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DOCKET NO. 54913

APPLICATION OF EMERALD BAY	§	PUBLIC UTILITY COMMISSION
MUNICIPAL UTILITY DISTRICT AND	§	
AQUA TEXAS, INC. FOR APPROVAL	§	OF TEXAS
OF A SERVICE AREA CONTRACT	§	
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 Emerald Bay Municipal Utility District (Emerald Bay MUD), Aqua Texas, Inc. (Aqua), and the Staff (Staff) of the Public Utility Commission (Commission) of Texas (collectively, the Parties) and submit this Joint Motion to Admit Evidence and Proposed Notice of Approval in response to Order No. 2. In support thereof, the Parties show the following:

I. BACKGROUND

On April 20, 2023, the Emerald Bay MUD and Aqua (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, Emerald Bay MUD holds CCN No. 13047 and Aqua holds CCN No. 13201. The Applicants, by mutual agreement, request that the CCNs be amended to reflect the change in certification of approximately 4.5 acres. There is no 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 May 23, 2023, established a deadline of July 28, 2023 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 Emerald Bay MUD and Aqua, Emerald Bay MUD's meeting agenda and minutes, and Applicants' Digital Mapping Data, filed on April 20, 2023 (Interchange Item No. 1);

2. Commission Staff's Recommendation on Administrative Completeness and Proposed Notice and Proposed Procedural Schedule, filed on May 22, 2023 (Interchange Item No. 3);
3. Emerald Bay MUD's and Aqua's executed consent forms, filed on June 30, 2023 (Interchange Item No. 5);
4. Commission Staff's Final Recommendation, filed on July 14, 2023 (Interchange Item No. 6); and
5. The attached final map and certificates.

III. JOINT PROPOSED NOTICE OF APPROVAL

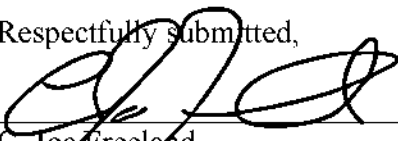
The Parties have agreed on the attached Joint Proposed Notice of Approval, which would grant the Application. Also attached are the final map and certificates consented to by the Applicants.

IV. CONCLUSION

Staff and Aqua have agreed Emerald Bay MUD 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: July 28, 2023

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 EMERALD BAY
MUNICIPAL UTILITY DISTRICT

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 July 28, 2023, in accordance with the Orders Suspending Rules filed in Project No. 50664.


C. Joe Freeland

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APPLICATION OF EMERALD BAY	§	PUBLIC UTILITY COMMISSION
MUNICIPAL UTILITY DISTRICT AND	§	
AQUA TEXAS, INC. FOR APPROVAL	§	OF TEXAS
OF A SERVICE AREA CONTRACT	§	
UNDER TEXAS WATER CODE § 13.248	§	
AND TO AMEND CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY IN	§	
SMITH COUNTY	§	

JOINT PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application by Emerald Bay Municipal Utility District (Emerald Bay MUD) and Aqua, Inc. (Aqua) 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 applicants seek to transfer approximately 4.5 acres of certificated service area from Emerald Bay MUD under CCN number 13047 to Aqua under CCN number 13201. The Commission approves the service-area contract and amends CCN numbers 13047 and 13201 to the extent provided in this Notice of Approval.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Emerald Bay MUD is a municipal utility district organized under Chapter 54 of the TWC.
2. Emerald Bay MUD operates, maintains, and controls facilities for providing retail water service in Smith County under water CCN number 13047.
3. Aqua Texas, Inc. is a Texas corporation registered with the Texas secretary of state under file number 800304878.
4. Aqua operates, maintains, and controls facilities for providing retail water service in Anderson, Bosque, Camp, Cherokee, Collin, Cooke, Denton, Erath, Grayson, Gregg, Henderson, Hood, Hunt, Johnson, Kaufman, McLennan, Marion, Parker, Smith, Somervell, Tarrant, Wise, and Wood counties under water CCN number 13201.

Application

5. On April 17, 2023, Emerald Bay MUD and Aqua executed a retail water service agreement (the service-area contract) to amend their water CCNs in Smith County, Texas to transfer approximately 4.5 acres of Emerald Bay MUD's service area to Aqua.
6. On April 20, 2023, Emerald Bay MUD and Aqua filed the application at issue in this proceeding for approval of the service-area contract and to amend CCN numbers 13047 and 13201.
7. The application included a copy of the service-area contract executed by Emerald Bay MUD and Aqua.
8. There are no customers or facilities within the approximately 4.5 acres of service area to be transferred.
9. There will be no transfer of customers, assets, or facilities as a result of the application.
10. In Order No. 2 filed on May 23, 2023, the administrative law judge (ALJ) found the application administratively complete.

Notice

11. At an open meeting held on March 21, 2023, Emerald Bay MUD's Board of Directors considered and approved the service-area contract.
12. The application included a copy of the agenda and minutes from the March 21, 2023 Emerald Bay MUD Board of Directors meeting as well as a supporting affidavit, dated March 21, 2023, from William F. Harris, President of the Emerald Bay MUD Board of Directors.
13. In Order No. 2 filed on May 23, 2023, the ALJ found the notice sufficient.

Certificates and Map

14. On June 21, 2023, Commission Staff emailed its proposed map and certificates to the Emerald Bay MUD and Aqua.
15. On June 30, 2023, Emerald Bay MUD filed its consent to the proposed map and certificates.
16. On June 30, 2023, Aqua filed its consent to the proposed map and certificates.

Evidentiary Record

17. On July 28, 2023, the parties filed a joint motion to admit evidence and notice of approval.
18. In Order No. __ filed on ____, 2023, the ALJ admitted the following evidence into the record of this proceeding: (a) the application and all exhibits including the agreement

between Emerald Bay MUD and Aqua, Emerald Bay MUD's Board meeting agenda and minutes and Applicants' Digital Mapping data, filed on April 20, 2023; (b) Commission Staff's Recommendation on Administrative Completeness and Proposed Notice and Proposed Procedural Schedule, filed on May 22, 2023; (c) Emerald Bay MUD and Aqua's executed consent forms, filed on June 30, 2023; (d) Commission Staff's Final Recommendation, filed on July 14, 2023; and (e) the attached final map and certificates.

Informal Disposition

19. More than 15 days have passed since the completion of the notice provided in this docket.
20. No person filed a protest or motion to intervene.
21. Emerald Bay MUD, Aqua, and Commission Staff are the only parties to this proceeding.
22. No party requested a hearing, and no hearing is needed.
23. Commission Staff recommended approval of the application.
24. 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. Emerald Bay MUD and Aqua 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 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 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), Emerald Bay MUD and Aqua must each record a certified copy of its approved map and certificate, along with a boundary description of its service

¹ Tex. Gov't Code Ann. §§ 2001.001-.903.

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 application and service-area contract to the extent provided in this Notice of Approval.
2. The Commission amends Emerald Bay MUD's CCN number 13047 and Aqua's CCN number 13201 as described in this Notice of Approval and as shown in 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 certificates attached to this Notice of Approval.
5. Emerald Bay MUD must provide service to every customer and qualified service applicant for water service within the approved service area under CCN number 13047 who requests water service and meets the terms of Emerald Bay MUD's water service policies, and such service must be continuous and adequate.
6. Aqua must provide service to every customer and qualified applicant for water service within the approved service area under CCN number 13201 who requests water service and meets the terms of Aqua's water service policies, and such service must be continuous and adequate.
7. Emerald Bay MUD and Aqua 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.
8. The Commission denies all other motions and any requests for general or specific relief that have not been expressly granted.

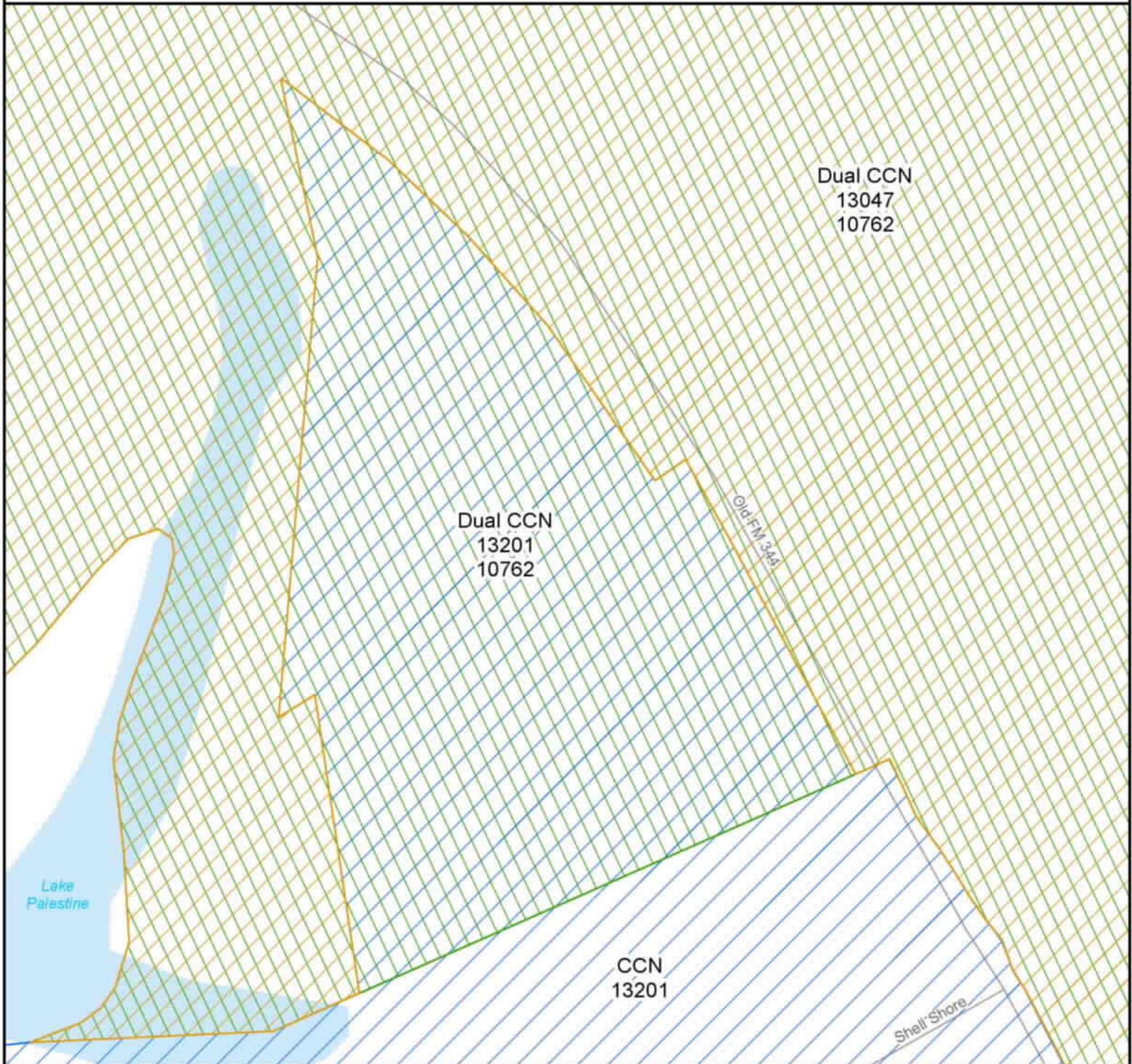
Signed at Austin, Texas, the ____ day of _____, 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

SUSAN E. GOODSON
ADMINISTRATIVE LAW JUDGE

Aqua Texas, Inc.
Portion of Water CCN No. 13201
PUC Docket No. 54913

13.248 Agreement Transferred a Portion of Emerald Bay Municipal Utility District, CCN No. 13047
in Smith County



Public Utility Commission of Texas
1701 N. Congress Ave
Austin, TX 78701

Water CCN

-  13201 - Aqua Texas Inc
-  13047 - Emerald Bay MUD
-  10762 - Southern Utilities Company

0 50 100
Feet



Map by: Komal Patel
Date: June 21, 2023
Project: 54913AquaTx.mxd



Public Utility Commission of Texas

By These Presents Be It Known To All That

Emerald Bay Municipal Utility District

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, Emerald Bay Municipal Utility District is entitled to this

Certificate of Convenience and Necessity No. 13047

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. 54913 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 Emerald Bay Municipal Utility District 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

Aqua Texas, Inc.

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, Aqua Texas, Inc. is entitled to this

Certificate of Convenience and Necessity No. 13201

to provide continuous and adequate water utility service to that service area or those service areas in Anderson, Bosque, Camp, Cherokee, Collin, Cooke, Denton, Erath, Grayson, Gregg, Henderson, Hood, Hunt, Johnson, Kaufman, McLennan, Marion, Parker, Smith, Somervell, Tarrant, Wise, and Wood counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 54913 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 Aqua Texas, Inc. 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.