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DOCKET NO. 53262

PETITION OF BLACKLAND WATER	§	PUBLIC UTILITY COMMISSION
SUPPLY CORPORATION AND THE	§	
CITY OF ROCKWALL FOR	§	OF TEXAS
APPROVAL TO AMEND	§	
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY UNDER TEXAS	§	
WATER CODE § 13.255(a) IN	§	
ROCKWALL COUNTY	§	

NOTICE OF APPROVAL

This Notice of Approval addresses the petition of Blackland Water Supply Corporation and the City of Rockwall to amend Blackland WSC’s water certificate of convenience and necessity (CCN) number 11305 in Rockwall County. The petitioners seek to remove approximately 649 acres of bounded certificated service area and approximately three miles of facilities-plus-200-foot certificated service area from Blackland WSC’s CCN number 11305. The petitioners agree that the areas removed from Blackland WSC’s CCN number 11305 have been, and will continue to be, provided water service by Rockwall. The Commission approves the removal of the certificated service areas and facilities and amends CCN number 11305 accordingly.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioners

1. Rockwall is a Texas home rule city located in Rockwall County.
2. Rockwall operates, maintains, and controls facilities in Texas for providing potable water service for compensation only within its corporate limits.
3. Rockwell is not required to hold, and does not hold, a CCN.
4. Blackland WSC is a Texas nonprofit water supply corporation registered with the Texas secretary of state under filing number 0022170201.
5. Blackland WSC operates, maintains, and controls facilities in Texas for providing potable water service for compensation in Rockwall County under CCN number 11305.

Background

6. Over the course of several decades, Blackland WSC and Rockwall entered into a series of three agreements by which Blackland WSC ceded to Rockwall portions of its certificated service area under CCN number 11305 that had been annexed by Rockwall. In each agreement, Rockwall acquired from Blackland WSC the service areas and the facilities used to service those areas. In each case, although Blackwell WSC agreed to cease providing water service in the areas covered by the agreements, the Commission or a predecessor agency was not made aware of the agreements, and the agreed areas were never removed from the service area for Blackland's CCN number 11305 by the Commission or a predecessor agency.
7. In this proceeding, Blackland WSC and Rockwall now seek to have the boundaries of Blackland WSC's CCN number 11305 reduced to conform with the terms of the agreements.

The 1989 Agreement

8. In a water system purchase contract dated March 6, 1989, Rockwall purchased the portion of Blackland WSC's water distribution facilities, property, and certificated service area located within areas that Rockwall had annexed into its municipal boundaries.
9. Although the agreement was dated March 6, 1989, the parties agreed that the transfer of ownership occurred "as of December 3, 1985."
10. Rockwall and Blackland WSC agreed that the transferred areas became "part of Rockwall's municipal water system," and that Blackland WSC "shall have no further right or obligation to serve or to provide water service to customers" within the transferred areas.
11. The agreement specified, "if Blackland [WSC] has been certified for the area, this agreement shall be filed with the Texas Water Commission¹ along with application to decertify Blackland [WSC] from the said area."

¹ At the time, the Texas Water Commission was the state agency with regulatory authority over CCNs. Since then, the regulatory authority has been transferred to the Commission.

12. The parties concede that there is no indication that the agreement was ever filed with the Texas Water Commission and the area transferred in the 1989 agreement was never removed from the certificated service area of Blackland WSC's CCN number 11305.
13. Rockwall paid to Blackland WSC the consideration required under the agreement.
14. Rockwall and Blackland WSC have been unable to locate the map that was attached to and reference in the 1989 agreement, however they maintain that the area transferred "included approximately 151.16 acres across two tracts," plus a transfer to Rockwall of two areas that were "facilities-plus-200-feet" portions of Blackland WSC's CCN.
15. Since at least 1989, Rockwall has provided water service to the transferred areas, and Blackland WSC has not provided water service to the transferred areas.

The 2007 Agreement

16. In an agreement to transfer portions of retail water service area dated December 14, 2007, Rockwall purchased portions of Blackland WSC's water distribution facilities, property, and certificated service area located within areas that Rockwall had annexed into its municipal boundaries.
17. The specific areas at issue are referred to in the 2007 agreement as the Currington Tract, Loftis Tract, Existing Home Tract, and FM 549 Tract.
18. Collectively, the four tracts that were transferred comprised 499.32 acres.
19. Blackland WSC and Rockwall agreed that Blackland WSC transferred all of its CCN rights as to the transferred area.
20. The agreement specified that the signatories would promptly apply to the Texas Commission on Environmental Quality (TCEQ)² "to transfer the Transfer Area to the City's CCN," and that, once that transfer was complete, Blackland WSC would have no further obligation or right to provide water service in the transferred area.

² Prior to the 2007 agreement, regulatory authority over CCNs was transferred from the Texas Water Commission to the TCEQ.

21. The parties concede that there is no indication that the agreement was ever filed with the TCEQ and the area was never removed from the certificated service area under Blackland WSC's CCN number 11305.
22. Rockwall paid to Blackland WSC the consideration required under the agreement.
23. Since at least 2012, Rockwall has provided water service to the transferred areas, and Blackland WSC has not provided water service to the transferred areas.

The 2012 Agreement

24. In an agreement to transfer portions of retail water service area and certain water distribution facilities dated July 18, 2012, Rockwall purchased portions of Blackland WSC's water distribution facilities, property, and certificated service area located within areas that Rockwall had annexed into its municipal boundaries.
25. The area transferred consisted of a 41.523-acre tract and several other small lots of unspecified sizes.
26. Blackland WSC and Rockwall agreed that Blackland WSC transferred all of its CCN rights as to the transferred areas.
27. The agreement specified that the signatories would promptly apply to the Texas Commission on Environmental Quality (TCEQ) revise Blackland WSC's CCN and that, once that transfer was complete, Blackland WSC would have no further obligation or right to provide water service in the transferred area.
28. The parties concede that there is no indication that the agreement was ever filed with the Texas Water Commission and decertification of Blackland WSC from the area never occurred.
29. Rockwall paid to Blackland WSC the consideration required under the agreement.
30. Since at least 2012, Rockwall has provided water service to the transferred areas, and Blackland WSC has not provided water service to the transferred areas.

Petition

31. On March 25, 2022, Rockwall and Blackland WSC filed the joint petition at issue in this proceeding requesting, by agreement, the removal of the areas identified in the 1989, 2007, and 2012 agreements from the certificated service area of Blackland WSC's CCN number 11305.
32. Copies of the three agreements are included in the petition.
33. On May 13 and September 12, 2022, the petitioners filed supplemental information.
34. The requested area consists of approximately 649 acres of bounded CCN area and approximately 3 miles of "facilities +200 feet" CCN area located within Rockwall's corporate limits.
35. In Order No. 2 filed on April 18, 2022, the administrative law judge (ALJ) found the application administratively complete.

Notice

36. Rockwall and Blackland WSC entered into the agreements over the requested areas as allowed by 16 TAC § 24.259(d).
37. The agreements were all executed many years ago and Rockwall has, for the many years since the agreements were executed, been the sole provider of water service within the areas transferred by the agreements.
38. Because Blackland WSC was a signatory to each of the agreements, it was well aware of Rockwall's intention to become the service provider in the areas covered by the agreements, and had sufficient notice of the agreements.
39. In Order No. 2 filed on April 18, 2022, the ALJ found the notice sufficient.

Map and Certificate

40. On June 20, 2022, Commission Staff emailed its proposed final map and certificate to Blackland WSC and Rockwall.
41. On June 29, 2022, Blackland WSC filed its consent to the proposed map and certificate.
42. On June 29, 2022, Rockwall filed its consent to the proposed map.

43. On June 23, 2023, the proposed map and certificate were filed as attachments to Commission Staff's supplemental joint motion to admit evidence and proposed notice of approval.

Evidentiary Record

44. In Order No. 5 filed on August 1, 2022, the ALJ admitted the following evidence into the record of this proceeding:
- a. the joint petition and all attachments filed on March 25, 2022;
 - b. Commission Staff's recommendation on administrative completeness and notice and proposed procedural schedule filed on April 14, 2022;
 - c. the petitioners' letter to Central Records Clerk (Errata) with corrected exhibits G and H filed on May 13, 2022;
 - d. Commission Staff's amended recommendation on administrative completeness and notice and proposed procedural schedule filed on May 25, 2022;
 - e. Blackland WSC's executed consent form filed on June 29, 2022;
 - f. Rockwall's executed consent form filed on June 29, 2022; and
 - g. Commission Staff's final recommendation including all attachments filed on July 13, 2022.
45. In Order No. 8 filed on July 27, 2023, the ALJ admitted into the record of this proceeding the letter to Chief ALJ Burkhalter regarding Blackland WSC's support of request for stay of Order No. 6 filed on August 22, 2022.

Informal Disposition

46. More than 15 days have passed since the completion of the notice provided in this docket.
47. No person filed a protest or motion to intervene.
48. Blackland WSC, Rockwall, and Commission Staff are the only parties to this proceeding.
49. No party requested a hearing and no hearing is needed.
50. Commission Staff recommended approval of the application.

51. 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 Texas Water Code (TWC) §§ 13.041, 13.241, and 13.255(a).
2. Blackland WSC and Rockwall are retail public utilities as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. Rockwall operates a municipally owned utility as defined in TWC § 13.002(13).
4. The petitioners substantially complied with the notice requirements of 16 TAC § 24.259(c) and no further notice is required.
5. The application was processed in accordance with the TWC, the Administrative Procedure Act,³ and Commission rules.
6. Rockwall and Blackland WSC are entitled to approval of their petition to remove areas from Blackland WSC's CCN number 11305, having demonstrated that the service area to be removed is within Rockwall's corporate limits and having provided a copy of the agreements, which state that Rockwall may serve the requested areas, as required by TWC § 13.255(a).
7. Under TWC § 13.257(r) and (s), Blackland WSC must record a certified copy of its approved map and certificate, along with a boundary description of its service area, in the real property records of Rockwall 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.

³ Tex. Gov't Code §§ 2001.001–.903.

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 petition to the extent provided in this Notice of Approval.
2. The Commission amends Blackland WSC's CCN number 11305, as described in this Notice of Approval and shown on the map attached to this Notice of Approval.
3. The Commission approves the map attached to this Notice of Approval.
4. The Commission issues the certificate attached to this Notice of Approval.
5. Blackland WSC is no longer required to serve any customer or applicant for service within the areas removed from its CCN number 11305.
6. Blackland WSC must provide service to every customer and qualified applicant for water service within the approved area under CCN number 11305 who requests water service and meets the terms of Blackland WSC's water service policies, and such service must be continuous and adequate.
7. Blackland WSC must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Rockwall 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.
8. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas on the 27th day of July 2023.

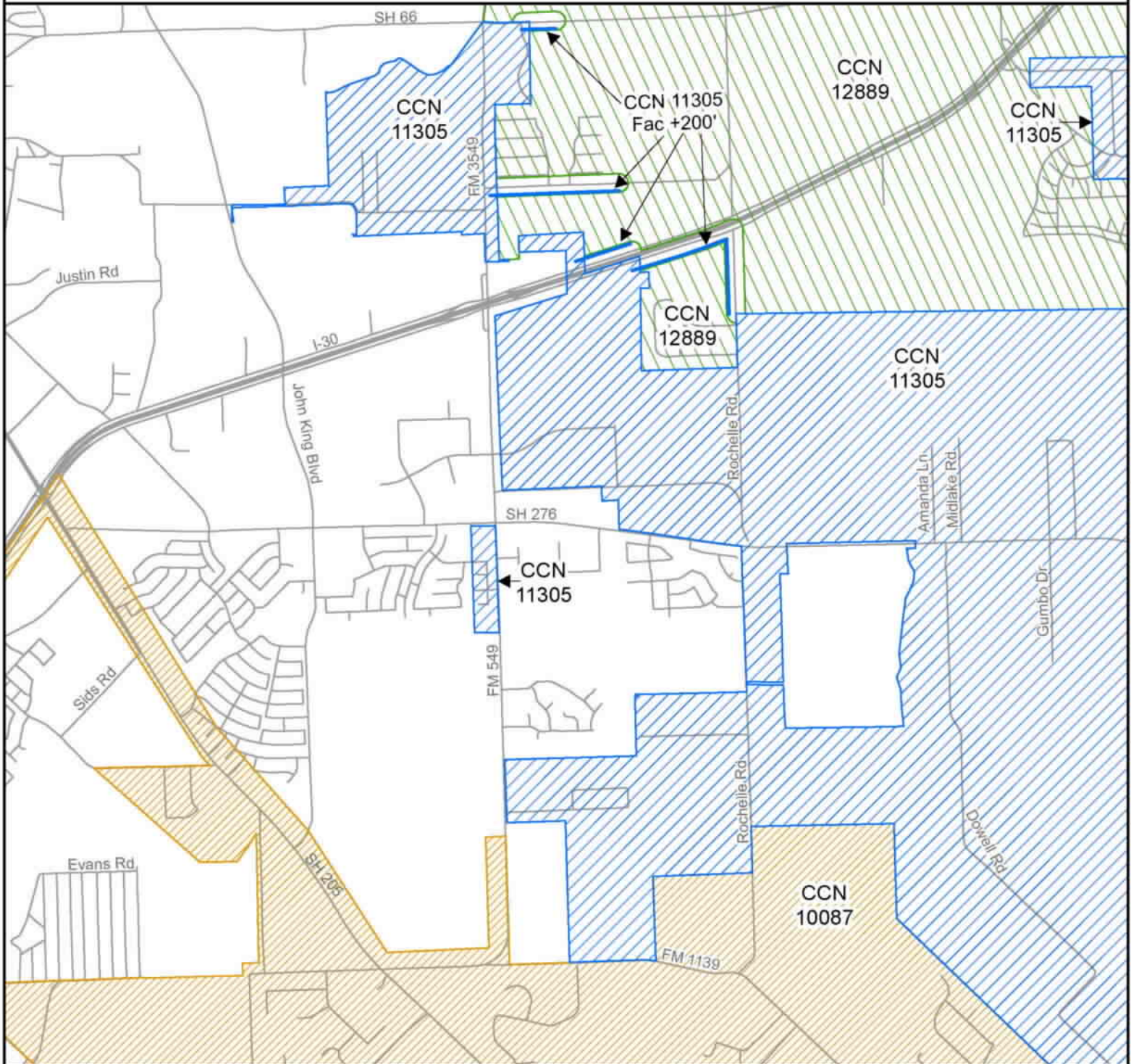
PUBLIC UTILITY COMMISSION OF TEXAS



HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE

Blackland Water Supply Corporation
Portion of Water CCN No. 11305
PUC Docket No. 53262


13.255 Agreement Decertified a Portion of Blackland Water Supply Corporation, CCN No. 11305 in
Rockwall County



Water CCN

-  11305 - Blackland WSC
-  12889 - City of Fate

Water CCN Facilities +200'

-  11305 - Blackland WSC





Public Utility Commission of Texas

By These Presents Be It Known To All That

Blackland 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, Blackland Water Supply Corporation is entitled to this

Certificate of Convenience and Necessity No. 11305

to provide continuous and adequate water utility service to that service area or those service areas in Hunt and Rockwall counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 53262 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 Blackland 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.