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DOCKET NO. 48350

APPLICATION OF THE CITY OF	§	PUBLIC UTILITY COMMISSION
DAYTON FOR CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY IN	§	OF TEXAS
LIBERTY COUNTY	§	

JOINT PROPOSED NOTICE OF APPROVAL AND MOTION TO ADMIT EVIDENCE

COME NOW, the City of Dayton, Texas (City), together with the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest (collectively, the Parties), and file this Joint Proposed Notice of Approval and Motion to Admit Evidence. In support thereof, the Parties would respectfully show as follows:

I. BACKGROUND

On May 8, 2018, the City filed an application (Application) with the Commission to obtain water and sewer certificates of convenience and necessity in Liberty and Harris Counties. As a result of amendments to the Application, the requested service area consists of approximately 14,885.5 acres and 1,080 connections in Liberty County.

On May 19, 2021, the Administrative Law Judge (ALJ) filed Order No. 21 in this proceeding, establishing a deadline of July 23, 2021 for the Parties to file joint proposed findings of fact and conclusions of law. On July 22, 2021, the Parties filed an Agreed Motion for Extension of Time. On July 23, 2021, the ALJ filed Order No. 24, granting the requested extension and establishing a deadline of August 6, 2021 for the Parties to file joint proposed findings of fact and conclusions of law. Therefore, this pleading is timely filed.

II. MOTION TO ADMIT EVIDENCE

The Parties move to admit the following evidence into the record of this proceeding:

1. The Application, and all accompanying exhibits, filed on May 8, 2018 (Interchange Item No. 1);
2. The City's revised maps and digital data, filed on May 25, 2018 (Interchange Item No. 5);
3. Commission Staff's Recommendation on Administrative Completeness and Proposed Notice, filed on June 6, 2018 (Interchange Item No. 6);
4. The City's revised maps and digital data, filed on June 6, 2018 (Interchange Item No. 7);
5. The City's proof of notice, filed on July 20, 2018 (Interchange Item No. 46);
6. Commission Staff's Recommendation on Sufficiency of Notice, filed on July 25, 2018 (Interchange Item No. 54);
7. Opt-out requests filed by Gerald Dufrene on July 12, 2018 (Interchange Item No. 10); Stoesser Farms, Inc. on July 12, 2018 and April 17, 2020 (Interchange Item Nos. 11 and 122); Joe Smesny on July 13, 2018 (Interchange Item No. 12); River Ranch Holdings, LLC on July 13, 2018 and July 16, 2018 (Interchange Item Nos. 13, 22, and 24); Rodney Porter on July 13, 2018 (Interchange Item No. 14); Stoesser Investments, LLC on July 16, 2018 (Interchange Item No. 15); Stoesser Drier, Inc. on July 16, 2018 (Interchange Item No. 16); Walter Wallace Wade on July 16, 2018 (Interchange Item No. 21); Michael Pomykal on July 16, 2018 (Interchange Item No. 23); Liberty RV, LLC on July 16, 2018 (Interchange Item No. 25); The Mary Gay Corporation on July 17, 2018 and April 14, 2020 (Interchange Item Nos. 26 and 121); FVL, Ltd. on July 17, 2018, July 19, 2018, and July 20, 2018 (Interchange Item Nos. 27, 40, and 45); FPL Farming, Ltd. on July 17, 2018, July 19, 2018, July 20, 2018, and July 23, 2018 (Interchange Item Nos. 28, 29, 39, 42, 44, and 51); Third Texas Resource, LLC on July 17, 2018 (Interchange Item No. 30);

Precab, Inc. on July 18, 2018 (Interchange Item No. 31); Daniel and Lisa Simnacher on July 18, 2018 (Interchange Item Nos. 32 and 33); Bill Kornegay on July 18, 2018 (Interchange Item No. 34); Weldon W. Alders on July 19, 2018 (Interchange Item No. 36); Alan Swenson on July 19, 2018 (Interchange Item No. 37); William D. Gay, II on July 20, 2018 (Interchange Item No. 43); Keith and Connie Fitzhenry on July 20, 2018 (Interchange Item No. 47); Cedar Bayou Wildlife, LLC on July 20, 2018 (Interchange Item No. 48); Gary Moreau on July 23, 2018 and May 27, 2020 (Interchange Item Nos. 49 and 127); John M. Bartee on July 25, 2018 (Interchange Item No. 52); Eagle Heights Fellowship on July 25, 2018 (Interchange Item No. 53); Susan Nanette Daniel, Daniel Martin Parker, and Bill Daniel Trust et al. on July 26, 2018 (Interchange Item No. 55); Norma Hernandez on July 27, 2018 (Interchange Item No. 56); Randal and Pamela Klimitchek on July 30, 2018 (Interchange Item No. 57); Mark Stoesser on May 14, 2020 (Interchange Item No. 125); and Jack Stoesser on May 19, 2020 (Interchange Item No. 126);

8. The City's revised maps and digital data, filed on October 19, 2018 (Interchange Item No. 63);
9. The City's revised maps and digital data, filed on December 20, 2018 (Interchange Item No. 68);
10. The City's Application Amendment, filed on May 10, 2019 (Interchange Item No. 93);
11. The City's Response to Commission Staff's First Request for Information, filed on July 10, 2019 (Interchange Item No. 101);
12. The City's Response to Commission Staff's Second Request for Information, filed on August 28, 2019 (Interchange Item No. 106);

13. The City's Affidavit of Supplemental Notice Regarding Nonconforming Opt-Out Requests, filed on March 25, 2020 (Interchange Item No. 120);
14. The City's First Supplement to the Amended Application, filed on July 27, 2020 (Interchange Item No. 132);
15. The City's Second Supplement to the Amended Application, filed on November 30, 2020 (Interchange Item No. 138);
16. The City's Third Supplement to the Amended Application, filed on April 5, 2021 (Interchange Item No. 148);
17. The City's Fourth Supplement to the Amended Application, filed on May 12, 2021 (Interchange Item No. 151);
18. Commission Staff's Supplemental Recommendation on Sufficiency of Mapping Revisions, filed on May 18, 2021 (Interchange Item No. 152);
19. The City's Notice of Consent, filed on July 8, 2021 (Interchange Item No. 154); and
20. Commission Staff's Second Amended Final Recommendation, including all attachments, filed on July 21, 2021 (Interchange Item No. 158).

The City has communicated with counsel for Commission Staff regarding this motion, and Commission Staff has represented agreement to this motion.

III. PROPOSED NOTICE OF APPROVAL

The Parties move for adoption of the attached Proposed Notice of Approval, which would approve the Application, as amended and supplemented, and request that the Commission adopt the findings of fact, conclusions of law, and ordering paragraphs set forth therein. The City has communicated with counsel for Commission Staff regarding this Proposed Notice of Approval,

and such counsel have indicated that Commission Staff supports this filing, as written, as well as approval of the Application, as amended and supplemented.

IV. CONCLUSION

The Parties hereby respectfully request that the items listed in the above Motion to Admit Evidence be admitted into the record of this proceeding as evidence and that the attached Proposed Notice of Approval be adopted.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE &
TOWNSEND, P.C.**

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A handwritten signature in black ink, appearing to read "Maris Chambers", written over a horizontal line.

MARIS M. CHAMBERS
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mchambers@lglawfirm.com

ATTORNEYS FOR THE CITY OF DAYTON

CERTIFICATE OF CONFERENCE

I, the undersigned counsel, certify that I have conferred with legal counsel for Commission Staff regarding this Joint Proposed Notice of Approval and Motion to Admit Evidence and such counsel agrees to the relief requested herein.


MARIS M. CHAMBERS

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 August 6, 2021, in accordance with the Order Suspending Rules, filed in Project No. 50664.


MARIS M. CHAMBERS

DOCKET NO. 48350

APPLICATION OF THE CITY OF	§	PUBLIC UTILITY COMMISSION
DAYTON FOR CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY IN	§	OF TEXAS
LIBERTY COUNTY	§	

PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the May 8, 2018 application of the City of Dayton to obtain a water certificate of convenience and necessity (CCN) and a sewer CCN in Liberty County. The Commission approves the application, as amended and supplemented, and grants Dayton water CCN number 13297 and sewer CCN number 21124.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Dayton is a home-rule municipality.
2. Dayton is a retail public utility that provides water and sewer service to approximately 1,080 connections in Liberty County, Texas.
3. Dayton owns and operates a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under identification number 1460002.
4. Dayton provides sewer service through a wastewater treatment plant (WWTP) registered as City of Dayton, permitted through TCEQ under Wastewater Discharge Permit Number WQ10564004.

Application

5. On May 8, 2018, Dayton filed its application to obtain water and sewer CCNs in Liberty and Harris Counties, Texas.
6. The application originally requested an area including approximately 80,045 acres and 1,080 existing connections.
7. Dayton filed supplemental information on May 25, 2018 and June 6, 2018.

8. In Order No. 2 filed on June 12, 2018, the Commission administrative law judge (ALJ) found the application administratively complete.
9. On October 19, 2018 and December 20, 2018, in response to landowner requests to be excluded from the requested area, Dayton filed revised maps and digital data.
10. In Order No. 9 filed on February 5, 2019, the Commission ALJ found the supplemental mapping information sufficient.
11. On May 10, 2019; July 10, 2019; August 28, 2019; March 25, 2020; July 27, 2020; November 30, 2020; April 5, 2021; and May 12, 2021, Dayton filed further supplemental information.
12. The application, as amended and supplemented, requests an area that includes approximately 14,885.5 acres and 1,080 connections.
13. The requested area is located entirely within Dayton's corporate boundaries in Liberty County, Texas.
14. The original requested service area is located approximately 0 miles of downtown Dayton, Texas, and is generally bounded on the north by Luce Bayou and County Road 2322; on the east by the Trinity River; on the south by the Liberty and Chambers county line; and on the west by the Liberty and Harris county line.
15. As reduced, the requested area is wholly located within the boundaries of the original requested area.
16. In Order No. 21 filed on May 19, 2021, the Commission ALJ found the revised maps and digital data sufficient.

Notice of Application

17. On July 20, 2018, Dayton filed the affidavit of Kelly Hajek, City Engineer, attesting that notice was mailed to current customers, landowners, neighboring utilities, and affected parties on June 18, 2018.
18. On July 20, 2018, Dayton filed a publisher's affidavit, attesting to publication of notice in the *Houston Chronicle*, a newspaper of general circulation in Liberty County, Texas, on June 27, 2018 and July 4, 2018.

19. In Order No. 3 filed on August 13, 2018, the Commission ALJ deemed the notice sufficient.

Interventions and Referral to the State Office of Administrative Hearings (SOAH)

20. The deadline for intervention in this proceeding was August 20, 2018.
21. On July 16, 2018, T & W Water Service (T & W) filed a Motion to Intervene and Request for Public Hearing.
22. On July 16, 2018, Woodland Hills Water, LLC (Woodland Hills) filed a Notice of Protest and Motion to Intervene.
23. On July 18, 2018, South Central Water Company (South Central) filed a Motion to Intervene and Request for Public Hearing.
24. On July 19, 2018, Woodland Hills filed an Amended Notice of Protest and Motion to Intervene.
25. On July 19, 2018, Aqua Texas, Inc. dba Aqua Texas (Aqua) filed a Motion to Intervene and Request for Hearing.
26. On August 20, 2018, River Ranch Municipal Utility District Nos. 2–7 and 13–15 (collectively, the RR MUDs) filed a Motion to Intervene and Request for Hearing.
27. In Order No. 4 filed on August 22, 2018, the Commission ALJ granted the motions to intervene filed by T & W, Woodland Hills, South Central, Aqua, and the RR MUDs.
28. On January 8, 2019, South Central and T & W withdrew their motions to intervene and requests for hearing.
29. In Order No. 7 filed on January 9, 2019, the Commission ALJ granted T & W and South Central's motions to withdraw their interventions.
30. On January 17, 2019, the RR MUDs withdrew their motions to intervene and requests for hearing.
31. In Order No. 8 filed on January 24, 2019, the Commission ALJ granted the RR MUDs' motion to withdraw their interventions.
32. On February 5, 2019, the Commission referred this docket to SOAH.

33. On February 19, 2019, Woodland Hills withdrew its motion to intervene.
34. In SOAH Order No. 2 filed on February 20, 2019, the SOAH ALJ granted Woodland Hills' motion to withdraw its intervention.
35. On March 1, 2019, the Commission adopted a preliminary order.
36. On May 13, 2019, Aqua withdrew its motion to intervene and hearing request.
37. In SOAH Order No. 6 filed on June 5, 2019, the SOAH ALJ granted Aqua's motion to withdraw its intervention.
38. In SOAH Order No. 13 filed on February 10, 2020, the SOAH ALJ dismissed this proceeding from the SOAH docket and remanded it to the Commission.

Landowner Opt-Out Requests

39. The deadline to file a written opt-out request with the Commission was July 18, 2018.
40. Timely opt-out requests were filed by Gerald Dufrene; Stoesser Farms, Inc.; Joe Smesny; River Ranch Holdings, LLC; Rodney Porter, Stoesser Investments, LLC; Stoesser Drier, Inc.; Walter Wallace Wade; Michael Pomykal; Liberty RV, LLC; The Mary Gay Corporation; FVL, Ltd.; FPL Farming, Ltd.; Third Texas Resource, LLC; Precab, Inc.; Daniel and Lisa Simnacher; and Bill Kornegay.
41. Untimely Opt-Out Requests were filed Weldon W. Alders; Alan Swenson; William D. Gay, II; Keith and Connie Fitzhenry; Cedar Bayou Wildlife, LLC; Gary Moreau; John M. Bartee; Eagle Heights Fellowship; Susan Nanette Daniel, Daniel Martin Parker, and Bill Daniel Trust et al.; Norma Hernandez; and Randal and Pamela Klimitchek.
42. Dayton submitted revised mapping to omit all of the tracts of land identified in all of the opt-out requests from Dayton's requested service area.

Maps and Certificates

43. On June 25, 2021, Commission Staff emailed its proposed final maps and certificates to the City.
44. On July 8, 2021, Dayton filed its consent form, concurring with the final maps and certificates proposed by Commission Staff.

45. On July 21, 2021, Commission Staff filed the proposed map and certificates as attachments to its second amended final recommendation on the application.

Evidentiary Record

46. On August 6, 2021, the parties filed a joint proposed notice of approval and motion to admit evidence.
47. In Order No. ___ filed on _____, 2021, the ALJ admitted the following evidence into the record of this proceeding:
- a. the application, and all accompanying exhibits, filed on May 8, 2018;
 - b. Dayton's revised maps and digital data, filed on May 25, 2018;
 - c. Commission Staff's recommendation on administrative completeness and proposed notice, filed on June 6, 2018;
 - d. Dayton's revised maps and digital data, filed on June 6, 2018;
 - e. Dayton's proof of notice, filed on July 20, 2018;
 - f. Commission Staff's recommendation on sufficiency of notice, filed on July 25, 2018;
 - g. Opt-out requests filed by Gerald Dufrene on July 12, 2018; Stoesser Farms, Inc. on July 12, 2018 and April 17, 2020; Joe Smesny on July 13, 2018; River Ranch Holdings, LLC on July 13, 2018 and July 16, 2018; Rodney Porter on July 13, 2018; Stoesser Investments, LLC on July 16, 2018; Stoesser Drier, Inc. on July 16, 2018; Walter Wallace Wade on July 16, 2018; Michael Pomykal on July 16, 2018; Liberty RV, LLC on July 16, 2018; The Mary Gay Corporation on July 17, 2018 and April 14, 2020; FVL, Ltd. on July 17, 2018, July 19, 2018, and July 20, 2018; FPL Farming, Ltd. on July 17, 2018, July 19, 2018, July 20, 2018, and July 23, 2018; Third Texas Resource, LLC on July 17, 2018; Precab, Inc. on July 18, 2018; Daniel and Lisa Simnacher on July 18, 2018; Bill Kornegay on July 18, 2018; Weldon W. Alders on July 19, 2018; Alan Swenson on July 19, 2018; William D. Gay, II on July 20, 2018; Keith and Connie Fitzhenry on July 20, 2018; Cedar Bayou Wildlife, LLC on July 20, 2018; Gary Moreau on July 23, 2018 and May 27, 2020; John M. Bartee on July 25, 2018; Eagle Heights

Fellowship on July 25, 2018; Susan Nanette Daniel, Daniel Martin Parker, and Bill Daniel Trust et al. on July 26, 2018; Norma Hernandez on July 27, 2018; Randal and Pamela Klimitchek on July 30, 2018; Mark Stoesser on May 14, 2020; and Jack Stoesser on May 19, 2020;

- h. Dayton's revised maps and digital data, filed on October 19, 2018;
- i. Dayton's revised maps and digital data, filed on December 20, 2018;
- j. Dayton's application amendment, filed on May 10, 2019;
- k. Dayton's response to Commission Staff's first request for information, filed on July 10, 2019;
- l. Dayton's response to Commission Staff's second request for information, filed on August 28, 2019;
- m. Dayton's proof of additional notice regarding nonconforming opt-out requests, filed on March 25, 2020;
- n. Dayton's first supplement to amended application, filed on July 27, 2020;
- o. Dayton's second supplement to amended application, filed on November 30, 2020;
- p. Dayton's third supplement to amended application, filed on April 5, 2021;
- q. Dayton's fourth supplement to amended application, filed on May 12, 2021;
- r. Commission Staff's supplemental recommendation on sufficiency of mapping revisions, filed on May 18, 2021;
- s. Dayton's notice of consent, filed on July 8, 2021; and
- t. Commission Staff's second amended final recommendation, including attachments, filed on July 21, 2021.

Adequacy of Existing Service

48. Dayton currently provides retail water service to 1,080 existing connections within the requested area through TCEQ-approved public water system number 1460002 and a

WWTP registered as City of Dayton, operated under Wastewater Discharge Permit Number WQ10564004.

- 49. Dayton does not have any violations listed in the TCEQ database.
- 50. No additional construction is necessary for Dayton to serve the requested area.
- 51. The Commission's complaint records, which date back to 2014, show no complaints against Dayton.

Need for Service

- 52. There is a need for service because Dayton is currently serving 1,080 existing water and sewer customer connections in the requested area.
- 53. Approximately 116 future customers are expected in 3 subdivisions that are being built in the requested area.

Effect of Granting the Certificates

- 54. Granting the CCN will allow Dayton to continue serving the existing 1,080 customer connections and will obligate Dayton to provide adequate and continuous service to customers in the requested area.
- 55. The landowners in the area will benefit from the granting of the CCN because they will have a water and sewer provider available when they need to request water and sewer service.
- 56. There will be no effect on any retail public utility servicing the proximate area. All retail public utilities in the proximate area were provided notice of the CCNs requested in this application. All public utilities that were granted intervention subsequently withdrew.
- 57. It is not feasible to obtain water or sewer service from an adjacent retail public utility because the requested area was revised to include only area that is within Dayton's city limits, and no other utility can obtain the right to serve the area without Dayton's consent.

Ability to Serve: Managerial and Technical

- 58. Dayton is currently providing service to 1,080 connections in the requested area through TCEQ-approved public water system no. 1460002 and a WWTP registered as City of Dayton, operated under Wastewater Discharge Permit No. WQ10564004.

59. Dayton employs TCEQ-licensed operators to operate its public water system and sewer system.
60. Dayton does not have any violations listed in the TCEQ database.
61. No additional construction is necessary for Dayton to serve the requested area.
62. The Commission's complaint records, which date back to 2014, show no complaints against Dayton.
63. Dayton has access to an adequate supply of water and is capable of providing water that meets the requirements of chapter 341 of the Texas Health and Safety Code, chapter 13 of the Texas Water Code (TWC), and the TCEQ's rules.
64. Dayton's WWTP, registered as City of Dayton and operated under Wastewater Discharge Permit Number WQ10564004, is capable of meeting the TCEQ's applicable design criteria.
65. Dayton employs TCEQ-licensed operators who are responsible for operating and maintaining public water system number 1460002 and Dayton's WTP, registered as City of Dayton and operated under Wastewater Discharge Permit Number WQ10564004.
66. Dayton has the managerial and technical capability to provide continuous and adequate service to the requested area.

Ability to Serve: Financial Ability and Stability

67. Dayton has a debt to equity ratio of 0.87, which is less than 1.0, satisfying the leverage test.
68. Dayton has demonstrated that it has sufficient unrestricted cash available as a cushion for three years' debt service, which is greater than two years, satisfying the leverage test.
69. Dayton has demonstrated that there are no operations or maintenance shortages to cover during the first five years of operations after approval to obtain the CCNs, satisfying the operations test.
70. Dayton has demonstrated the financial ability and stability to provide continuous and adequate service to the requested area.

Financial Assurance

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

Regionalization or Consolidation

72. Dayton serves approximately 1,080 connections in the requested area and does not need to construct a separate water or wastewater system. Therefore, concerns of regionalization or consolidation do not apply.

Feasibility of Obtaining Service from Other Utilities

73. Dayton is currently serving customers in the requested area, has facilities in the requested area to serve any future customers, and has sufficient capacity.
74. Utilities within a two-mile radius were properly noticed.
75. Gerald Dufrene; Stoesser Farms, Inc.; Joe Smesny; River Ranch Holdings, LLC; Rodney Porter, Stoesser Investments, LLC; Stoesser Drier, Inc.; Walter Wallace Wade; Michael Pomykal; Liberty RV, LLC; The Mary Gay Corporation; FVL, Ltd.; FPL Farming, Ltd.; Third Texas Resource, LLC; Precab, Inc.; Daniel and Lisa Simnacher; Bill Kornegay; Weldon W. Alders; Alan Swenson; William D. Gay, II; Keith and Connie Fitzhenry; Cedar Bayou Wildlife, LLC; Gary Moreau; John M. Bartee; Eagle Heights Fellowship; Susan Nanette Daniel, Daniel Martin Parker, and Bill Daniel Trust et al.; Norma Hernandez; and Randal and Pamela Klmitchek made opt-out requests, and Dayton submitted revised mapping to omit all of the tracts of land identified in all of the opt-out requests from Dayton's requested service area.
76. It is not feasible to obtain water or sewer service from an adjacent retail public utility because the requested area was revised to include only area that is within Dayton's city limits, and no other utility can obtain the right to serve the area without Dayton's consent.

Environmental Integrity and Effect on the Land

77. The environmental integrity of the land will be minimally affected as distribution and collection lines are installed to provide service to the requested area.
78. The land and environmental integrity of the requested area will not be affected to such a degree that the application should not be granted.

Improvement in Service or Lowering in Cost

79. Dayton will continue to provide water and sewer service to the existing customers in the area with no change to the cost to customers.

Informal Disposition

80. More than 15 days have passed since the completion of the notice provided in this docket.
81. Commission Staff and Dayton are the only parties to this proceeding.
82. All requests for property to be excluded from the proposed service area have been resolved.
83. All protests, hearing requests, and motions to intervene have been withdrawn, and no hearing is needed.
84. Commission Staff recommended approval of the application.
85. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. Dayton is a retail public utility as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
2. The Commission has jurisdiction over the application under TWC §§ 13.241, 13.242, 13.244, and 13.246.
3. Dayton provided notice of the application that complies with TWC § 13.246 and 16 TAC § 24.235.
4. The application meets the requirements set forth in TWC § 13.244 and 16 TAC § 24.227.
5. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,¹ the TWC, and Commission rules.
6. After consideration of the factors in TWC §§ 13.241(a) and 13.246(c) and 16 TAC § 24.277(e), Dayton demonstrated adequate financial, managerial, and technical

¹ Tex. Gov't Code §§ 2001.001–.903.

- capability to provide continuous and adequate service to the requested area as required by TWC § 13.241(a) and 16 TAC § 24.227(e).
7. Dayton demonstrated that granting water CCN number 13297 and sewer CCN number 21124 is necessary for the service, accommodation, convenience, or safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(c).
 8. Regionalization or consolidation concerns under TWC § 13.241(d) do not apply in this proceeding because construction of a physically separate water system or sewer system is not required.
 9. It is not necessary for Dayton to provide a bond or other financial assurance under TWC § 13.246(d) or 16 TAC § 24.227(f).
 10. Dayton has access to an adequate supply of water to serve the requested area, and its public water system is capable of providing water that meets the requirements of chapter 341 of the Texas Health and Safety Code, chapter 13 of the TWC, and the rules of the TCEQ in accordance with TWC § 13.241(b) and 16 TAC § 24.227(a)(1).
 11. Dayton's sewer system is capable of meeting the TCEQ's design criteria for sewer systems and the requirements of chapter 13 the TWC in accordance with TWC § 13.241(c).
 12. Under TWC § 13.257(r) and (s), Dayton is required to record a certified copy of the certificates granted and maps approved, along with a boundary description of its service area, in the real property records of Liberty County, within 31 days of receiving this Notice of Approval and must submit evidence of the recording to the Commission.
 13. 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, as amended and supplemented.

2. The Commission grants Dayton water CCN number 13297 to include the requested area described in this Notice of Approval and shown on the map attached hereto.
3. The Commission grants Dayton sewer CCN number 21124 to include the requested area described in Notice of Approval and shown on the map attached hereto.
4. The Commission grants the certificates attached to this Notice of Approval.
5. Dayton must serve every customer and applicant for service within the area certificated under water CCN number 13297 who requests water service and meets the terms of Dayton's water service, and such service must be continuous and adequate.
6. Dayton must serve every customer and applicant for service within the area certificated under sewer CCN number 21124 who requests sewer service and meets the terms of Dayton's sewer service, and such service must be continuous and adequate.
7. Dayton must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Liberty County affected by the application and submit to the Commission evidence of the recording no later than 45 days after receipt of this 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 _____ day of _____, 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

**ISAAC TA
ADMINISTRATIVE LAW JUDGE**