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DOCKET NO. 52002

**APPLICATION OF CPR WATER
SUPPLY COMPANY, LLC FOR A
WATER CERTIFICATE OF
CONVENIENCE AND NECESSITY IN
SMITH COUNTY**

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**PUBLIC UTILITY COMMISSION

OF TEXAS**

NOTICE OF APPROVAL

This Order addresses the application of CPR Water Supply Company, LLC for a water certificate of convenience and necessity (CCN) in Smith County. The Commission grants CPR Water CCN number 13298, which includes 151 total acres and no connections.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. CPR Water is a Texas limited liability company registered with the Texas secretary of state under filing number 803829494.
2. CPR Water has a Texas Commission on Environmental Quality (TCEQ) approved proposed water system registered as CPR Development, PWS ID No. 2120112. The water system will be activated when CPR Water notifies TCEQ or when an investigation by the TCEQ determines the water system is providing service to at least 15 service connections or 25 individuals.

Application

3. On April 9, 2021, CPR Water filed the application at issue in this proceeding.
4. CPR Water seeks to obtain a new water CCN in Smith County.
5. CPR Water filed supplements to the application on June 8 and 11, July 19, August 12, and November 30, 2021, and March 2, 4, and 14, 2022.
6. The requested area includes 151 total acres and no connections.
7. The requested area is approximately four miles southwest of downtown Noonday and is generally bounded on the north by State Highway 155 and Farm-to-Market Road 344; on

the east by County Road 189 North; on the south by Saline Bay (Lake Palestine), and on the west by State Highway 155.

8. In Order No. 3 filed on July 7, 2021, the administrative law judge (ALJ) found the application, as supplemented, administratively complete.

Notice

9. On August 2, 2021, CPR Water filed the affidavit of Bret Fenner, the authorized representative for CPR Water, attesting that notice was mailed to neighboring systems, landowners, customers, and cities on July 16, 2021.
10. On August 2, 2021, CPR Water filed a publisher's affidavit attesting that notice was published in the *Tyler Morning Telegraph*, a newspaper of general circulation in Smith County, on July 15 and 22, 2021.
11. In Order No. 4 filed on August 20, 2021, the ALJ found the notice sufficient.

Map, Certificate, and Tariff

12. On February 28, 2022, Commission Staff emailed the proposed maps, certificates, and tariffs to Liberty County.
13. On March 2, 2022, Liberty County filed its consent to the proposed maps, certificates, and tariffs.
14. On June 15, 2022, Commission Staff filed the proposed maps, certificates, and tariffs as attachments to the agreed motion to admit evidence and proposed notice of approval.

Evidentiary Record

15. On July 8, 2022, CPR Water and Commission Staff filed a joint motion to admit evidence.
16. On July 15, 2022, CPR Water and Commission Staff filed an amended joint motion to admit evidence.
17. On July 22, 2022, CPR Water and Commission Staff filed a supplement to the amended joint motion to admit evidence.
18. In Order No. 16 filed on July 25, 2022, the ALJ admitted the following evidence into the record of this proceeding: (a) CPR Water's application and all attachments filed on April 9, 2021; (b) CPR Water's response to Order No. 2 filed on June 8, 2021; (c) CPR Water's

supplemental response to Order No. 2 filed on June 11, 2021; (d) CPR Water's additional financial support information filed on July 19, 2021; (e) CPR Water's affidavits of notice filed on August 2, 2021; (f) CPR Water's affiliated interest letter filed on August 12, 2021; (g) CPR Water's response to Commission Staff's first request for information (RFIs) filed on August 19, 2021; (h) CPR Water's response to Commission Staff's second RFIs filed on August 27, 2021; (i) CPR Water's confidential financial information filed on September 7, 2021; (j) CPR Water's response to Commission Staff's third RFIs filed on November 15, 2021; (k) CPR Water's Texas Commission on Environmental Quality approval letter filed on November 30, 2021; (l) CPR Water's response to Commission Staff's fourth RFIs filed on December 13, 2021; (m) CPR Water's response to Order No. 8 filed on February 16, 2022; (n) CPR Water's assurance affidavit and two years of financial statements filed on March 2, 2022; (o) CPR Water's John R. Rudisill financial assurance affidavit filed on March 4, 2022; (p) CPR Water's signed consent form filed on March 7, 2022; (q) CPR Water's John R. Rudisill 2021 financial statement filed on March 14, 2022; (r) CPR Water's response to Commission Staff's fifth RFI's filed on April 11, 2022; (s) Commission Staff's final recommendation and all attachments filed on April 25, 2022; (t) the final map as attached to Commission Staff's supplement to the joint motion to admit evidence and proposed notice of approval filed on July 22, 2022; (u) the final certificate as attached to Commission Staff's supplement to the joint motion to admit evidence and proposed notice of approval filed on July 22, 2022; and (v) the final tariff as attached to Commission Staff's supplement to the joint motion to admit evidence and proposed notice of approval filed on July 22, 2022.

Adequacy of Existing Service

19. Water service is not currently being provided in the requested area.
20. CPR Water has a TCEQ approved proposed water system registered as CPR Development, PWS ID No. 2120112.

Need for Additional Service

21. There is a need for service as CPR Water is developing a mixed-use development including commercial development and a recreational park in the requested area.

Effect of Approving the Application and Granting the Certificates

22. There will be no effect on any retail public utility servicing the proximate area. All retail public utilities in the proximity were provided notice of the CCN amendment requested in this application and did not request to intervene.
23. Granting CPR Water the certificate would enable CPR Water to provide adequate and continuous water service to the requested area.

Ability to Serve: Managerial and Technical

24. CPR Water's PWS was conditionally approved for construction by the TCEQ and was registered under PWS identification number 2120112.
25. The water system will be activated when CPR Water notifies TCEQ or when an investigation by the TCEQ determines the water system is providing service to at least 15 service connections or 25 individuals.
26. CPR Water is expected to have 150 connections when the area is fully developed. The proposed design capacity of the water system will be sufficient for the expected 150 connections.
27. CPR Water will be capable of providing drinking water that meets the requirements of Texas Health and Safety Code, Chapter 341, and TWC, Chapter 13, and will have access to an adequate supply of water.
28. CPR Water has the managerial and technical ability to serve the requested area.

Feasibility of Obtaining Service from an Adjacent Retail Public Utility

29. CPR Water provided copies of the requests for service sent to neighboring utilities. Only one utility provided a response stating that they had capacity to provide service to eight lots. CPR Water is expected to have 150 connections when the area is fully developed. CPR Water is developing the requested area. TCEQ has approved plans for CPR Water to build facilities in the requested area to serve future customers and will have sufficient capacity to serve the area.
30. It is not feasible to obtain service from an adjacent retail public utility.

Ability to Serve: Financial Ability and Stability

31. CPR Water's affiliate John R. Rudisill's financial statements report a debt-to-equity ratio of 0.44, satisfying the leverage test. Mr. Rudisill also provided a written guarantee that he is capable, available, and willing to cover temporary cash shortages for costs associated with this application.
32. CPR Water has demonstrated that it has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations. Specifically, although there are projected operating shortages for CPR Water to cover in the first year, Mr. Rudisill's financial statements indicate he has the ability to cover the cash shortages. Additionally, Mr. Rudisill provided an affidavit containing a written guarantee to cover the temporary cash shortage and Mr. Rudisill satisfies the leverage test. Mr. Rudisill's financial statements indicate Mr. Rudisill possesses sufficient cash reserves to pay for the water plant and distribution lines to serve the requested area. CPR Water additionally provided a letter from BancorpSouth indicating they have obtained a line of credit sufficient to pay for the infrastructure cost. Sufficient cash and net operating income available to cover possible future shortages provide an indication of financial stability and financial and managerial capacity. Therefore, CPR Water meets the operations test.
33. CPR Water has demonstrated the financial capability and stability to provide continuous and adequate water service to the proposed service area.

Financial Assurance

34. There is no need to require CPR Water to provide a bond or other financial assurance to ensure continuous and adequate service to the requested areas.

Regionalization or Consolidation

35. TCEQ has approved plans for CPR Water to build facilities in the requested area to serve future customers and will have sufficient capacity to serve the area.
36. CPR Water provided copies of the requests for service sent to neighboring utilities. Only one utility provided a response stating they had capacity to provide service to eight lots. CPR Water is expected to have 150 connections when the area is fully developed. Therefore, concerns of regionalization or consolidation do not apply.

Environmental Integrity and Effect on the Land

37. The environmental integrity of the land will be minimally affected as facilities are constructed to provide service to the requested area.
38. Where new construction is planned, proper construction protocols will be followed to ensure that the environmental integrity of the land will not be disrupted or negatively affected.

Improvement in Service or Lowering Cost to Consumers

39. Future residents of the planned development will have water service.
40. CPR Water will provide water service to approximately 150 customers in Smith County. The proposed tap fee for CPR Water's customers is based on the average cost of similar investor-owned utilities. As a reference, CPR Water has proposed a \$650.00 tap fee, which is the current approved fee for nearby Lakeshore Utility Company, Inc. The proposed tap fee is reasonable with respect to the average tap fee for the requested area and CPR Water's responses to various requests for information.
41. In order to true-up the proposed tap fees and rates, CPR Water must file a rate application with actual financial information with the Commission within 18 months from the date service begins per 16 § TAC 24.25(b)(1)(C).

Informal Disposition

42. More than 15 days have passed since the completion of notice provided in this docket.
43. No person filed a protest or motion to intervene.
44. CPR Water and Commission Staff are the only parties to this proceeding.
45. No party requested a hearing and no hearing is needed.
46. Commission Staff recommended approval of the application.
47. The decision is not adverse to any party

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this proceeding under TWC §§ 13.041, 13.241, 13.244, and 13.246.
2. CPR Water is a retail public utility as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
3. CPR Water provided notice of the application that complies with TWC § 13.246 and 16 TAC § 24.235.
4. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,¹ the TWC, and Commission rules.
5. After consideration of the factors in TWC § 13.246(c) and 16 TAC § 24.227(e), CPR Water has demonstrated adequate financial, managerial, and technical capability to provide continuous and adequate service to the requested service area as required by TWC § 13.241 and 16 TAC § 24.227.
6. CPR Water meets the requirements set forth in TWC § 13.244 and 16 TAC §§ 24.25 and 24.277.
7. It is not necessary for CPR Water to provide a bond or other financial assurance under TWC § 13.246(d).
8. CPR Water has demonstrated that granting CCN number 13298 is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(d).
9. CPR Water must record a certified copy of the approved map and certificate, along with a boundary description of the service area, in the real property records of Smith County within 31 days of receiving this Notice of Approval and submit evidence of the recording to the Commission as required by TWC § 13.257(r) and (s).
10. Under 16 TAC § 24.25(b)(1)(C), CPR Water must file a rate application with actual financial information with the Commission within 18 months from the date service begins.

¹ Tex. Gov't Code Ann. §§ 2001.001–.903.

11. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission grants CPR Water CCN number 13298 as described in this Notice of Approval and shown on the attached map.
2. The Commission approves the map attached to this Notice of Approval.
3. The Commission issues the certificate attached to this Notice of Approval.
4. The Commission approves the tariff attached to this Notice of Approval.
5. CPR Water must serve every customer and applicant for service within the approved area under CCN number 13298 who requests water service and meets the terms of CPR Water's water service, and such service must be continuous and adequate.
6. CPR Water must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Liberty County affected by this application and file in this docket proof of the recording no later than 45 days after receipt of this Notice of Approval.
7. Within ten days after the date of this Notice of Approval, Commission Staff must provide a clean copy of the tariff approved in this Notice of Approval to Central Records to be marked *Approved* and filed in the Commission's tariff book.
8. CPR Water must file a rate application with actual financial information with the Commission within 18 months from the date service begins.
9. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 25th day of July 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read 'G. R. Siemankowski', written in a cursive style.

GREGORY R. SIEMANKOWSKI
ADMINISTRATIVE LAW JUDGE