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


Greg Abbott
Governor
Thomas J. Gleeson
Executive Director

Public Utility Commission of Texas

TO: Shelah Cisneros
Commission Counsel

All Parties of Record

FROM: Christina Denmark 
Administrative Law Judge

RE: **Docket No. 52384** – *Application of Samuel Sledge dba 1118-1/2 SO Main Street Highlands to Cancel an Exempt Utility Registration*

DATE: December 27, 2023

Enclosed is the Proposed Order in the above-referenced case. By copy of this memo, the parties to this proceeding are being served with the Proposed Order.

Please place this docket on an open meeting agenda for the Commissioners' consideration. Please notify me and the parties of the open meeting date. The parties must file corrections or exceptions to the Proposed Order by January 12, 2024.

If a party proposes a correction or exception, the party must fully explain the correction or exception and must provide a citation to the record to support the correction or exception.

If there are no corrections or exceptions, no response is necessary.

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DOCKET NO. 52384

APPLICATION OF SAMUEL SLEDGE	§	PUBLIC UTILITY COMMISSION
DBA 1118-1/2 SO MAIN STREET	§	
HIGHLANDS TO CANCEL AN	§	OF TEXAS
EXEMPT UTILITY REGISTRATION	§	

PROPOSED ORDER

This Order addresses the application of Samuel Sledge dba 1118-1/2 So. Main Street, Highlands to cancel its exempt utility registration number N0078 in Harris County. The Commission approves the application and cancels exempt utility registration number N0078 to the extent provided in this Order.

I. Findings of Fact

The Commission makes the following findings of fact.

Background

1. In 2019, the Commission, in Docket No. 48143, issued exempt utility registration number N0078 to Samuel Sledge and Verna B. Sledge for a small water utility in Harris County.¹
2. At the time the final Order was issued in Docket No. 48143, Mr. and Ms. Sledge were co-owners of a water well located at 1118-1/2 So. Main Street, Highlands, Texas that the Sledges operated to provide water service to 14 potential connections.²
3. In Docket No. 48143, the Commission issued exempt utility registration number N0078 in the name “Samuel Sledge and Verna B. Sledge” and approved an exempt utility map and tariff in the same name.³
4. Since issuance of exempt utility registration number N0078, the Sledges have operated the exempt utility under the dba “1118-1/2 So. Main Street, Highlands” and, in the Commission’s water utility database, exempt utility registration number N0078 is listed under that dba.

¹ *Application of Samuel Sledge for an Exempt Utility Registration in Harris County*, Docket No. 48143, Order (Apr. 4, 2019).

² *Id.* at Findings of Fact 1, 9.

³ *Id.* at Ordering Paragraphs 1 and 2; *see also* tariff and map attached to Commission Staff’s Response to Order No. 5 (Oct. 22, 2018).

Applicant and Interested Parties

5. Samuel and Verna Sledge were husband and wife and co-owners of the well.
6. Ms. Sledge is now deceased and Sharon Peach is the executor of her estate.
7. In addition to being executor of Ms. Sledge's estate, Ms. Peach is the owner of one of the connections historically served by the exempt utility.
8. Since the passing of Ms. Sledge, Mr. Sledge and Ms. Peach have cooperated in the operation of the exempt utility.
9. In his role as operator of the exempt utility, Mr. Sledge owned and operated for compensation in Texas equipment or facilities for the transmission, storage, distribution, sale, or provision of potable water to the public.

Application

10. On August 2, 2021, Mr. Sledge and Ms. Peach filed the initial application in this proceeding. At that time, they asked the Commission to cancel Mr. Sledge's exempt utility registration number N0078 and issue a new exempt registration number in the name of Ms. Peach to serve the connections that had been served under exempt utility registration number N0078.
11. At the time of the August 2, 2021 application, the number of potential connections served by the exempt utility had dwindled from 14 to six.

Proposal for Decision and Remand

12. On March 10, 2022, Commission Staff filed a motion to dismiss.
13. On May 2, 2022, the administrative law judge (ALJ) filed a Proposal for Decision (PFD) recommending that the application be dismissed, under 16 Texas Administrative Code (TAC) § 22.181(d)(7), because the applicants had failed to amend the application such that it is sufficient after repeated determinations that the application was insufficient.
14. On June 29, 2022, the Commission issued a Remand Order in which it declined to adopt the PFD and, instead, remanded the case to give Commission Staff an opportunity to work with the applicants to facilitate processing of the application.

Amended Applications

15. On December 1, 2022, Mr. Sledge and Ms. Peach filed an amended application in which they explained that they no longer wished to transfer the exempt utility registration from Mr. Sledge to Ms. Peach. Instead, they ask the Commission to simply cancel exempt registration number N0078.
16. At the time of the December 1, 2022 application, the number of connections served by the exempt utility had dwindled from six to two.
17. On January 19, 2023, Mr. Sledge and Ms. Peach filed an amended application in which they explained that the exempt utility no longer served any connections and had ceased operations.
18. Mr. Sledge and Ms. Peach filed a further amended application on April 3, 2023.
19. The two operators of the exempt utility, Mr. Sledge and Ms. Peach, are elderly, in declining health, and unable to tend to operate the exempt utility.
20. Mr. Sledge resigned from the utility on September 1, 2020, but assisted in the winding down of operations because his name is listed as a responsible party on the registration.
21. Ms. Peach is bedridden and moved away from the property on which the well is located in April 2022 to receive full-time care.
22. The utility does not possess customer deposits or advance payments, and has no distributable assets.
23. The utility ceased operations and turned off the water supply main on or about December 31, 2022. Each of the former customers has either drilled a well for his or her own property, or pooled resources to drill a shared well.
24. The area served under exempt utility registration number N0078 includes approximately eight acres and no current customers.
25. In Order No. 17 filed on August 4, 2023, the ALJ found the petition, as amended, administratively complete.

Notice

26. On July 12, 2023, the applicants filed a copy of its exempt utility water tariff, which states: “Notice of disconnection must be [by] a separate mailing or hand delivery” and “The utility may permanently disconnect service to an existing customer only if authorized to in writing by the Commission after notice has been issued.”
27. On July 12, 2023, the applicants filed a declaration by Darlene D’Olive, the sister of Ms. Peach and a part owner of the well located at 1118-1/2 So. Main Street, Highlands stating that she, on behalf of the exempt utility:
 - a. On August 1, 2022, mailed a letter to the customers of the exempt utility notifying them that the exempt utility would cease operations on December 1, 2022.
 - b. During the weeks of September 5 and October 3, 2022, spoke with the customers of the exempt utility, either by phone or in-person, and each customer confirmed his or her understanding that the water supply would cease on December 1, 2022.
 - c. On October 21, 2022 mailed, by first-class certified mail, return receipt requested, notice to all customers that that the exempt utility would cease providing water service on December 1, 2022.
 - d. On or about October 31, 2022, hand-delivered notice to those customers who had not confirmed receipt by mail that the exempt utility would cease providing water service on December 1, 2022.
 - e. On or about November 15, 2022, again mailed, by first class-mail, notice to those customers who had not confirmed receipt of the prior notices that the exempt utility would cease providing water service on December 1, 2022.
 - d. During the week of May 8, 2023, personally visited the area formerly served by the exempt utility and confirmed that the last two persons who had been customers of the exempt utility had installed a shared-well, and the only other former utility connections were for two buildings that are co-owned by Ms. Peach, Ms. D’Olive, and her other sister.
28. In Order No. 17 filed on August 4, 2023, the ALJ found notice sufficient.

Evidentiary Record

29. In Order No. 20 filed on November 30, 2023, the ALJ admitted the following evidence into the record of this proceeding:
- a. the updated application and all attachments filed on December 1, 2022;
 - b. the first amended application and all attachments filed on January 19, 2023;
 - c. the second amended application and all attachments filed on April 3, 2023;
 - d. Commission Staff's supplemental recommendation on administrative completeness of updated application, request to restyle docket and proposed procedural schedule filed on May 1, 2023;
 - e. Order No. 14 requesting clarification on notice filed on May 3, 2023;
 - f. Order No. 15 requiring clarification on notice filed on May 31, 2023;
 - g. Order No. 16 requiring clarification on notice filed on July 5, 2023;
 - h. 1118-1/2 So. Main Street, Highlands response to Order No. 16 requiring clarification on notice filed on July 12, 2023;
 - i. Order No. 17 finding petition administratively complete, notice sufficient and setting deadlines filed on August 4, 2023; and
 - j. Commission Staff's final recommendation filed on September 8, 2023.
30. In Order No. 21 filed on December 22, 2023, the ALJ admitted Mr. Sledge and Ms. Peach's application and accompanying attachments filed on August 3, 2021 and Commission Staff's motion to dismiss filed on March 10, 2022 as evidence into the record of this proceeding.

Effects of Cancellation

31. Cancellation of the exempt registration will have no effect on former customers and landowners because they have all drilled their own private wells or have installed shared wells.

32. All former customers have drilled wells or installed shared wells and no longer need service from the utility. As such, there is no need for Mr. Sledge and Ms. Peach to locate alternative sources of water service.
33. Mr. Sledge and Ms. Peach do not possess customer deposits or advance payments and has no distributable assets.
34. The utility is no longer providing and is incapable of providing water service.

Informal Disposition

35. More than 15 days have passed since the completion of the notice provided in this docket.
36. No person filed a protest or motion to intervene.
37. Mr. Sledge, Ms. Peach, and Commission Staff are the only parties to this proceeding.
38. No party requested a hearing and no hearing is needed.
39. Commission Staff recommended approval of the application.
40. This 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 Texas Water Code (TWC) §§ 13.041 13.242(c), and 13.250.
2. The applicants were, until recently, a water utility as that term is defined in TWC § 13.002(23).
3. Due to its small number of potential connections, Mr. Sledge and Ms. Peach were, under, TWC § 13.242(c) and 16 TAC § 24.229(e) exempt from the requirement to hold a certificate of convenience and necessity.
4. TWC ch. 13 and the Commission's rules do not specify criteria that must be proven or considered when cancelling an exempt utility registration.
5. Mr. Sledge and Ms. Peach provided extensive prior notice, by separate mailing and hand delivery, to its then-existing customers that it would be disconnecting service, as required

by the terms of its tariff, but permanently disconnected service to existing customers prior to obtaining from the Commission written authorization to do so, contrary to the requirements of 16 TAC § 24.229(e)(8) and the terms of its tariff.

6. The Commission processed the application in accordance with the requirements of the TWC, Administrative Procedure Act,⁴ and Commission rules.
7. The cancellation of exempt utility registration number N0078 is in the public interest.
8. 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 Mr. Sledge and Ms. Peach's application to discontinue water service in Harris County and cancels exempt utility registration number N0078 and the map and tariff associated therewith, effective the date of this Order.
2. Commission Staff must remove Mr. Sledge and Ms. Peach's area under registration number N0078 from its online map viewer.
3. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

⁴ Tex. Gov't Code §§ 2001.001–.903.

Signed at Austin, Texas the ____ day of _____ 2024.

PUBLIC UTILITY COMMISSION OF TEXAS

KATHLEEN JACKSON, INTERIM CHAIR

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER