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DOCKET NO. 51904

APPLICATION OF MONARCH UTILITIES I L.P. TO AMEND ITS CERTIFICATES OF CONVENIENCE AND NECESSITY IN HARRIS AND LIBERTY COUNTIES	§	PUBLIC UTILITY COMMISSION
	§	
	§	OF TEXAS
	§	
	§	

COMMISSION STAFF’S RESPONSE TO ORDER NO. 16 REQUIRING CLARIFICATION

On March 16, 2021, Monarch Utilities I L.P. (Monarch) filed an application¹ to amend its water Certificate of Convenience and Necessity (CCN) No. 12983 and sewer CCN No. 20899 in Harris and Liberty Counties, Texas. The requested service area consists of 121 acres and zero existing connections. Monarch filed supplemental information on May 13, 2021, July 28, 2021, February 14, 2022, March 4, 2022, May 10, 2022, May 25, 2022, September 2, 2022, September 9, 2022, and September 23, 2022.

On September 16, 2022, the administrative law judge (ALJ) filed Order No. 16, requiring Staff (Staff) of the Public Utility Commission of Texas (Commission) to file responsive comments to Monarch’s response to the ALJ’s Order requiring clarification. On October 7, 2022, the ALJ filed Order No. 17, extending Staff’s deadline until October 19, 2022 to file its comments on Monarch’s response to the ALJ’s Order No. 16. Therefore, this pleading is timely filed.

I. STAFF’S RESPONSE TO ORDER NO. 16 REQUIRING CLARIFICATION

Staff has reviewed the supplementary information filed by Monarch on September 23, 2022, which was filed in response to the ALJ’s Order No. 16, requiring clarification from Monarch and Staff pertaining to Monarch’s compliance demonstrating that its regionalization or consolidation with another retail public utility is not economically feasible under the requirements outlined in 16 Texas Administrative Code (TAC) § 24.227(b).² More specifically, the rule requires that Monarch provide a list of all retail public water and sewer utilities within one half mile from the outer boundary of the requested area, along with copies of written

¹ Application of Monarch Utilities I L.P. to Amend its Certificates of Convenience and Necessity in Harris and Liberty Counties (March 16, 2021).

² 16 Tex. Admin. Code (TAC) § 24.227(b).

requests seeking to obtain from each of the retail public utilities within one half mile from the outer boundary of the requested area, or evidence that it is not economically feasible to obtain service from those retail public utilities.³

Under 16 TAC § 24.3(31), a retail public utility is defined as “any person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision or agency operating, maintaining, or controlling in this state facilities for providing potable water or sewer service, or both, for compensation”.⁴

On September 23, 2022, Monarch sufficiently responded to the issues in the ALJ’s request for clarification by providing updated documentation⁵, adequately identifying that Harris County Municipal Utility District (Harris MUD) 515, Harris MUD 516, and Harris MUD 517 are all inactive retail public water and sewer utilities within one half mile from the outer boundary of the requested area according to the Texas Commission on Environmental Quality’s (TCEQ) Water District Database (WDD).⁶ Furthermore, Monarch did not request water, sewer service, or both for compensation from any inactive utilities because inactive utilities are not considered “retail public utilities” within the parameters of 16 TAC §24.3(31).

Staff has reviewed the supplemented application and, as supported by the attached memorandum of Ms. Patricia Garcia, Infrastructure Division Director, recommends that Monarch’s updated Attachment 6 and supplemental information satisfies all the applicable requirements in 16 TAC § 24.227(b). Furthermore, after reviewing the additional evidence filed by Monarch, Staff does not require Monarch to provide notice to Harris Mud 515, 516, or 517 based on their inactive status under TCEQ’s Water District Database.

³ 16 Tex. Admin. Code (TAC) § 24.227(b)(1)-(3).

⁴ 16 Tex. Admin. Code (TAC) § 24.3(31).

⁵ See Monarch Amended Application Attachment 6.

⁶ See TCEQ’s Guide to the WDD (“Inactive is used to identify those districts that we know to be financially dormant. Financial dormancy is defined by the Legislature in Texas Water Code § 49.197”).

II. CONCLUSION

For the reasons discussed above, Staff respectfully provides the preceding responsive comments to the ALJ's Order No. 16 requiring clarification and requests the issuance of an order consistent with the foregoing recommendation.

Dated: October 19, 2022

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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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 October 19, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Forrest Smith
Forrest Smith

Public Utility Commission of Texas

Memorandum

TO: Forrest Smith, Attorney
Legal Division

FROM: Patricia Garcia, Infrastructure Analysis Section Director
Infrastructure Division

DATE: October 19, 2022

RE: Docket No. 51904 – *Application of Monarch Utilities I L.P. to Amend its Certificates of Convenience and Necessity in Harris and Liberty Counties*

On March 16, 2021, Monarch Utilities I L.P. (Monarch) filed with the Public Utility Commission of Texas (Commission) an application to amend its water certificate of convenience and necessity (CCN) No. 12983 and sewer CCN No. 20899 in Harris and Liberty counties, Texas under Texas Water Code (TWC) §§ 13.242 to 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237.

Monarch is seeking to amend its water and sewer CCNs for the service area containing 0 current customers and approximately 121 acres of uncertificated area.

The result of the application will be the addition of approximately 121 acres to CCN Nos. 12983 and 20899.

On September 16, 2022, the Administrative Law Judge requested clarification from Monarch and Staff regarding Monarch's compliance with 16 TAC § 24.227(b) with respect to demonstrating that regionalization or consolidation with another retail public utility is not economically feasible. Monarch's response on September 24, 2022, provided documentation showing that Harris County Municipal Utility District (MUD) 515, 516 or 517, were created in 2009, are dormant and inactive. Therefore, although Monarch requested consent to provide water service inside the boundaries of the MUDs, they did not request water service from the inactive MUDs.

To determine the list of districts that must receive notice from Monarch, Staff must verify if a district is located within the boundaries of the requested area or whether it is located within two miles of the requested area. If a district is located within the requested area or within two miles of the requested area, then Staff verifies if the district is active, inactive, dissolved, or unknown by referencing the Texas Commission on Environmental Quality's (TCEQ) Water District Database (WDD). If a district is considered inactive, dissolved or unknown as defined

in TCEQ's Guide to the WDD¹, Staff does not require the applicant to provide notice to the district. Therefore, Staff did not request Monarch issue notice to the districts named Harris County MUD 515, 516 or 517, since each district is considered inactive in TCEQ's WDD. Additionally, Staff reviewed the Commission's Water Database and TCEQ's Drinking Water Watch and Central Registry databases and was unable to find any sign that these districts have requested or obtained approval to provide water service from either agency.

Based on the documentation filed by Monarch finding that Harris County MUD 515, 516 or 517 were inactive districts with dormant affidavits filed and the mapping review finding these districts inactive and therefore did not need to be provided notice, I agree with Monarch's decision not to request water service from the inactive districts.

¹ As defined by TCEQ's Guide to the WDD, "Inactive is used to identify those districts that we know to be financially dormant. Financial dormancy is defined by the Legislature in Texas Water Code Section 49.197 as: "A district that had: (1) \$500 or less of receipts from operations, tax assessments, loans, contributions, or any other sources during the calendar year; (2) \$500 or less of disbursements of funds during the calendar year; (3) no bonds or other long-term (more than one year) liabilities outstanding during the calendar year; and (4) no cash or investments that exceeded \$5,000 at any time during the calendar year."