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DOCKET NO. 49311

**APPLICATION OF PARK WATER §
COMPANY TO OBTAIN §
CERTIFICATES OF CONVENIENCE §
AND NECESSITY IN MIDLAND §
COUNTY §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

2020 JAN -7 PM 12:50
FILING CLERK

COMMISSION STAFF'S FINAL RECOMMENDATION

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

I. BACKGROUND

On March 8, 2019, Park Water Company (Park WC) filed an application for water and sewer certificates of convenience and necessity in Midland County. The requested service area consists of 262 acres and currently has no customers.

On November 19, 2019, the Administrative Law Judge issued Order No. 9 requiring Staff to file a final recommendation on the application if no hearing is requested. Therefore, this pleading is timely filed.

II. FINAL RECOMMENDATION

As detailed in the attached memorandum of Leila Guerrero of the Commission's Infrastructure Division, Staff has reviewed the application and determined that Park WC meets the requirements of Chapter 13 of the Texas Water Code, and the Commission's Chapter 24 rules and regulations. Staff's review also indicates that Park WC is capable of providing continuous and adequate service. Staff therefore recommends that the application be approved.

III. CONCLUSION

For the reasons detailed above, Staff recommends approval of the application.

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on January 7, 2020 in accordance with 16 TAC § 22.74.



Rashmin J. Asher

PUC Interoffice Memorandum

To: Rashmin Asher, Attorney
Legal Division

From: Leila Guerrero, Regulatory Accountant/Auditor
Rate Regulation Division

Greg Charles, Engineer
Infrastructure Division

Date: January 7, 2020

Subject: **Docket No. 49311**, *Application of Park Water Company to Obtain Certificates of Conveniences and Necessity in Midland County*

Background

On March 8, 2019, Park Water Company (Applicant) filed an application with the Public Utility Commission of Texas (Commission) to obtain water and sewer certificates of convenience and necessity (CCN) in Midland County, Texas pursuant to Texas Water Code Ann. (TWC) §§ 13.242 to 13.250 and the 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237. The requested service area consists of 262 acres and currently has no customers.

Notice

The comment period ended on July 17, 2019, and no protests or opt-out requests were 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) and 16 TAC § 24.227(d)(1) requires the commission to consider the adequacy of service currently provided to the requested area.

Staff did not consider these criteria as water and sewer service is not currently being provided in the requested area.

TWC § 13.246(c)(2) and 16 TAC § 24.227(d)(2) requires the commission to consider the need for service in the requested area.

The requested service area is vacant land that is being developed into residential subdivisions.

TWC § 13.246(c)(3) and 16 TAC § 24.227(d)(3) requires the commission to consider the effect of granting certificate or 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 and sewer providers within the requested service area.

TWC §§ 13.241(b) and (c), 13.246(c)(4) and 16 TAC § 24.227(d)(4) requires the commission to consider the ability of the Applicant to provide adequate service.

The Applicant has a public water system (PWS) registered with the Texas Commission on Environmental Quality (TCEQ) under PWS ID No. 1650167 for the Vander Ranch Water System at Vander Ranch Subdivision and a wastewater permit registered with the TCEQ under WQ 0015661-001 for the wastewater. There are two operators licensed for water and two operators licensed for water and sewer.

The Applicant is a subsidiary of Permian Basin Water Resources, LLC ("Permian"). Permian has owned Greenwood Water Corporation (Greenwood) since 2015. Greenwood is the only entity that provides water utility service within two miles of the requested service area.

TWC §§ 13.241(d), 13.246(c)(5), and 16 TAC § 24.227(d)(5) requires the commission to consider the feasibility of obtaining service from an adjacent retail public utility.

There are no retail public water or sewer utilities within one-half mile of the requested area. Granting the CCN request will allow the Applicant to provide water and sewer service to an affiliated development company to allow economic and efficient residential development of vacant land. The nearest water utility, Greenwood Water Corporation, is a commonly owned affiliate. Because of the age and capacity of Greenwood's facilities, it has been determined that new facilities are the optimum plan for providing service

TWC § 13.246(c)(6) and 16 TAC § 24.227(d)(6) requires the commission to consider the financial ability of the Applicant to pay for facilities necessary to provide continuous and adequate service.

The financial criteria and tests are listed in 16 TAC § 24.11 including leverage tests and an operations test.

The Applicant meets three out of the five leverage tests with a debt to equity ratio of zero which is less than one because the balance sheets reflect no long-term debt. The Applicant's projected balance sheet filed with the application show that there will be no long-term debt from 2019 to 2023.¹ Since the Applicant does not have any long-term debt, they pass the debt service coverage ratio with a positive net income of \$82,461 in the projected second year of operations and they are not required to maintain a cash reserve to cover two years' debt service. The Applicant is only required to meet one leverage test.

The Applicant meets the operations test. Applicant has submitted projected financial statements with its application for the years 2019 to 2023. 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 projected income statement indicates no operations and maintenance shortages for the next five years. In addition, the Applicant is wholly owned by Permian Basin Water Resources, LLC (Permian); thus, Permian owns a 100% share of the equity of Applicant.² In response to Staff 3-4, filed confidentially, indicated that owners of Permian will continue to increase investments as needed for operations and maintenance as necessary to satisfy 16 TAC 24.11(e)(3). Thus, there are

¹ Application, Appendix B, Projected Financial Information, pp. 13-19 (March 8, 2019).

² Response to Staff's Third RFI, Filed Confidentially (Oct 18, 2019).

no shortages to cover.

TWC § 13.246(d)(6) 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 to the requested area.

TWC §§ 13.246(7) and (9) and 16 TAC §§ 24.227(d)(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 will be minimally affected as the requested area is developed. In addition, granting the CCN will protect the environmental integrity of the land by eliminating the need for additional onsite sewage facilities in the service area.

TWC § 13.246(8) and 16 TAC § 24.227(d)(8) requires the commission to consider the probable improvement in service or lowering of cost to consumers.

This is not applicable because there are no homes currently receiving service in the requested service area. Staff recommends that the proposed rates are reasonable with respect to the projected financial information provided with the application and the Applicant's responses to various Staff's requests for information. In order to true-up the proposed rates, Staff recommends that the Applicant file a rate application with the Commission within 18 months from the date service begins per 16 TAC § 24.25(b)(1)(C).

The Applicant consented to the attached maps, certificates, and tariffs on December 16, 2019.

Recommendation

Based on the above information, Staff recommends that:

- The Commission find that the Applicant meets all of the statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules and regulations and is capable of providing continuous and adequate service;
- The Commission find that issuance of water CCN No. 13278 and sewer CCN No. 21115 is necessary for the service, accommodation, convenience, and safety of the public;
- The Applicant be ordered to file a rate application with the Commission under 16 TAC § 24.25(b)(1)(C) within 18 months from the date service begins;
- The Commission require the Applicant to provide notice to the Commission once billing for service begins, as required by 16 TAC § 24.25(b)(1)(B)(vi);
- The Commission issue an order approving the application and provide the attached maps, certificates, and tariff to the Applicant; and
- The Applicant be required to file certified copies of their CCN maps along with a written description of the CCN service area in the county clerk's office under TWC §§ 13.257(r-s).