



## **Filing Receipt**

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**Control Number - 54174**

**Item Number - 42**

**DOCKET NO. 54174**

<b>APPLICATION OF 84 WEST WATER</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>SUPPLY CORPORATION AND CITY</b>	<b>§</b>	
<b>OF MEXIA FOR SALE, TRANSFER,</b>	<b>§</b>	<b>OF TEXAS</b>
<b>OR MERGER OF FACILITIES AND</b>	<b>§</b>	
<b>CERTIFICATE RIGHTS IN</b>	<b>§</b>	
<b>LIMESTONE COUNTY</b>	<b>§</b>	

**NOTICE OF APPROVAL**

This Notice of Approval addresses the application of 84 West Water Supply Corporation and the City of Mexia for approval of the sale, transfer, or merger of facilities and certificate rights in Limestone County. The Commission approves the sale and transfer of all facilities and service area held under 84 West WSC's certificate of convenience and necessity (CCN) number 10786 to Mexia; the cancellation of 84 West WSC's CCN number 10786; and the amendment of Mexia's CCN number 10770 to include the facilities and service area previously included in 84 West WSC's CCN number 10786.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicants**

1. 84 West WSC is a Texas non-profit corporation registered with the Texas secretary of state under file number 0027360201.
2. 84 West WSC operates, maintains, and controls facilities for providing retail water service in Limestone County under CCN number 10786.
3. 84 West WSC owns and operates a public a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under public water system identification number 1470015.
4. Mexia is a home rule municipality located in Limestone County.
5. Mexia operates, maintains, and controls facilities for providing water service under CCN number 10770.

6. Mexia owns and operates a public a public water system registered with the TCEQ under public water system identification number 1470004.

**Application**

7. On September 30, 2022, the applicants filed the application at issue in this proceeding.
8. In this application, 84 West WSC and Mexia seek approval of the following transaction:
  - a. Mexia will acquire all of 84 West WSC's facilities, customers, and certificated service area under CCN number 10786;
  - b. 84 West WSC's CCN number 10786 will be cancelled; and
  - c. Mexia's CCN number 10770 will be amended to include the facilities and area previously included in 84 West WSC's CCN number 10786
9. On October 11 and 26, 2022, and January 10, 2023, the applicants filed supplements to the application.
10. The requested area comprises approximately 19,369 linear feet and 56 current customer connections.
11. The requested area is located approximately one mile west of downtown Mexia, Texas, and is generally bounded on the north by a parallel line approximately 155 feet north of United States Highway 84; on the east by the intersection of United States Highway 84 and West College Avenue; on the south by the intersection of County Road 481 and County Road 474; and on the west by the intersection of United States Highway 84 and Farm-to-Market Road 2838.
12. In Order No. 2 filed on November 1, 2022, the ALJ found the application, as supplemented, administratively complete.

**Notice**

13. On November 22, 2022, the applicants filed the affidavit of Charles Buenger, city attorney for Mexia, attesting that notice, along with maps, was provided to current customers, neighboring utilities, and affected parties on November 9, 2022.

14. On November 22, 2022, the applicants filed a publisher's affidavit attesting to the publication of notice in the *Mexia News*, a newspaper of general circulation in Limestone County, on November 12 and 19, 2022.
15. In Order No. 3 filed on December 13, 2022, the ALJ found the notice sufficient.
16. On July 13, 2023, the applicants filed the affidavit of Mr. Buenger, city attorney for Mexia, attesting that revised supplemental notice, along with maps, was provided on July 12, 2023, to each landowner with property of 25 acres or more that is wholly or partially in the requested area according to the September 30, 2022 tax appraisal rolls of Limestone County.
17. In Order No. 12 filed on August 29, 2023, the ALJ found the revised supplemental notice sufficient.

**Evidentiary Record**

18. In Order No. 5 filed on March 3, 2023, the ALJ admitted the following evidence into the record of this proceeding:
  - a. The application and all attachments filed on September 30, 2022;
  - b. The applicants' mapping supplement to the application filed on October 11, 2022;
  - c. Mexia's annual budget for fiscal year 2021 through 2022 filed on October 26, 2022;
  - d. The minutes of 84 West WSC's April 12, 2022 membership meeting filed on October 26, 2022;
  - e. Commission Staff's recommendation on administrative completeness and all attachments filed on October 31, 2022;
  - f. The applicants' proof of notice filed on November 22, 2022;
  - g. Commission Staff's recommendation on sufficiency of notice and all attachments filed on December 12, 2022;
  - h. The applicants' projected net income and expense for service area filed on January 10, 2023;

- i. Commission Staff's recommendation on approval of the sale and all attachments filed on January 25, 2023; and
  - j. The applicants' concurrence with Commission Staff's recommendation on approval of the sale filed on February 8, 2023.
19. In Order No. 13 filed on October 2, 2023, the ALJ admitted the following supplemental evidence into the record of this proceeding:
- a. The applicants' notice of completed transaction filed on March 23, 2023;
  - b. Commission Staff's recommendation on sufficiency of the closing documents filed on April 10, 2023;
  - c. The applicants' signed consent forms filed on May 30, 2023;
  - d. The applicants' revised supplemental documentation regarding additional mailed notice to landowners in response to Order No. 8 filed on July 13, 2023;
  - e. Commission Staff's recommendation on the sufficiency of revised supplemental notice filed on August 24, 2023; and
  - f. The final map and certificate attached to the supplemental joint motion to admit evidence and proposed notice of approval filed on September 15, 2023.

### **Sale**

20. In Order No. 6 filed on March 9, 2023, the ALJ approved the sale and transaction to proceed, and required the applicants to file proof that the transaction had closed, and that customer deposits had been addressed.
21. On March 23, 2023, the applicants filed proof that the sale had closed and that there were no outstanding customer deposits that needed to be addressed.
22. In Order No. 7 filed on April 13, 2023, the ALJ found the closing documentation sufficient.

### **Purchaser's Compliance History**

23. Mexia does not have any violations listed in the TCEQ database.
24. Mexia has not been under an enforcement action by the Commission, TCEQ, Texas Health and Human Services, the Office of the Texas Attorney General, or the United States

Environmental Protection Agency in the past five years for non-compliance with rules, orders, or state statutes.

25. Mexia does not have a history of continuing mismanagement or misuse of revenues as a utility service provider.
26. The Commission's complaint records, which date back to 2017, show no complaints against Mexia.
27. Mexia demonstrated a compliance history that is adequate for approval of the transaction to proceed.

**Adequacy of Existing Service**

28. There are currently 56 customer connections in the requested area that are being served by 84 West WSC and such service has been continuous and adequate.
29. 84 West WSC has no existing violations listed in the TCEQ database.
30. The Commission's complaint records, which date back to 2017, show no complaints against 84 West WSC.

**Need for Additional Service**

31. There is a continuing need for service because 84 West WSC currently serves 56 customer connections in the requested area.
32. This application is to transfer only existing facilities, customers, and service area.
33. There is no evidence of specific requests for additional service within the requested area.

**Effect of Approving the Transaction**

34. All retail public utilities in the proximate area were provided notice of the transaction taking place in this application and none filed a protest or motion to intervene.
35. There is no evidence that approval of the transaction will have any adverse effect on any other retail public utility providing service in the proximate area.
36. 84 West WSC is the only utility affected by this transfer.
37. There will be no adverse effect on landowners in the requested area because the requested area is currently certificated.

38. Approving the sale and transfer and granting the CCN amendment will obligate Mexia to provide continuous and adequate water service to current and future customers in the requested area.

**Ability to Serve: Managerial and Technical**

39. Mexia owns and operates a TCEQ-approved public water system registered as City of Mexia, public water system identification number 1470004.
40. Mexia will have a class C licensed operator to run the system.
41. Mexia has the technical and managerial capability to provide adequate and continuous service to the requested area.

**Feasibility of Obtaining Service from Adjacent Retail Public Utility**

42. 84 West WSC is currently serving customers and has sufficient capacity.
43. Obtaining service from an adjacent retail public utility would likely increase costs to customers because new facilities would need to be constructed.
44. It is not feasible to obtain service from an adjacent retail public utility.

**Regionalization or Consolidation**

45. It will not be necessary for Mexia to construct a physically separate water system to serve the requested area.
46. Because the requested area will not require construction of a physically separate sewer system, consideration of regionalization or consolidation with an adjacent retail public utility is not required.

**Ability to Serve: Financial Ability and Stability**

47. Mexia has a debt-to-equity ratio that is less than one, satisfying the leverage test.
48. Mexia demonstrated it has sufficient cash and net operating income available to cover any projected operations and maintenance shortages in the first five years of operations after completion of the proposed transaction, satisfying the operations test.
49. No capital improvements are required to provide continuous and adequate service to existing customers.

50. Mexia has demonstrated the financial capability and stability to pay for the facilities necessary to provide continuous and adequate service to the requested area.

**Financial Assurance**

51. There is no need to require Mexia to provide a bond or other financial assurance to ensure continuous and adequate service.

**Environmental Integrity and Effect on the Land**

52. There will be no effect on environmental integrity or the land because no additional construction is needed to provide service to the requested area.

**Improvement in Service or Lowering Cost to Consumers**

53. Reliability and quality of water service is expected to improve under Mexia's management.
54. The rates charged to customers in the requested areas will be lower than the rates currently charged by 84 West WSC.

**Map and Certificate**

55. On May 12, 2023, Commission Staff emailed 84 West WSC and Mexia the final proposed map and certificate related to this docket.
56. On May 30, 2023, 84 West WSC and Mexia filed consent forms concurring with the proposed final map and certificate.
57. On September 15, 2023, the final map and certificate were included as attachments to the supplemental joint motion to admit evidence.

**Informal Disposition**

58. More than 15 days have passed since the completion of notice provided in this docket.
59. No person filed a protest or motion to intervene.
60. 84 West WSC, Mexia, and Commission Staff are the only parties to this proceeding.
61. No party requested a hearing and no hearing is needed.
62. Commission Staff recommended approval of the application.
63. 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 this proceeding under Texas Water Code (TWC) §§ 13.241, 13.242, 13.244, 13.246, 13.251, and 13.301.
2. 84 West WSC and Mexia are retail public utilities as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. Notice of the application was provided in compliance with TWC §§ 13.246 and 13.301(a)(2), and 16 TAC § 24.239(c).<sup>1</sup>
4. 84 West WSC and Mexia's application meets the requirements of TWC § 13.244 and 16 TAC § 24.233.
5. The Commission processed this application as required by the TWC, the Administrative Procedure Act,<sup>2</sup> and Commission rules.
6. 84 West WSC and Mexia have complied with the requirements of 16 TAC § 24.239(k) and (l) with respect to customer deposits.
7. 84 West WSC and Mexia completed the sale and transfer within the time required by 16 TAC § 24.239(m).
8. After consideration of the factors in TWC § 13.246(c), Mexia demonstrated that it is capable of rendering continuous and adequate service to every customer within the requested area, as required by TWC § 13.251.
9. Mexia demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service in the requested area as required by TWC §§ 13.241(a) and 13.301(b).
10. Regionalization and consolidation concerns under TWC § 13.241(d) do not apply in this proceeding because construction of a physically separate sewer system is not required.

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<sup>1</sup> After this application was filed, 16 TAC § 24.239 was amended, effective March 29, 2023. Accordingly, all references and citations to 16 TAC § 24.239 in this Order are made to the version in effect at the time the application was filed.

<sup>2</sup> Tex. Gov't Code §§ 2001.001-.903.

11. It is not necessary for Mexia to provide bond or other financial assurance under TWC §§ 13.246(d) and 13.301(c).
12. 84 West WSC and Mexia demonstrated that the sale and transfer of 84 West WSC's facilities and service area held under CCN number 10786 to Mexia will serve the public interest and is necessary for the service, accommodation, convenience, or safety of the public under TWC §§ 13.246(b) and 13.301(d) and (e).
13. Under TWC § 13.257(r) and (s), Mexia must record a certified copy of the certificate and the map approved by this Notice of Approval, along with a boundary description of the service area, in the real property records of Limestone County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording.
14. The requirements for informal disposition under TAC 16 § 22.35 have been met in this proceeding.

### **III. Ordering Paragraphs**

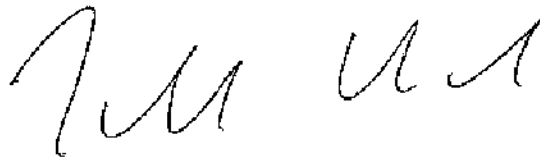
In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission approves the sale and the transfer of all of 84 West WSC's facilities, customers, and service area under CCN number 10786 to Mexia, as shown on the attached map.
2. The Commission amends Mexia's CCN number 10770 to include the area previously included in 84 West WSC's CCN number 10786, as shown on the attached map.
3. The Commission cancels 84 West WSC's CCN number 10786.
4. The Commission approves the map attached to this Notice of Approval.
5. The Commission issues the certificate attached to this Notice of Approval.
6. Mexia must provide service to every customer or qualified applicant for service within the approved area under CCN number 10770 that requests water service and meets the terms of Mexia's water service policies, and such service must be continuous and adequate.

7. Mexia must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Limestone County affected by the application and file in this docket proof of the recording no later than 45 days after receipt of the 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 the 6th day of October 2023.**

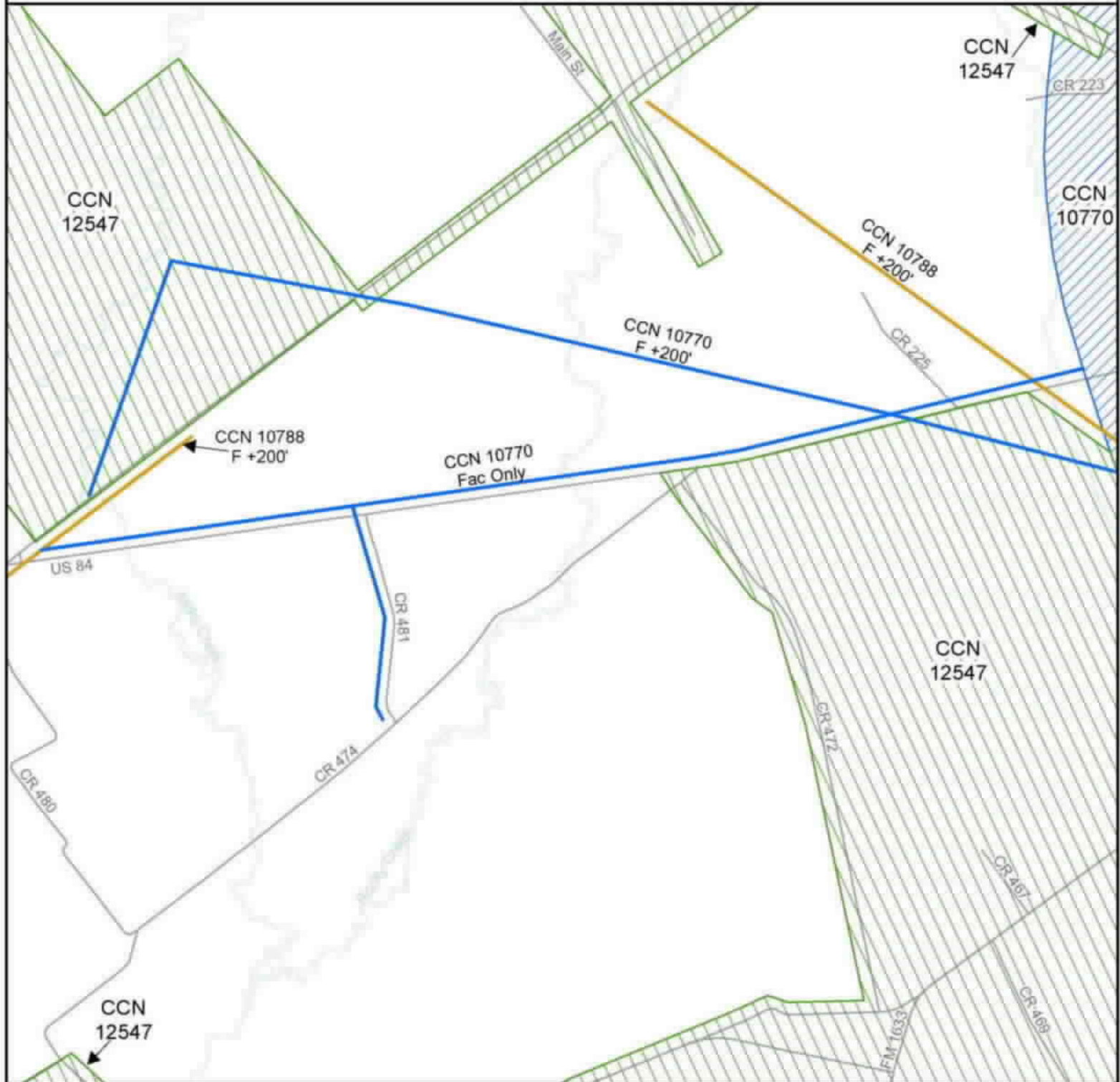
**PUBLIC UTILITY COMMISSION OF TEXAS**

A handwritten signature in black ink, appearing to read 'J. Huhn', is written above a horizontal line.

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**JEFFREY J. HUHN**  
**ADMINISTRATIVE LAW JUDGE**

City of Mexia  
Water CCN No. 10770  
PUC Docket No. 54174  
Transferred all of 84 West Water Supply Corporation, CCN No. 10786 in Limestone County



**Water CCN Facility Only**

— 10770 - City of Mexia

**Water CCN Facility +200'**

— 10770 - City of Mexia

— 10788 - Bistone Municipal WSD

**Water CCN**

 10770 - City of Mexia

 12547 - White Rock WSC

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Feet





# **Public Utility Commission of Texas**

**By These Presents Be It Known To All That**

## **City of Mexia**

having obtained certification to provide water or sewer 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 Mexia is entitled to this

### **Certificate of Convenience and Necessity No. 10770**

to provide continuous and adequate water utility service to that service area or those service areas in Limestone County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 54174 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 Mexia 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.