



Filing Receipt

Filing Date - 2024-08-23 11:07:34 AM

Control Number - 54718

Item Number - 44

DOCKET NO. 54718

APPLICATION OF STAFF WATER	§	PUBLIC UTILITY COMMISSION
SUPPLY CORPORATION AND CITY	§	
OF CARBON FOR SALE, TRANSFER,	§	OF TEXAS
OR MERGER OF FACILITIES AND	§	
CERTIFICATE RIGHTS IN EASTLAND	§	
COUNTY	§	

NOTICE OF APPROVAL

This Notice of Approval addresses the application of Staff Water Supply Corporation and the City of Carbon for approval of the sale, transfer, or merger of facilities and certificate rights in Eastland County. The Commission approves the following: (1) the sale and transfer of a portion of Staff WSC's facilities and service area held under certificate of convenience and necessity (CCN) number 11155 to Carbon; (2) the amendment of Staff WSC's CCN number 11155 to remove the facilities and service area being sold and transferred; and (3) the issuance of CCN number 13311 to Carbon to include the facilities and service area previously held under Staff WSC's CCN number 1115, to the extent provided in this Notice of Approval.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Staff WSC is a Texas non-profit water supply corporation registered with the Texas secretary of state under filing number 29864101.
2. Staff WSC holds CCN number 11155 which obligates it to provide retail water service in its certificated service area in Eastland County.
3. Staff WSC owns two public water systems registered with the Texas Commission on Environmental Quality (TCEQ) as follows:
 - a. the Staff WSC Flatwood Area public water system, under identification number 0670030; and
 - b. the Staff WSC Kokomo Area public water system, under identification number 0670031.

4. Carbon is a municipality located in Eastland County.
5. Carbon owns a public water system registered with the TCEQ as City of Carbon, under identification number 0670015.

Application

6. On March 7, 2023, the applicants filed the application at issue in this proceeding.
7. On April 25 and May 5, 2023, Carbon filed supplemental information.
8. In the application, as supplemented, the applicants seek approval of the following:
 - a. the sale and transfer of the Staff WSC Flatwood Area and Staff WSC Kokomo Area public water systems to Carbon;
 - b. the sale and transfer of a portion of Staff WSC's service area held under CCN number 11155 to Carbon;
 - c. the amendment of Staff WSC's CCN number 11155 to remove the facilities being sold and transferred; and
 - d. the issuance of a new CCN to Carbon.
9. The requested area is comprised of 1,109.8 acres and 92 customer connections.
10. The requested area is located as follows:
 - a. North (CCN facility line plus 200 feet) - approximately 3.75 miles northeast of downtown Carbon, Texas, and is generally bounded on the north by County Road 305; on the east by County Road 298; on the south by Farm-to-Market Road 2563; and on the west by State Highway 6. The North requested area contains 426.6 acres.
 - b. South (CCN facility line plus 200 feet) - approximately 0.45 miles northeast of downtown Carbon, Texas, and is generally bounded on the north by County Road 300; on the east by Farm-to-Market Road 2689; on the south by State Highway 6; and on the west by the intersection of West Asphalt Road and 4th Street. The South requested area contains 764.2 acres.

11. In Order No. 3 filed on June 7, 2023, the administrative law judge (ALJ) found the application, as supplemented, administratively complete.

Notice

12. On June 29, 2023, Carbon filed the affidavit of Sylvia Gosnell, Carbon's city secretary, attesting that mailed notice was provided to current customers of Staff WSC, neighboring utilities, and affected parties on June 9, 2023. The affidavit also attested that notice was published in *The Eastland Telegram/Eastland County Today*, a newspaper having general circulation in Eastland County on June 15 and 22, 2023. Carbon also included copies of the notice for publication in *The Eastland Telegram/Eastland County Today*, a list of the customers receiving notice, neighboring utilities, and affected parties that received notice; copies of the notices that were provided to each landowner; and maps of the landowners' locations.
13. On July 28, 2023, Carbon filed the affidavit of Corey Hull, mayor of Carbon, attesting that notice was given to all landowners with land over 25 acres wholly or partly inside the requested area. Carbon also included a list of landowners that received notice and a map of the landowners' locations.
14. In Order No. 5 filed on August 15, 2023, the ALJ found the notice, as supplemented, sufficient.

Evidentiary Record

15. In Order No. 7 filed on November 17, 2023, the ALJ admitted the following evidence into the record of this proceeding:
 - a. the application of Staff WSC and Carbon filed March 7, 2023;
 - b. Carbon's response to notice filed on April 25, 2023;
 - c. area maps filed on May 5, 2023;
 - d. Commission Staff's supplemental recommendation on administrative completeness and notice and proposed procedural schedule filed on June 5, 2023;
 - e. Carbon's response to staff recommendations for public notice filed June 29, 2023;
 - f. Carbon's response to Order No. 4 filed July 28, 2023;

- g. Commission Staff's recommendation on sufficiency of notice filed August 14, 2023; and
 - h. Commission Staff's recommendation on the approval of the sale filed on September 25, 2023.
16. In Order No. 13 filed on August 23, 2024, the ALJ admitted the following evidence into the record of this proceeding:
- a. Carbon's response to request for additional documents filed on April 16, 2024;
 - b. Carbon's response to Order No. 10 filed on May 30, 2024;
 - c. Commission Staff's supplemental recommendation on sufficiency of closing documents filed on June 20, 2024;
 - d. signed consent form filed on June 28, 2024;
 - e. signed consent form filed on July 1, 2024; and
 - f. the final map and certificates attached to the joint motion to admit evidence and proposed notice of approval filed on July 30, 2024.

Sale

17. In Order No. 8 filed on November 21, 2023, the Commission approved the sale and transfer to proceed and required the applicants to file proof that the transactions had closed and that customer deposits had been addressed.
18. On April 16 and 19 and May 30, 2024, the applicants filed proof that the sale had closed and that there were no outstanding customer deposits that needed to be addressed.
19. In Order No. 12 filed on June 24, 2024, the ALJ found the closing documents sufficient.

Carbon's Compliance History

20. Carbon has resolved all violations and has agreed orders with the TCEQ to address issues that were under enforcement action.
21. Carbon does not have a history of continuing mismanagement or misuse of revenues as a utility service provider.

22. Carbon has demonstrated a compliance history that is adequate for approval of the transaction.

Adequacy of Existing Service

23. There are currently 92 existing customers in the requested area that are being served by Staff WSC and such service has been continuous and adequate.
24. The last TCEQ compliance investigation of Staff WSC was on October 23, 2020.
25. Staff WSC has violations listed in the TCEQ database that have since been resolved.
26. The Commission's complaint records, which date back five years, show one complaint against Staff WSC.
27. All the complaints have been reviewed and closed by the Commission's Customer Protection Division.
28. Capital improvements in excess of \$100,000 are necessary for Carbon to continue providing continuous and adequate service to the requested area.
29. There is no evidence in the record that Staff WSC has failed to comply with any Commission or TCEQ order.

Need for Additional Service

30. There are 92 existing customer connections in the requested area receiving service from Staff WSC and have an ongoing need for service.
31. There is no evidence of specific requests for additional service within the requested area.

Effect of Approving the Transaction

32. Carbon will be the sole certificated water retail public utility for the requested area.
33. Carbon will be required to provide continuous and adequate water service to current and future customers in the requested area.
34. There will be no effect on landowners because the requested area is currently certificated.
35. Any landowners in the requested area who do not currently receive service from Staff WSC will be able to obtain water service from Carbon after approval of the transaction.

36. All retail public utilities in the proximate area were provided notice of the application and no protests, adverse comments, or motions to intervene were filed.
37. There will be no effect on any other retail public utility providing service in the proximate area.

Ability to Serve: Managerial and Technical

38. Carbon employs or contracts with a TCEQ-licensed operator who will be responsible for the operation of the public water systems being transferred.
39. Carbon has the managerial and technical capability to provide continuous and adequate service to the requested area.

Ability to Serve: Financial Capability and Stability

40. Carbon has a debt-to-equity ratio that is less than one, satisfying the leverage test.
41. Carbon has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations following approval of the transaction, satisfying the operations test.
42. Carbon demonstrated it has cash reserves and has obtained a loan from the Texas Water Development Board to pay for the purchase of the public water systems and the capital improvements necessary to provide continuous and adequate water service to the requested area.
43. Carbon filed a capital improvement plan that included a budget and an estimated timeline for construction of all facilities necessary to provide full service to the requested area, keyed to a map showing where such facilities will be located to provide service.
44. Carbon demonstrated the financial capability and stability to pay for the facilities necessary to provide continuous and adequate service to the requested area.

Financial Assurance

45. There is no need to require Carbon to provide a bond or other financial assurance to ensure continuous and adequate service to the requested area.

Feasibility of Obtaining: Service from Adjacent Retail Public Utility

46. Staff WSC is currently serving customers using water purchased from Carbon and such service has been continuous.
47. Carbon is an adjacent retail public utility, is interconnected to the public water systems being sold and transferred, and supplies water to Staff WSC.
48. It is not feasible to obtain service from another adjacent retail public utility.

Regionalization or Consolidation

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

Environmental Integrity and Effect on the Land

51. The effects on environmental integrity and the land will be temporary as capital improvements are made to enable Carbon to provide continuous and adequate service to the requested area.

Improvement in Service or Lowering Cost to Consumers

52. Current customers' rates will not change from the rates currently charged by Staff WSC.
53. Reliability and quality of water services is expected to improve under Carbon's management.

Map and Certificates

54. On June 25, 2024, Commission Staff emailed the final proposed map and certificates to the applicants.
55. On June 28, 2024, Staff WSC filed its consent form concurring with the proposed final map and certificates.
56. On July 1, 2024, Carbon filed its consent form concurring with the proposed final map and certificates.

57. On July 30, 2024, the proposed final map and certificates were filed as attachments to the joint motion to admit supplemental evidence and proposed notice of approval.

Informal Disposition

58. More than 15 days have passed since the completion of the notice provided in this docket.
59. No person filed a protest or motion to intervene.
60. Staff WSC, Carbon, 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 sale.
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) §§ 13.041, 13.241, 13.242, 13.244, 13.246, 13.250, 13.251, and 13.301.
2. Staff WSC and Carbon 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).¹
4. Staff WSC and Carbon's application meets the requirements of TWC § 13.244 and 16 TAC § 24.233.
5. The Commission processed the application in accordance with the requirements of the TWC, the Administrative Procedure Act,² and Commission rules.
6. The applicants complied with the requirements of 16 TAC § 24.239(k) and (l) with respect to customer deposits.

¹ 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.

² Tex. Gov't Code §§ 2001.001–.903.

7. The applicants 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), Carbon 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. Carbon 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 water system is not required.
11. It is not necessary for Carbon to provide bond or other financial assurance under TWC §§ 13.246(d) and 13.301(c).
12. The applicants demonstrated that the sale and transfer of a portion of Staff WSC's facilities and service area under CCN number 11155 to Carbon and issuing a CCN to Carbon will serve the public interest and is necessary for the continued service, accommodation, convenience, or safety of the public, as required by TWC § 13.246(b) and 13.301(d) and (e).
13. Under TWC § 13.257(r) and (s), Staff WSC and Carbon must each record a certified copy of the certificates and the map approved by this Notice of Approval, along with a boundary description of the service area, in the real property records of Eastland 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 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 sale and transfer of a portion of Staff WSC's facilities and service area held under CCN number 11155 to Carbon.
2. The Commission amends Staff WSC's CCN number 11155 to remove the facilities and service area being sold and transferred, as shown on the map attached to this Notice of Approval.
3. The Commission issues CCN number 13311, which includes the facilities and service area being sold and transferred from Staff WSC.
4. The Commission approves the map attached to this Notice of Approval.
5. The Commission issues the certificates attached to this Notice of Approval.
6. Staff WSC must provide service to every customer or qualified applicant for service within the approved area under CCN number 11155 that requests service and meets the terms of Staff WSC's water service policies, and such service must be continuous and adequate.
7. Carbon must provide service to every customer or qualified applicant for service within the approved area under CCN number 13311 that requests service and meets the terms of Carbon's water service policies, and such service must be continuous and adequate.
8. Staff WSC and Carbon must each comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Eastland County affected by the application and must submit to the Commission evidence of the recording no later than 45 days after receipt of the Notice of Approval.
9. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas on the 23rd day of August 2024.

PUBLIC UTILITY COMMISSION OF TEXAS



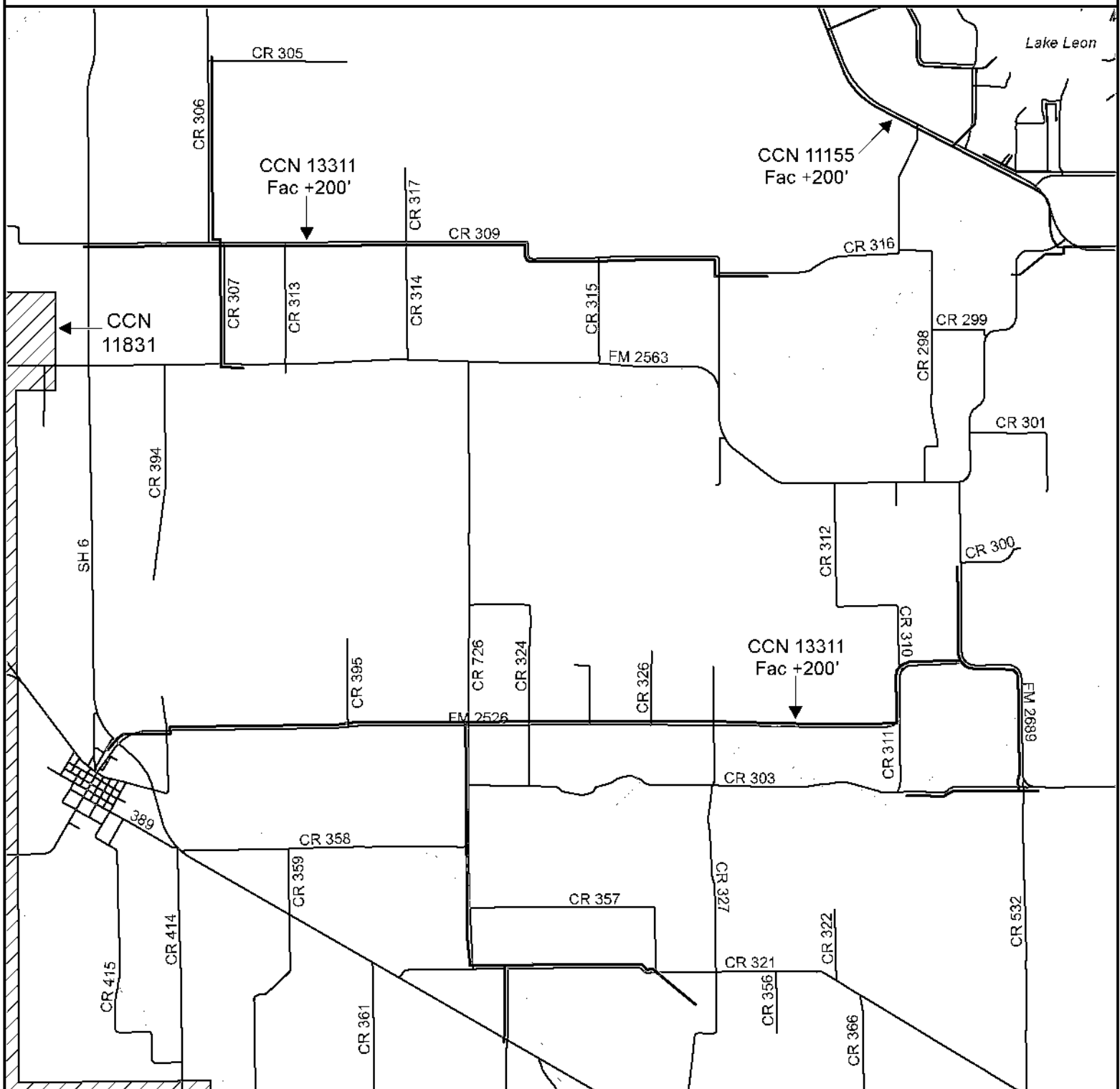
**ISAAC TA
ADMINISTRATIVE LAW JUDGE**

PUCT Docket No. 54718

City of Carbon

Water CCN No. 13311

Obtain New Water CCN and Transfer a Portion of Staff WSC, CCN No. 11155 in Eastland County



Water CCN Facilities +200'

- 13311 - City of Carbon
- 11155 - Staff WSC

Water CCN

- ▨ 11831 - Westbound WSC



Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Carbon

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 Carbon is entitled to this

Certificate of Convenience and Necessity No. 13311

to provide continuous and adequate water utility service to that service area or those service areas in Eastland County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 54718 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 Carbon 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 Staff 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, Staff Water Supply Corporation is entitled to this

Certificate of Convenience and Necessity No. 11155

to provide continuous and adequate water utility service to that service area or those service areas in Eastland and Stephens counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 54718 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 Staff 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.