



Control Number: 48104



Item Number: 23

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DOCKET NO. 48104

RECEIVED

APPLICATION OF RINCON WATER §  
SUPPLY CORPORATION TO §  
AMEND CERTIFICATE OF §  
CONVENIENCE AND NECESSITY §  
IN SAN PATRICIO COUNTY §

PUBLIC UTILITY COMMISSION

OF TEXAS

2019 FEB -4 AM 10:16  
PUBLIC UTILITY COMMISSION  
FILING CLERK

**COMMISSION STAFF'S RESPONSE TO ORDER NO. 7 AND MOTION TO ADMIT**

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Staff's Response to Order No. 7 and Motion to Admit. In support thereof, Staff shows the following:

**I. BACKGROUND**

On February 26, 2018, Rincon Water Supply Corporation (Rincon) filed an application to amend its water Certificate of Convenience and Necessity (CCN) No. 11440 in San Patricio County. The total area being requested includes approximately 120 acres and no current customers.

On October 10, 2018, Parties filed a Joint Motion to Admit Evidence and Proposed Notice of Approval.

On January 28, 2019, Order No. 7 was issued requiring Staff to supplement its memorandum attached to Staff's October 3, 2018 Recommendation On Final Disposition on or before February 4, 2019. The supplemental memorandum should state the underlying references and calculations resulting in the 0.03 debt-to-equity ratio and correct the debt-service-coverage ratio determination, stating the underlying references and calculations used to make this determination.

**II. STAFF'S RESPONSE AND MOTION TO ADMIT**

The attached supplemental memorandum of Debi Lockerman in the Commission's Water Utility Regulation Division states the underlying references and calculation resulting in the 0.03 debt-to-equity ratio and corrects the debt-service-coverage ratio determination, stating the underlying references and calculations used to make this determination. Staff moves that this Response to Order No. 7 and attached supplemental memorandum be admitted into evidence.

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### **III. CONCLUSION**

Staff respectfully requests that the ALJ issue an order consistent with the above recommendation.

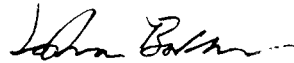
Dated: February 4, 2019

Respectfully Submitted,

#### **PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Katherine Lengieza Gross  
Managing Attorney



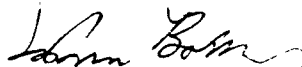
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**DOCKET NO. 48104**

#### **CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on February 4, 2019 in accordance with 16 TAC § 22.74.



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Joshua Adam Barron

## PUC Interoffice Memorandum

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**To:** Joshua Barron, Attorney  
Legal Division

**Thru:** Tammy Benter, Director  
Water Utility Regulation Division

**From:** Debi Loockerman, Manager  
Water Utility Regulation Division

**Date:** January 31, 2019

**Subject:** **Docket 48104**, *Application of Rincon Water Supply Corporation to Amend Certificate of Convenience and Necessity in San Patricio County*

### Supplemental memo in response to Order No. 7

I respectfully request to correct the first memo filed on October 3, 2018 as follows:

***“TWC § 13.246(c)(6) requires the commission to consider the financial ability of the Applicant to pay for facilities necessary to provide continuous and adequate service.***

***Financial Test***

Pursuant to TWC § 13.246(c)(6) the Commission is required to consider the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service and the financial stability of the applicant. The criteria and tests are listed in TAC 16 § 24.11 including leverage tests and an operations test.

The Applicant meets two of five leverage tests with a debt to equity ratio of 0.03, which is less than 1, and a debt service coverage ratio of 11.69, which is greater than 1.25.”

**Correction Number 1:**

Replace “0” with 11.69

“The Applicant meets the operations test. The owner or operator must demonstrate sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations. The Applicant has not submitted projections in its application; however, based on the Applicant's Statement of Income, the Applicant has net operating income of \$326,876~~\$37,777.44~~.”

**Correction Number 2:**

Replace “37,777.44” with \$326,876.<sup>1</sup>

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<sup>1</sup> Application at 52 (Feb. 26, 2018).

**Calculations**

According to the 2016 income statement and balance sheet provided with the application, the Applicant had total long term debt, excluding membership fees, of \$123,741<sup>3</sup> and equity of \$3,680,272.<sup>4</sup> Therefore, the debt to equity ratio is \$123,741 divided by \$3,680,272, or 0.03.

The same financial statements indicate that the Applicant has net operating income of \$326,673.<sup>5</sup> The promissory note provided in the application indicates a monthly debt service payment on the Frost Bank loan of \$2,329.59<sup>6</sup> which when multiplied by twelve results in annual debt service of \$27,955. The resulting debt service coverage ratio is \$326,673 divided by \$27,955, or 11.69.

We apologize for the errors and have provided a revised overall recommendation memo.

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<sup>3</sup> *Id.* at 48

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 52

<sup>6</sup> *Id.* at 55

## PUC Interoffice Memorandum

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**To:** Joshua Barron, Attorney  
Legal Division

**Thru:** Heidi Graham, Manager  
Water Utility Regulation Division

**From:** Andrew Novak, Financial Analyst  
Water Utility Regulation Division

**Date:** January 29, 2019

**Subject:** **Docket 48104**, *Application of Rincon Water Supply Corporation to Amend Certificate of Convenience and Necessity (CCN) in San Patricio County*

On April 23, 2018, Rincon Water Supply Corporation (Rincon WSC or Applicant) filed with the Public Utility Commission of Texas (Commission) an application to amend Certificate of Convenience and Necessity (CCN) No. 11440 in San Patricio County, Texas pursuant to Texas Water Code Ann. (TWC), §§ 13.242 - 13.250 and 16 Tex. Admin Code (TAC) §§ 24.225 - 24.237. The Applicant is seeking to amend a water CCN for service area containing approximately 120 acres and 0 existing customers.

### **Notice**

The comment period ended August 20, 2018, and no protests or opt-out requests were received. One request for intervention has been received.

### **Criteria Considered**

TWC § 13.246(c) requires the Commission to consider nine criteria when granting or amending a CCN. Therefore, the following criteria were considered:

***TWC § 13.246(c)(1) requires the commission to consider the adequacy of service currently provided to the requested area.***

The Applicant is currently providing service to 0 customers in the requested area.

***TWC § 13.246(c)(2) requires the commission to consider the need for service in the requested area.***

The requested uncertificated area resulted from a landowners request to extend water service to the landowner's property for the purpose of residential development. Therefore, the need for service has been demonstrated.

***TWC § 13.246(c)(3) requires the commission to consider the effect of granting an amendment on the recipient and on any other retail public utility servicing the proximate area.***

Service from other providers for the requested area is not presently available, nor is it presently economically feasible for service or facilities to be provided to the requested area by other nearby retail public utilities

***TWC § 13.246(c)(4) requires the commission to consider the ability of the applicant to provide adequate service.***

The requested area is for eight (8) additional service connections to be served via existing facilities.

The Applicant has adequate production, storage, and distribution system in place to provide service to the requested area.

***TWC § 13.246(c)(5) requires the commission to consider the feasibility of obtaining service from an adjacent retail public utility.***

Service from other providers for the requested area is not presently available, nor is it presently economically feasible for service or facilities to be provided to the requested area by other nearby retail public utilities.

***TWC § 13.246(c)(6) requires the commission to consider the financial ability of the Applicant to pay for facilities necessary to provide continuous and adequate service.***

#### **Financial Test**

Pursuant to Texas Water Code § 13.246(c)(6) (TWC) the Commission is required to consider the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service and the financial stability of the applicant. The criteria and tests are listed in 16 Texas Admin. Code § 24.11 (TAC) including leverage tests and an operations test.

The Applicant meets two of five leverage tests with a debt to equity ratio of 0.03, which is less than one, and a debt service coverage ratio of 11.69, which is greater than 1.25.

The Applicant meets the operations test. The owner or operator must demonstrate sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations. The Applicant has not submitted projections in its application; however, based on the Applicant's Statement of Income, the Applicant has net operating income of \$326,876. In addition, The Applicant has \$789,046.86 in cash on hand and incurred \$76,937.38 in expenses. Thus, there are no shortages to cover, however, should any shortage occur the Applicant has the cash on hand to cover those shortages.

***TWC §§ 13.246(7) and (9) require the commission to consider the environmental integrity and the effect on the land to be included in the certificate.***

The land is currently undeveloped and the Applicant is willing and capable of providing service in the future.

***TWC § 13.246(8) requires the commission to consider the probable improvement in service or lowering of cost to consumers.***

It is expected that the services to the requested area will be comparable to the services provided to the existing customers by the Applicant.

The Applicant meets all of the statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules and regulations, and will be capable of providing continuous and adequate service, approving this application to amend the CCN is necessary for the service, accommodation, convenience and safety of the public.

The Applicant consented to the attached map, and certificates on September 24, 2018. Based on the above information, Staff recommends the Commission approve the application, issue an order and provide the attached map and certificates to Rincon Water Supply Corporation. Staff further recommends that the Applicant file certified copies of the CCN map along with a written description of the CCN service area in the county clerk's office pursuant to TWC §§ 13.257 (r)-(s).