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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: December 16, 2020

RE: December 17, 2020 Open Meeting – Item No. 6
Docket No. 49272 – *Application of Yancey Water Supply Corporation to Amend a Water Certificate of Convenience and Necessity in Medina and Frio Counties*

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

Proposed findings of fact 9 and 14 should be corrected.

9. Yancey supplemented ~~or~~ amended the application in filings on March 19, April 26, and July 8, 2019; ~~and March 6 and April 13, 2020.~~
14. As of July 29, 2019 when notice of the application was sent and published Initially, the total requested area ~~requested in the application~~ included approximately 224,359 acres and 1,764 current customers.

Proposed finding of fact 15 should be deleted, and proposed finding of fact 16 should be modified, to delete facts that are not in the evidentiary record of this proceeding and are not necessary to support the Commission's decision.

- ~~15. In light of recent growth in demand, Yancey now serves approximately 2,000 customers within the requested area.~~
16. Having excluded acreage owned by those who have elected to opt-out and acreage removed to accommodate the intervenors, the application now covers a requested area of approximately 209,526 acres ~~and approximately 2,000 current customers.~~

Proposed findings of fact 23 and 25 should be deleted as unnecessary, and proposed finding of fact 26 should be modified for clarity and completeness.

- ~~23. On July 25, 2019, East Medina filed a motion to intervene.~~
- ~~25. On August 1, 2019, SAWS filed a motion to intervene.~~

26. In Order No. 5 filed on August 12, 2019, the ALJ granted ~~both~~ motions to intervene filed by East Medina and San Antonio Water System.

Proposed finding of fact 27 should be modified to add the names of the landowners that requested to opt out of the requested area.

27. On July 31, and August 1 and 5, 2019, ~~the following several~~ landowners filed requests to opt out of the requested area:-

<u>Landowner opting out</u>	<u>Date of filing</u>
<u>Raymond L. Jagge</u>	<u>July 31, 2019</u>
<u>Robyn Jagge Masrouri</u>	<u>July 31, 2019</u>
<u>Sharon Jagge Rogers</u>	<u>July 31, 2019</u>
<u>Todd Tschirhart on behalf of B & L Tschirhart, Ltd.</u>	<u>July 31, 2019</u>
<u>Polly Edlund on behalf of Old Jagge Ranch, Ltd.</u>	<u>July 31, 2019</u>
<u>Fran and Duane Brown</u>	<u>August 1, 2019</u>
<u>Michael and Margot Bowen</u>	<u>August 5, 2019</u>
<u>Two Creeks Ranch, LLC</u>	<u>August 5, 2019</u>

A new finding of fact should be added after proposed finding of fact 28 to address the withdrawal of an opt-out request. Subsequent findings of fact should be renumbered accordingly.

- XX. On March 6, 2020, a letter from Two Creeks Ranch, LLC was filed. In that letter, Two Creeks Ranch withdrew its request to opt out of the requested area.

Proposed finding of fact 30 should be modified to delete information that is irrelevant to this proceeding.

30. On July 29, 2019, Yancey filed publisher's affidavits attesting notice of the application was published on June 13 and 20, 2019 in the *Hondo Anvil Herald*, a newspaper of general circulation in Medina County, and in the *Frio-Nueces Current*, a newspaper of general circulation in Frio and LaSalle Counties.

Proposed finding of fact 35 should be deleted as unnecessary. Subsequent findings of fact should be renumbered accordingly.

- ~~35. On August 7, 2020, Yancey and Commission Staff filed a corrected agreed motion to admit evidence and proposed order. The remaining parties, East Medina and SAWS, did not oppose the motion.~~

Proposed finding of fact 38 should be modified for accuracy.

38. Approximately 896 acres of the requested area is not ~~within in proximity to~~ Yancey's current facilities-plus CCN boundaries and is not currently being served

by Yancey, but the utility has the ability to serve this area with its existing infrastructure.

Proposed finding of fact 40 should be deleted to remove facts that are not in the evidentiary record of this proceeding and are not necessary to support the Commission's decision.

40. ~~There is a need for additional service in the requested area because it is experiencing population growth.~~

Proposed finding of fact 47 should be deleted because it is duplicative, and proposed finding of fact 52 should be modified for completeness.

47. ~~Yancey has a sufficient number of licensed operators and the managerial and technical capability to provide adequate and continuous service to the requested service area.~~

52. Yancey has a sufficient number of licensed operators and the managerial and technical capability to provide continuous and adequate service to the requested area. Among other things, this is demonstrated by the fact that Yancey already provides service to most of the requested area.

Proposed finding of fact 49 should be modified for accuracy because the Texas Department of Health no longer exists and its functions were incorporated into Texas Health and Human Services.

49. Yancey has not been subject to any unresolved enforcement action by the Commission, TCEQ, ~~the Texas Health and Human Services~~ Texas Department of Health, the Office of the Attorney General, or the United States Environmental Protection Agency.

Proposed findings of fact 58, 60, and 65 should be corrected.

58. The proposed CCN amendment~~transaction~~ will not adversely affect the environmental integrity of the land or have an adverse effect on the land because no additional construction will be needed to provide service to the requested area.

60. No lowering of costs is expected for existing customers as a result of the CCN amendment~~transaction~~. Customers will continue to be charged according to Yancey's tariff.

65. Commission Staff recommended that the amended application be approved.

Proposed conclusion of law 1 should be modified to delete unnecessary statutory references and to be consistent with recent Commission orders.

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

A new conclusion of law should be added after proposed conclusion of law 3 for completeness and to be consistent with recent Commission orders.

X. The application meets the requirements set forth in TWC § 13.244 and 16 TAC §§ 24.25 and 24.227.

Proposed conclusion of law 9 and ordering paragraph 4 should be modified to more accurately reflect the statutory and regulatory requirements.

9. Under TWC § 13.257(r) and (s), Yancey is required~~must~~ to record a certified copy of its approved map and certificate, along with a boundary description of its service area, in the real property records of Medina and Frio counties no later than the~~within~~ 31st day after the date the CCN holder receives this Order and submit to the Commission evidence of the recording within 45 days, as required by TWC § 13.257(r) and (s).
4. Yancey must~~comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Medina and Frio counties affected by this application and~~ file in this docket proof of the recording required in TWC § 13.257(r) and (s) within 45 days~~of~~after the date of this Order.

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.