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Public Utility Commission of Texas

Commissioner Memorandum

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TO: Commissioner Arthur C. D'Andrea
Commissioner Shelly Botkin

FROM: Chairman DeAnn T. Walker *DTW*

DATE: January 28, 2021

RE: January 29, 2021 Open Meeting – Item No. 13
Docket No. 49262 – *Application of the City of Floresville to Amend a Sewer Certificate of Convenience and Necessity in Wilson County*

I recommend that the Commission make the following changes to the proposed order in this proceeding.

Finding of fact 1 should be modified because it is duplicative of finding of fact 2.

1. Floresville is a municipally-owned utility ~~that provides sewer service under CCN No. 20279 in Wilson County, Texas.~~

Findings of fact 8, 24, 29, and 40 should be modified to delete unnecessary information and for accuracy.

8. No ~~protests or~~ opt-out requests were received from customers within the proposed service area.
24. Floresville is currently providing service to 171 existing customers in the requested area ~~There is an ongoing need for sewer service in the requested area.~~
29. Floresville has not been subject to any unresolved enforcement action by the Commission ~~or, TCEQ, Texas Health and Human Services, the Office of the Attorney General, or the United States Environmental Protection Agency in the past five years for non-compliance with rules, orders, or state statutes.~~
40. ~~Because~~ Floresville will not need to construct a physically separate sewerwater system to serve the requested area, ~~concerns of regionalization or consolidation do not apply because it currently provides service to the requested area.~~

Conclusion of law 1 should be modified to delete the reference to TWC § 13.041 because Floresville is not a sewer utility under the Texas Water Code.

1. The Commission has authority over this proceeding under TWC §§ ~~13.041~~, 13.241, 13.244, and 13.246.

Conclusion of law 4 should be modified for clarity.

4. The application meets the requirements set forth in TWC § 13.244(d) and 16 TAC § 24.227(c).

A new conclusion of law should be added after conclusion of law 4 because it is needed to support the order. Subsequent conclusions of law should be renumbered accordingly.

- X. Regionalization and consolidation concerns under TWC § 13.241(d) do not apply in this proceeding because construction of a physically separate sewer system is not required.

Conclusion of law 6 should be modified for completeness to include 16 TAC § 24.11(e) because Floresville's financial ability and stability satisfy the leverage and operations test prescribed by that rule provision.

6. After consideration of the factors in TWC § 13.246(c) and 16 TAC §§ 24.11(e) and 24.227(e), Floresville has demonstrated adequate financial, managerial, and technical capability to provide continuous and adequate service to the requested service area as required by TWC § 13.241 and 16 TAC § 24.227.

Conclusion of law 9 should be modified to refer to the requirement for sewer service under TWC § 13.241(c) and 16 TAC § 24.227(a)(2) rather than for water service under TWC § 13.241(b) and 16 TAC § 24.227(a)(1).

9. Floresville's wastewater treatment system is capable of providing sewer service that meets the requirements of chapter 341 of the Texas Health and Safety Code, the rules of the TCEQ, and the TWC in accordance with TWC § 13.241(b) and 16 TAC § 24.227(a)(1). Floresville's sewer system (TPDES permit number WQ0010085001) is capable of meeting the TCEQ's design criteria for sewer treatment plants, the TWC, and the rules of the TCEQ in accordance with TWC § 13.241(c) and 16 TAC § 24.227(a)(2).

Finally, I propose delegating to the Office of Policy and Docket Management staff the authority to modify the order to conform to the *Citation and Style Guide for the Public Utility Commission of Texas* and to make other non-substantive changes to the order for such matters as capitalization, spelling, grammar, punctuation, style, correction of numbering, and readability.

I look forward to discussing this matter with you at the open meeting.