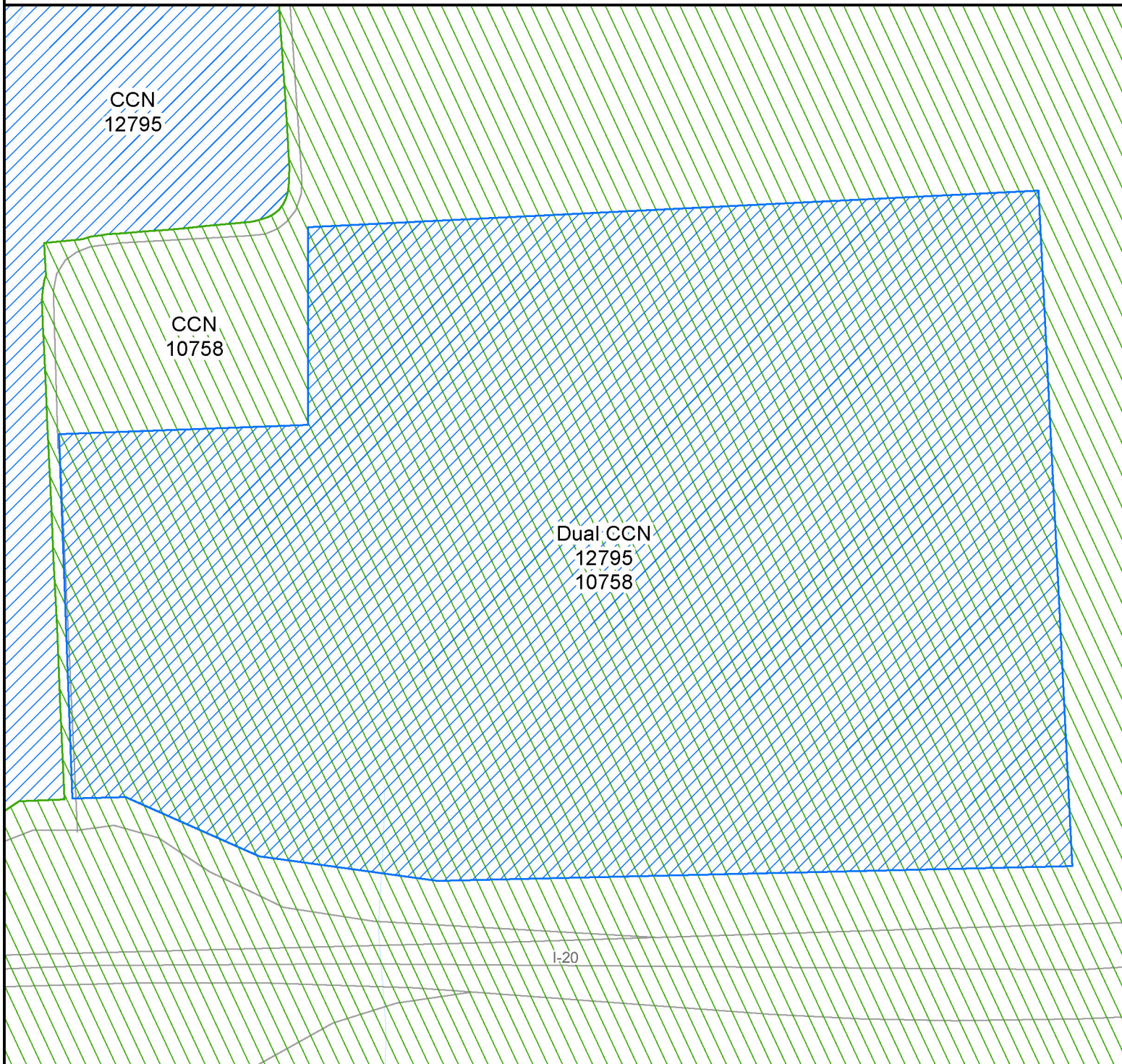
City of Lindale

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, 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 by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 53148 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.

City of Lindale
Portion of CCN No. 12795
PUC Docket No. 53148
Amended CCN No. 12795 and
Obtained Dual Certification with 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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DOCKET NO. 53148

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WATER SUPPLY CORPORATION FOR	§	OF TEXAS
APPROVAL OF A SERVICE AREA	§	
CONTRACT UNDER TEXAS WATER	§	
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AND NECESSITY IN SMITH COUNTY	§	

JOINT PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of the City of Lindale and Lindale Rural Water Supply Corporation (LRWSC) for approval of a service-area contract under Texas Water Code (TWC) § 13.248 and to amend water certificates of convenience and necessity (CCNs) in Smith County. The application seeks the dual certification of approximately 69 acres of LRWSC'S service area under CCN number 10758 with the City of 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 Rural Water Supply Corporation is a Texas nonprofit corporation created pursuant to Texas Water Code Chapter 67 and registered with the Texas secretary of state under file number 23858901.
2. LRWSC operates, maintains, and controls facilities for providing retail water service in Smith County under water CCN number 10758.
3. City of Lindale is a municipality located in Smith County.
4. City of Lindale operates, maintains, and controls facilities for providing retail water service in Smith County under water CCN number 12795.

Application

5. On January 14, 2022, LRWSC and City of Lindale executed a retail water service agreement (the service area contract) to amend their water CCNs for a dual certification in Smith County, Texas.
6. On January 26, 2022, LRWSC and City of Lindale filed the application at issue in this proceeding for approval of the service area contract and to amend CCN numbers 10758 and 12795.
7. The application included a copy of the service area contract executed by LRWSC and City of Lindale in which LRWSC and the City of Lindale agreed to a partial transfer of CCN water service area rights from LRWSC to City of Lindale resulting in the requested dual certification area in Smith County.
8. The approximately 69 acres that City of Lindale will be allowed to serve under CCN number 12795 are within LRWSC's certificated water service area in Smith County.
9. There are no customers within the approximately 69 acres of service area to be dually certificated.
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 March 1, 2022, the administrative law judge (ALJ) found the application administratively complete.

Notice

12. On September 7, 2021, the City of Lindale's City Council approved the service-area contract.
13. The application included a copy of the agenda and minutes from the September 7, 2021, City Council meeting as well as a supporting affidavit from Carolyn Caldwell, City Manager of the City of Lindale.
14. On August 19, 2021, the LRWSC Board of Directors approved the service-area contract at a special called meeting.
15. The application included a copy of the agenda and minutes from the August 19, 2021 special called meeting.
16. In Order No. 2 filed on March 1, 2022, the ALJ found the notice sufficient.

Certificates and Map

17. On March 31, 2022, Commission Staff emailed its proposed map and certificates to the applicants.
18. On April 4, 2022, LRWSC and on April 5, 2022, the City of Lindale filed their consents to the map and certificates provided by Commission Staff.

Evidentiary Record

19. On April 21, 2022, the parties filed a joint motion to admit evidence and notice of approval.
20. In Order No. 3 filed on _____, 2022, the ALJ admitted the following evidence into the record of this proceeding: (a) the application and all exhibits including the agreement between City of Lindale and LRWSC, City of Lindale's City Council meeting agenda and minutes, and LRWSC's Board of Directors meeting agenda and minutes, filed on January 26, 2022 (Interchange Item No. 1); (b) Applicants' Digital Mapping Data, filed on February 1, 2022 (Interchange Item No. 3); (c) Applicants' Supplement to the Application, filed on February 23, 2022 (Interchange Item No. 4); (d) Commission Staff's Recommendation on Administrative Completeness and Proposed Procedural Schedule, filed on February 25, 2022 (Interchange Item No. 5); (e) Commission Staff's Recommendation on Final Disposition and Supporting Documentation, filed on March 25, 2022 (Interchange Item No. 7); (f) LRWSC and City of Lindale's executed consent forms, filed on April 4, 2022 and April 5, 2022, respectively (Interchange Item Nos. 8 and 9); and (g) the attached final map and certificates.

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 Lindale, LRWSC, 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. The Commission has authority over the application under TWC §§ 13.041 and 13.248.

2. City of Lindale and LRWSC are retail public utilities as defined in TWC § 13.002(19) and 16 TAC § 24.3(31).
3. 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.
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 Commission processed the application in accordance with the TWC, the Administrative Procedure Act,¹ and Commission rules.
7. Under TWC § 13.257(r) and (s), City of Lindale and LRWSC 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 Smith County within 31 days of receiving this Notice of Approval and to 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 application and service-area contract to the extent provided in this Notice of Approval.
2. The Commission amends City of Lindale's water CCN 12795 as described in this Notice of Approval.
3. The Commission amends LRWSC's water CCN number 10758 as described in this Notice of Approval and as shown in 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 Ann. §§ 2001.001-.902.

6. City of Lindale must provide service to every customer and qualified applicant for water service within the approved area under CCN number 12795 that requests water service and meets the terms of City of Lindale's service, and such service must be continuous and adequate.
7. LRWSC must provide service to every customer and qualified applicant for water service within the approved area under CCN number 10758 that requests water service and meets the terms of LRWSC's water service, and such service must be continuous and adequate.
8. City of Lindale and LRWSC 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 submit to the Commission evidence of the recording no later than 45 days after receipt of this Notice of Approval.
9. 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 _____, 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

ISSAC TA
ADMINISTRATIVE LAW JUDGE

DOCKET NO. 53148

APPLICATION OF THE CITY OF	§	PUBLIC UTILITY COMMISSION
LINDALE AND LINDALE RURAL	§	
WATER SUPPLY CORPORATION FOR	§	OF TEXAS
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ATTORNEYS FOR CITY OF LINDALE

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C. Joe Freeland

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Signed at Austin, Texas, the _____ day of _____, 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

ISSAC TA
ADMINISTRATIVE LAW JUDGE