

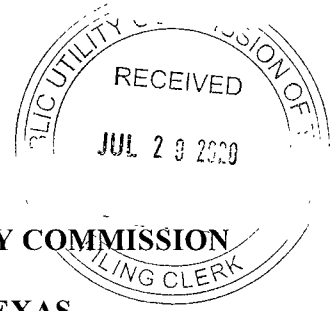


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DOCKET NO. 50969

APPLICATION OF JAMES NELSON  
DBA WATERCO TO OBTAIN A  
WATER CERTIFICATE OF  
CONVENIENCE AND NECESSITY IN  
MONTAGUE COUNTY

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PUBLIC UTILITY COMMISSION  
OF TEXAS

**COMMISSION STAFF'S RECOMMENDATION ON ADMINISTRATIVE  
COMPLETENESS AND PROPOSED NOTICE**

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this recommendation. Staff recommends that the application be deemed administratively incomplete and that the applicant be ordered to address the identified deficiencies. In support thereof, Staff would show the following:

**I. BACKGROUND**

On June 23, 2020, James Nelson dba Waterco (Mr. Nelson) filed an application to obtain a water certificate of convenience and necessity (CCN) in Montague County. The requested service area consists of an undetermined number of acres and as many as 20 potential connections.

On July 1, 2020, Order No. 1 was issued establishing a deadline of July 29, 2020, for Staff to file a recommendation on the administrative completeness of the application and notice and propose a procedural schedule for further processing of the application. This pleading, therefore, is timely filed.

**II. ADMINISTRATIVE COMPLETENESS**

As detailed in the attached memoranda of Jolie Mathis of the Commission's Infrastructure Division, and Fred Bednarski of the Commission's Rate Regulation Division, Staff has reviewed the application and recommends that it be found administratively incomplete and deficient at this time. Mr. Nelson has attempted to seek exempt utility status under 16 Texas Administrative Code (TAC) § 24.229 while utilizing the Commission's application for a CCN.<sup>1</sup>

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<sup>1</sup> Application at Part A, Question No. 13 (Jun. 23, 2020) (stating that "Applicant qualifies for 'exempt' status...").

However, Staff recommends that Mr. Nelson does not qualify for exempt utility status and must provide the information required for the CCN application.

Pursuant to 16 TAC § 24.229(e)(1), a water utility is exempt from the requirement to possess a CCN to provide retail water utility service if it has less than 15 potential service connections. Here, Mr. Nelson claims that Waterco has 13 actual connections at present. However, the standard under 16 TAC § 24.229(e)(1) is measured by potential connections and not actual connections. Regardless of which standard is utilized, Mr. Nelson does not qualify for exempt utility status. At present the Texas Commission on Environmental Quality Texas Drinking Water Watch database lists Waterco as presently having 20 connections.<sup>2</sup> Further, Mr. Nelson's customers assert that the utility has more than 15 actual connections.<sup>3</sup>

Mr. Nelson's past statements also indicate that the utility has more than 15 potential connections. In a filing in Docket No. 47411, Mr. Nelson stated, "Please remember we are discussing nineteen (19) customers – no more, no less."<sup>4</sup> In that same filing, Mr. Nelson completed two Exempt Utility Information Forms, one for each well in Waterco's system, where he indicates that each well has 15 potential connections.<sup>5</sup> He also indicates that one well has 11 active connections and the other has 8 active connections.<sup>6</sup> In total, by his own admission, Waterco has recently served as many as 19 active connections and has the ability to serve as many as 30 potential connections. Mr. Nelson then amended these connection numbers in subsequent filings, indicating that one well serves 11 potential connections and the other serves 9 potential connections, for a total of 20 potential connections served by Waterco.<sup>7</sup> Regardless of which set of numbers is to be given credence, Mr. Nelson admits that Waterco has more potential connections than the "less than 15 potential service connections" contemplated by 16 TAC § 24.229(e)(1). As such, Staff recommends that Waterco does not qualify for exempt utility status.

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<sup>2</sup>See, [https://dww2.tceq.texas.gov/DWW/JSP/WaterSystemDetail.jsp?tinwsys\\_is\\_number=13501&tinwsys\\_st\\_code=TX&wsnumber=TX1690028%20%20%20&DWWState=TX](https://dww2.tceq.texas.gov/DWW/JSP/WaterSystemDetail.jsp?tinwsys_is_number=13501&tinwsys_st_code=TX&wsnumber=TX1690028%20%20%20&DWWState=TX).

<sup>3</sup> See, *Fraudulent Information Provided in WATERCO CCN Application* (Jun. 29, 2020).

<sup>4</sup> *Formal Complaint of Tammy Bean Against Waterco, Owners Jim & Gloria Nelson, and the Waterco Board*, Docket No. 47411, A Successful Resolution at 1 (Dec. 29, 2017).

<sup>5</sup> *Id.* at 3, 5.

<sup>6</sup> *Id.* This filing contemplates a sale of one of the wells to an entity named "Welco." That sale was never consummated.

<sup>7</sup> See, *Docket No. 47411, Exempt Utility Registration Form* (Feb. 8, 2018).

Therefore, Staff recommends that Mr. Nelson submit the requested information to resolve the deficiencies in the CCN application, and revise answers to any questions where he indicated that Waterco is an exempt utility, by August 28, 2020, and that Staff be given a deadline of September 28, 2020, to file a supplemental recommendation on the administrative completeness of the application.

### **III. PROCEDURAL SCHEDULE**

In accordance with Staff's deficiency recommendation, Staff does not propose a procedural schedule for further processing of this docket currently. Staff intends to propose a procedural schedule alongside a subsequent recommendation for application sufficiency.

### **IV. CONCLUSION**

Staff respectfully requests the issuance of an order consistent with the foregoing recommendation.

Dated: July 29, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Rachelle Nicolette Robles  
Division Director

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Managing Attorney

/s/ Creighton R. McMurray  
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**DOCKET NO. 50969**

**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 29, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Creighton R. McMurray  
Creighton R. McMurray

# *Public Utility Commission of Texas*

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## **Memorandum**

**To:** Creighton McMurray, Attorney  
Legal Division

**From:** Fred Bednarski III, Financial Analyst  
Rate Regulation Division

**Date:** July 29, 2020

**Subject:** **Docket No. 50969**, *Application of James Nelson dba Waterco to Obtain a Water Certificate of Convenience and Necessity in Montague County*

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On June 23, 2020, James Nelson dba Waterco (Applicant) filed an application to obtain a water Certificate of Convenience and Necessity in Montague County, Texas under the provisions of Texas Water Code §§ 13.242 to 13.250 and 16 Texas Administrative Code §§ 24.225 to 24.237.

I reviewed the application and recommend that the application be deemed insufficient for filing. The answers provided to questions 30, and 31 of the application were not complete. Therefore, I recommend that the Applicant provide the following:

1. Completed Appendix A and B of the application;
2. A proposed tariff; and
3. A rate study that provides all calculations and assumptions supporting the proposed rates as well as the revenues and expenditures in Appendix A and B.

## PUC Interoffice Memorandum

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**To:** Creighton McMurray, Attorney  
Legal Division

**From:** Jolie Mathis, Utility Engineering Specialist  
Infrastructure Division

**Date:** July 29, 2020

**Subject:** **Docket No. 50969** *Application of James Nelson dba WATERCO to Obtain a Water Certificate of Convenience and Necessity in Montague County*

On June 23, 2020, James Nelson dba Waterco (Applicant) filed with the Public Utility Commission of Texas (Commission) an application to obtain a water Certificate of Convenience and Necessity (CCN) in Montague County, Texas pursuant to Texas Water Code (TWC) §§ 13.242 to 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237.

Staff has reviewed the information provided by the Applicant and recommends the application be deemed administratively incomplete and not accepted for filing due to the deficiencies detailed below:

**Application Content:**

**TCEQ Public Water System (PWS) Information**

Please submit evidence of compliance with TCEQ for PWS ID No. 1690028, including compliance correspondence such as TCEQ compliance investigation letters and TCEQ letter(s) regarding the resolution of any violations or compliance issues.

**Mapping Information:**

The maps filed in this docket are not sufficient to meet the mapping requirements. A printed map using Google Maps or similar software is not adequate to meet the mapping requirements. All maps must be filed in color, at full size and scale and cannot be hand drawn. To meet the mapping requirements, the Applicant must file digital mapping data, general location and detailed maps accurately marking the outer boundary of the requested area. Staff further recommends that the Applicant obtain additional mapping guidance from the Commission's mapping staff, Ms. Tracy Montes, by emailing [tracy.montes@puc.texas.gov](mailto:tracy.montes@puc.texas.gov) to resolve the mapping deficiencies.

Staff recommends that the Applicant submit the following items to resolve the mapping deficiencies:

- A general location map identifying only the requested area, in reference to the nearest county boundary, city, or town.
- A detailed map identifying only the requested area, in reference to verifiable man-made and natural landmarks, such as roads, rivers, and railroads.
- Digital mapping data for the requested area, as a single polygon record, in shapefile (SHP) format, georeferenced in either NAD83 Texas Statewide Mapping System (Meters) or NAD83 Texas State Plane Coordinate System (US Feet).

Note: Any confidential items should be submitted as confidential filings with the Commission. The instructions for filing confidential documents can be found on our website at: (<http://www.puc.texas.gov/industry/filings/FilingProceed.aspx>).