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Public Utility Commission of Texas

Commissioner Memorandum

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2020 DEC 16 AM 10:13
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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. 14
Docket No. 50792 – *Petition of Val Verde Utility Company, LLC to Decertify its Certificated Water Area and Cancel its Water Certificate of Convenience and Necessity in Val Verde County*

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

The phrasing related to cancelling a certificate of convenience and necessity (CCN) in the order's introductory paragraph, proposed findings of fact 10, 19, and 21, and ordering paragraph 1 should be replaced with phrasing related to revoking a CCN.

"In this proceeding, Val Verde Utility Company, LLC seeks ~~to cease providing water service and cancel~~ revocation of its certificate of convenience and necessity (CCN) number 13179 in Val Verde County. The Commission ~~cancels~~ revokes Val Verde Utility's water CCN number 13179."

Proposed findings of fact 17, 18, 24, 25, 26, 27, 28, 29, 30, 31, and 32 and related headings should be deleted because they are irrelevant. The petitioner is seeking decertification, not cessation of service. The remaining findings of fact should be renumbered.

~~**Ability to Render Continuous and Adequate Service—Texas Water Code (TWC) § 13.250(a)**~~

~~17. Consideration of Val Verde Utility's ability to render continuous and adequate service within its certified area is unnecessary because Val Verde Utility has no customers or facilities.~~

~~**Discontinuation, Reduction, or Impairment of Service—TWC § 13.250(b), (c), (d)**~~

~~18. Neither the present nor future convenience and necessity will be adversely affected because there are no customers in Val Verde Utility's certified area and because Val Verde Utility has never provided service to the certified area.~~

~~**Effect on Customers and Landowners—16 Texas Administrative Code (TAC) § 24.249(i)(1)**~~

~~24. The proposed discontinuation of service will have no adverse effect on customers and landowners because there are no customers in Val Verde Utility's certified area~~

~~and all of the land located within the boundaries of the CCN is now owned by Val Verde County, who requested Val Verde Utility cancel its CCN.~~

~~Costs Associated with Achieving Compliance—16 TAC § 24.249(i)(2)~~

~~25. There are no costs associated with achieving compliance because Val Verde Utility has never constructed a system for providing water services.~~

~~Diligence in Locating Alternative Sources of Water Service—16 TAC § 24.249(i)(3)~~

~~26. There is no need for Val Verde Utility to locate alternative sources of water service because there are no customers in Val Verde Utility's service area and the current landowner, Val Verde County, requested Val Verde Utility cancel its CCN.~~

~~Efforts to Sell Utility—16 TAC § 24.249(i)(4)~~

~~27. There are no facilities to be sold.~~

~~Asking Price—16 TAC § 24.249(i)(5)~~

~~28. There are no facilities to be sold.~~

~~Relationship Between Applicant and Developer—16 TAC § 24.249(i)(6)~~

~~29. SE Ranch Holdings was the original landowner and developer of the area. The officers of SE Ranch Holdings established Val Verde in anticipation of developing the land and providing utility services following the development.~~

~~30. In October 2019, SE Ranch Holdings entered an agreement to convey the land covered by water CCN number 13179 to Val Verde County. Val Verde Utility filed this petition to cancel water CCN number 13179 in furtherance of the terms of the agreement between SE Ranch Holdings and Val Verde County.~~

~~Availability of Alternative Sources of Water Service—16 TAC § 24.249(i)(7)~~

~~31. Consideration of the availability of alternative sources of water service is unnecessary because there are no customers in the certified area and the current landowner, Val Verde County, requested Val Verde Utility cancel its CCN.~~

~~Feasibility of Obtaining Service from Alternative Sources—16 TAC § 24.249(i)(8)~~

~~32. Consideration of the feasibility of obtaining service from alternative sources is unnecessary because there are no customers in the certified area and the current landowner, Val Verde County, requested Val Verde Utility cancel its CCN.~~

Proposed finding of fact 21 should be modified for clarity because Val Verde Utility has never had customers or facilities.

21. Because Val Verde Utility has never had customers or facilities, and because there are no current plans for another utility to provide service to the certified area following the cancellation/revocation of Val Verde Utility's CCN, no compensation for the certified area has been paid or is due to Val Verde Utility from another retail public utility.

Proposed finding of fact 22 should be deleted because, as phrased, it is not a proper finding of fact.

~~22. After discontinuance and cancellation of its CCN, Val Verde will no longer be obligated to serve the certified area.~~

A new finding of fact 22 should be added to support conclusion of law 4 as modified. Subsequent findings of fact should be renumbered.

22. Val Verde Utility has never provided service in the service area and has consented in writing to the revocation.

Conclusions of law 1 and 2 should be modified for accuracy. The Commission has authority to decertify a certified area under Texas Water Code § 13.254, and notice of the application was provided pursuant to 16 TAC § 24.235(b)

1. The Commission has authority over this proceeding under TWC §§ 13.041 and ~~13.250~~254.
2. Notice of the petition was provided in compliance with TWC § 13.246 and 16 TAC § ~~24.249~~235(b).

Proposed conclusion of law 4 should be deleted and replaced with a new conclusion of law 4 stating that Val Verde Utility has met the requirements for revocation of its water CCN.

4. ~~After consideration of the requirements of factors in TWC §§ 13.250 and 13.254 and 16 TAC § 24.249~~245(i)(d), Val Verde Utility demonstrated that it meets the criteria to~~may have its water CCN number 13179 cancelled.~~Val Verde Utility met the requirements of TWC § 13.254 and 16 TAC § 24.245 for revocation of its water CCN number 13179.

A new conclusion of law 5 should be added to state the effect of the Commission revoking Val Verde Utility's CCN. The subsequent conclusion of law should be renumbered accordingly.

5. Under TWC § 13.254(h), after revocation of its CCN, Val Verde Utility will no longer be obligated to serve the certified area.

Ordering paragraph 2 should be deleted because it is not necessary to instruct Commission Staff to take action. The subsequent ordering paragraph should be renumbered.

- ~~2. Commission Staff must remove Val Verde's water CCN number 13179 from its databases of active CCNs.~~

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.