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DeAnn T. Walker
Chairman

Brandy Marty Marquez
Commissioner

Arthur C. D'Andrea
Commissioner



Greg Abbott
Governor

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Public Utility Commission of Texas

TO: DeAnn T. Walker, Chairman
Brandy Marty Marquez, Commissioner
Arthur C. D'Andrea, Commissioner

All Parties of Record

FROM: Jeffrey J. Huhn *JJH*
Administrative Law Judge

RE: **Open Meeting of March 29, 2018**
Docket No. 47054 – *Application of Concho Rural Water Corporation to Amend a Water Certificate of Convenience and Necessity in Tom Green County*

DATE: March 7, 2018

Enclosed is a copy of the Proposed Order in the above-referenced docket. The Commission will consider this docket at an open meeting presently scheduled to begin at 9:30 a.m. on Thursday, March 29, 2018, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties shall file corrections or exceptions to the Proposed Order on or before Wednesday, March 21, 2018.

If there are no corrections or exceptions, no response is necessary.

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DOCKET NO. 47054

APPLICATION OF CONCHO RURAL	§	PUBLIC UTILITY COMMISSION
WATER CORPORATION TO AMEND	§	
A WATER CERTIFICATE OF	§	OF TEXAS
CONVENIENCE AND NECESSITY IN	§	
TOM GREEN COUNTY	§	

PROPOSED ORDER

This Order addresses the application of Concho Rural Water Corporation to amend its water certificate of convenience and necessity (CCN) in Tom Green County. Commission Staff moved to dismiss for failure to prosecute because Concho Rural failed to cure deficiencies and file an amended application. For reasons discussed in this Order, the application is dismissed without prejudice.

I. Background

On April 11, 2017, Concho Rural filed an application to amend its water CCN No. 11361 in Tom Green County. The proposed new service area requested includes approximately 388 acres. Concho Rural has public water system facilities in place to serve the area requested.

On May 12, 2017, the Commission issued Order No. 2, requiring Concho Rural to amend its application to cure the deficiencies noted by Commission Staff in the recommendation on administrative completeness filed June 9, 2017. After Concho Rural failed to file an amended application, Order No. 3 was issued extending the deadline to August 11, 2017. Concho Rural again failed to supplement the application. On August 10, 2017, Commission Staff moved to dismiss the application based on Concho Rural's failure to prosecute.¹ On August 18, 2017, Order No. 4 was issued requiring Concho Rural to respond to the motion to dismiss or withdraw the application on or before September 5, 2017. Concho Rural has not filed a response or motion to withdraw the application. Dismissal is appropriate because of Concho Rural's failure to prosecute this matter and failure to amend the application to cure deficiencies.

The Commission adopts the following findings of fact and conclusions of law:

¹ Commission Staff's Motion to Dismiss Without Prejudice (Aug. 10, 2017).

II. Findings of Fact

1. On April 11, 2017, Concho Rural filed an application to amend water certificate of convenience and necessity number 11361 in Tom Green County. The total service area requested includes approximately 388 acres and 13 current customers.
2. On April 12, 2017, Order No. 1 was issued requiring comments on administrative completeness.
3. On May 11, 2017, Commission Staff recommended the application be found administratively incomplete because it lacked the following information:
 - (a) financial statements for 2016;
 - (b) projected income statements and balance sheets;
 - (c) a signed oath from the applicant; and
 - (d) proof that Concho Rural has submitted to the Texas Commission on Environmental Quality as-built plans and specifications of water facilities intended to serve the proposed service area.
4. On May 12, 2017, Order No. 2 was issued finding the application deficient, establishing revised deadlines, and providing Concho Rural an opportunity to cure the deficiencies.
5. On July 18, 2017, Order No. 3 was issued extending the deadline for Concho Rural to amend the application to cure the deficiencies identified by Commission Staff.
6. On August 10, 2017, Commission Staff recommended that the application be dismissed for failure to prosecute.
7. On August 18, 2017, Order No. 4 was issued requiring Concho Rural to respond to Commission Staff's motion to dismiss or withdraw the application.
8. Concho Rural failed to respond to Order No. 4.
9. On January 2, 2018, Commission Staff filed a request for a ruling.

III. Conclusions of Law

1. The Commission has jurisdiction and authority over this docket under Texas Water Code (TWC) §§ 13.041, 13.241, and 13.246 and 16 Texas Administrative Code (TAC) §§ 24.102 and 24.107.
2. The application was processed in accordance with the requirements of TWC §§ 13.241 and 13.246, and 16 TAC §§ 24.101 - 24.107.
3. Dismissal of the application is proper under 16 TAC § 22.181(d)(6) and (7).

IV. Ordering Paragraphs

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

1. The application is dismissed without prejudice.
2. All other motions and any other requests for general or specific relief, if not expressly granted, are denied.

Signed at Austin, Texas the _____ day of March 2018.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

BRANDY MARTY MARQUEZ, COMMISSIONER

ARTHUR C. D'ANDREA, COMMISSIONER