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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 13, 2021

RE: January 14, 2021 Open Meeting – Item No. 7
Docket No. 50271 – *Application of Midland to Amend its Certificates of Convenience and Necessity in Martin and Midland Counties*

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

Proposed findings of fact 4 and 6 should be deleted because they are duplicative of proposed finding of fact 9. The subsequent findings of fact should be renumbered.

4. — ~~Midland serves 44,622 customers within the 24,076 acre area it seeks to add to its water CCN service area.~~
5. — ~~Midland serves 40,282 customers within the 24,297 acre area it seeks to add to its sewer CCN service area.~~

Proposed finding of fact 9 should be modified for clarity to document the potential new water and sewer customers in the requested areas.

9. The requested water service area consists of approximately 24,076 acres, and with 44,622 current customers and 8,000 potential new customers, and the requested sewer service area consists of approximately 24,279 acres, and with 40,282 current customers and 7,000 potential new customers.

Proposed findings of fact 15 and 55 should be deleted because they are not relevant to the proposed order. The subsequent findings of fact should be renumbered.

15. — ~~On April 15, 2020, Jeff and Elizabeth Schwarzer filed protests.~~
55. — ~~Elizabeth and Jeff Schwarzer filed a protest.~~

Proposed conclusion of law 1 should be modified to delete the reference to TWC § 13.041 because Midland is not a water and sewer utility under the Texas Water Code.

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

A new conclusion of law should be added after proposed conclusion of law 3 to reflect the fact that Midland submitted the information required for applications to amend certificates of convenience and necessity by the Texas Water Code. Subsequent conclusions of law should be renumbered.

X. The application meets the requirements set forth in TWC § 13.244(d).

Conclusion of law 5 should be modified for completeness to include 16 TAC § 24.11(e) because Midland's financial ability and stability satisfy the leverage and operations tests prescribed by that rule provision.

5. After consideration of the factors in TWC § 13.246(c) and 16 TAC §§ 24.11(e) and 24.227(e), Midland demonstrated adequate financial, managerial, and technical capability to provide continuous and adequate service to the 24,076-acre requested water service areas, the 24,279-acre requested sewer service areas, and its current service area in Martin and Midland counties, as required by TWC § 13.241(a) and 16 TAC § 24.227.

Conclusions of law 6 and 7 should be modified for consistency with previous Commission orders.

6. ~~Midland meets the requirements of TWC § 13.241(b) to provide water utility service.~~ Midland has access to an adequate supply of water to serve the requested areas, and its public water system is capable of providing drinking water that meets the requirements of chapter 341 of the Texas Health and Safety Code, the TWC, and the rules of the TCEQ in accordance with TWC § 13.241(b) and 16 TAC § 24.227(a)(1).

7. ~~Midland meets the requirements of TWC § 13.241(c) to provide sewer utility service.~~ Midland's sewer system (TPDES permit number WQ0010223001) is capable of meeting the TCEQ's design criteria for sewer treatment plants, the TWC, and the rules of the TCEQ in accordance with § 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.