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DOCKET NO. 49272

APPLICATION OF YANCEY WATER §
SUPPLY CORPORATION TO AMEND §
A WATER CERTIFICATE OF §
CONVENIENCE AND NECESSITY IN §
MEDINA AND FRIO COUNTIES §
§
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PUBLIC UTILITY COMMISSION
OF TEXAS
FILING CLEAR

COMMISSION STAFF'S AMENDED FINAL RECOMMENDATION

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest and files this Amended Final Recommendation. In support thereof, Staff shows the following:

I. BACKGROUND

On February 28, 2019, the Yancey Water Supply Corporation (Yancey WSC) filed an application to amend its water Certificate of Convenience and Necessity (CCN) No. 11463, in Medina and Frio Counties, Texas. The requested area included approximately 224,705 acres and 1,764 connections. On June 3, 2020, Staff filed its Final Recommendation on the application as required by Order No. 12. Staff now amends its final recommendation including a revised memorandum to provide additional clarity regarding Yancey's requested service area.

II. FINAL RECOMMENDATION

Staff has reviewed Yancey WSC's application and, as detailed in the memorandum attached to this pleading of Patricia Garcia of the Commission's Infrastructure Division and Spencer English of the Commission's Rate Regulation Division, Staff recommends that the application be approved. Staff's review indicates that Yancey WSC meets the applicable technical, managerial, and financial requirements of Chapter 13 of the Texas Water Code and Title 16, Chapter 24 of the Texas Administrative Code, and therefore, is capable of providing continuous and adequate service. Additionally, Staff's review suggests that approval of the application is necessary for the service, accommodation, convenience, and safety of the public. In accordance with this recommendation, the corresponding map and certificate consented to by Yancey WSC are included with this pleading.

III. CONCLUSION

For the reasons discussed above, Staff respectfully recommends that the Commission approve Yancey's application.

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Rachelle Nicolette Robles
Division Director

/s/ Rashmin J. Asher
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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 8, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Rashmin J. Asher
Rashmin J. Asher

PUC Interoffice Memorandum

To: Rashmin Asher, Attorney
Legal Division

From: Patricia Garcia, Senior Engineering Specialist
Infrastructure Division

Spencer English, Financial Analyst
Rate Regulation Division

Date: July 8, 2020

Subject: **Docket No. 49272, Application of Yancey Water Supply Corporation to Amend its Certificate of Convenience and Necessity (CCN) in Medina and Frio Counties**

On February 28, 2019, Yancey Water Supply Corporation (Applicant) filed with the Public Utility Commission of Texas (Commission) an application to amend its water Certificate of Convenience and Necessity (CCN) No. 11463 in Medina and Frio Counties, Texas pursuant to Texas Water Code (TWC) §§ 13.242 to 13.250 and 16 Tex. Admin Code (TAC) §§ 24.225 to 24.237.

Background

The majority of the requested area is already certificated under a facility line CCN and services are being provided. The Applicant submitted this CCN amend request in order to incorporate 289 miles of certificated lines from a facility line CCN to a bounded area containing 224,359 acres and 1,764 existing customers in a rural area that includes large ranches. The CCN facility lines essentially match the road map of the area they are seeking to certificate as a bounded area to avoid having to amend the facility line CCN every time a line is extended and to present a clear boundary of the CCN. The proposed CCN boundary was formed based on the currently certificated facility line CCN, adjoining neighboring utility boundaries, roadways, and the Frio County line, and only included areas that the Applicant has the ability to serve with its current pressure planes and existing infrastructure. Additionally, water utility service is preferable in these proposed areas since individual water wells are not economically feasible for most of the property owners in these areas. The original request included approximately 3,772 acres of uncertificated area to enclose areas between the Applicant's facility line CCN and neighboring CCN borders. Due to requests for opt-outs, agreements with neighboring entities (specifically, San Antonio Water Systems and East Medina County Special Utility District), and discussions with Staff, the total requested area was reduced and the total bounded area is now approximately 209,526 acres, which includes a reduction from 3,772 acres to 896 acres of previously uncertificated area and 0 current customers outside of the Applicant's current facility line CCN.

Staff worked closely with the Applicant to reduce the 3,772 acres of uncertificated area originally requested. After removing the opt-outs, areas due to agreements with San Antonio Water Systems and East Medina County Special Utility District, and areas after discussions regarding need for service with Staff, the uncertificated area being requested was reduced to 896 acres. The 896 acres of uncertificated unserved area outside the Applicant's currently certificated facility line CCN can be separated into 3 categories:

- Approximately 263 acres is directly adjoining the Applicant's currently certificated facility line CCN area that is actively being served;
- Approximately 383 acres is directly adjoining Applicant's currently certificated facility line CCN area that is not actively being served; and

- Approximately 250 acres is not adjoining Applicant's currently certificated facility line CCN area, due to opt outs surrounding this area, however, the tract is only ¾ mile away from the currently certificated facility line CCN area.

With the capacities available in their water plants and water line infrastructure in place, the Applicant is capable of serving the properties within the approximately 896 acres of uncertificated area requested.

Notice

The comment period ended August 2, 2019 and no protests were received. Several opt-outs were received and removed as stated above.

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 has a Texas Commission on Environmental Quality (TCEQ) approved Public Water System (PWS) Identification No. 1630021. The Applicant does not have any violations listed in the TCEQ database. No additional construction is necessary for the Applicant to serve the requested area.

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

There is a need for service in the requested areas. There are 1,764 existing customers in the areas. Additionally, water utility service is preferable in the areas since individual water wells are not economically feasible for most of the property owners. The areas are not excessive, because they are based on the currently certificated facility line CCN, adjoining neighboring utility boundaries, roadways, and the Frio County line, and only include areas that the Applicant has the ability to serve with its current pressure planes and existing infrastructure.

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.

There will be no effect on any retail public utility servicing the proximate area as there are no other water providers in the area.

TWC §§ 13.241(b) and 13.246(c)(4) requires the commission to consider the ability of the Applicant to provide adequate service.

The Applicant has a TCEQ approved PWS ID No. 1630021. The Applicant does not have any violations listed in the TCEQ database. No additional construction is necessary for the Applicant to serve the requested area.

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

The Applicant has been providing service in the requested area via facility lines.

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.

16 TAC § 24.11 establishes criteria to demonstrate that an owner or operator of a retail public utility has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and requested utility service area. 16 TAC § 24.11(e) lists the

financial tests. The following shows that the Applicant meets three out of four leverage tests for which the Applicant is only required to meet one.

Financial Test

Pursuant to Texas Water Code (TWC) § 13.246(c)(6) the Public Utility Commission of Texas is required to consider the financial ability of an 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 (TAC) § 24.11 including leverage tests and an operations test. The following analysis is taken from the Applicant's audited financial statements which contained an unqualified auditor's opinion from Ede & Company, LLC which stated that the that the financial statements present fairly, in all material respects, the financial position of the Applicant as of April, 2018.¹ The audit and the related opinion indicate the transparency of the Applicant, and speak to the Applicant's management capabilities.

The Applicant meets two out of the five leverage tests. The Applicant is only required to meet one. The first test is met with a debt to equity ratio calculated as follows: long term debt of \$2,872,409² divided by equity/net assets of \$12,231,473.³ equals 0.23 which is less than one. The Applicant also has a sufficient unrestricted cash for two years of debt service by a coverage factor of 9.91. The amount of unrestricted cash for two years of debt service is calculated as follows: debt service of \$265,944, calculated by summation of 2017 and 2018 annual debt service amounts of \$132,972.⁴ Unrestricted cash of \$2,635,708⁵ divided by \$265,944 equals 9.91.

The Applicant meets the operations test. The Applicant has not submitted projections in its application; however, based on the financial statements the Applicant had \$451,817⁶ in operating income. No new infrastructure is required for the Applicant to provide service. Thus, there are no shortages to cover.

TWC § 13.246(d) allows the Commission to require an Applicant to provide a bond or other financial assurance in a form and amount specified by the Commission to ensure that continuous and adequate utility service is provided.

Staff does not recommend that the Applicant be required to provide a bond or other financial assurance to ensure continuous and adequate service.

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

The environmental integrity of the land will not be affected as no additional construction is needed to provide service to the requested area.

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

The Applicant will continue to provide water service to the existing customers in the area. By amending its current facility line CCN to include areas adjacent to its existing CCN, that are not within any other utility's service area, there will be no changes in the quality of retail service or cost to the customers for the requested area.

¹ Application at 138.

² See *id.* at 140.

³ See *id.* at 140.

⁴ See *id.* at 144.

⁵ See *id.* at 140.

⁶ Application at 139.

Staff recommends that the Applicant meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations, is capable of providing continuous and adequate service, and approving this application to amend a water CCN No. 11463 is necessary for the service, accommodation, convenience and safety of the public.

The Applicant consented to the attached map and certificate on May 21, 2020.

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