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Received - 2022-07-18 01:24:09 PM
Control Number - 52391
ItemNumber - 30

DOCKET NO. 52391

APPLICATION OF LIBERTY COUNTY UTILITIES, LLC FOR WATER AND SEWER CERTIFICATES OF CONVENIENCE AND NECESSITY IN LIBERTY COUNTY	§ § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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**SUPPLEMENTAL AGREED MOTION TO ADMIT EVIDENCE AND PROPOSED
NOTICE OF APPROVAL**

On August 5, 2021, Liberty County Utilities, LLC (Liberty County) filed an application to obtain a water and sewer certificate of convenience and necessity (CCN) in Liberty County, Texas under Texas Water Code (TWC) § 13.254(a) and 16 Texas Administrative Code (TAC) § 24.245(h). Liberty County filed supplemental information on August 6, 2021, October 5, 2021, October 6, 2021, November 29, 2021, February 21, 2022, March 2, 2022 and March 30, 2022.

On July 11, 2022, the administrative law judge (ALJ) filed Order No. 9, establishing a deadline of July 18, 2022, for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to clarify whether it seeks to have items admitted as supplemental evidence, and if so, file a joint motion that they be admitted into the record of this proceeding. Therefore, this pleading is timely filed.

I. SUPPLEMENTAL MOTION TO ADMIT EVIDENCE

Staff inadvertently included a confidential memo with its Final Recommendation filed on June 3, 2022. Staff's Final Recommendation filed on June 3, 2022 has been removed from the interchange and Staff has refiled its Final Recommendation and confidential memo on July 7, 2022. The Parties request the entry of the following items into the record of this proceeding:

- A. Staff's Final Recommendation, filed on July 7, 2022 (Interchange Item No. 27); and
- B. Staff's Confidential- Ethan Blanchard's Memo bate stamp 1 to 2, filed on July 7, 2022 (Interchange Item No. 28).

II. JOINT PROPOSED NOTICE OF APPROVAL

The Parties have agreed on the attached proposed notice of approval, which would grant Liberty County's application to obtain water CCN number 13300 and sewer CCN number 21129. The Parties request that the Commission adopt the findings of fact, conclusions of law, and ordering paragraphs included in the proposed notice of approval.

III. CONCLUSION

For the reasons discussed above, Staff respectfully recommends that Liberty County's application be approved.

Dated: July 18, 2022

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Keith Rogas
Division Director

Sneha Patel
Managing Attorney

/s/Mildred Anaele
Mildred Anaele
State Bar No. 24100119
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7345
(512) 936-7268 (facsimile)
Mildred.Anaele@puc.texas.gov

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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 July 18, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/Mildred Anaele
Mildred Anaele

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PROPOSED NOTICE OF APPROVAL

This notice of approval addresses the application of Liberty County Utilities, LLC to obtain a water and sewer certificate of convenience and necessity (CCN) in Liberty County. The Commission grants water CCN number 13300 and sewer CCN number 21129 to Liberty County.

I. Findings of Fact

The Commission makes the following findings of fact:

Applicant

1. Liberty County is a utility registered with the Texas Secretary of State under File Number 0803597398.
2. Liberty County is a retail public utility that has requested to provide water and sewer service to customers in Liberty County.

Application

3. On August 5, 2021, Liberty County filed an application to obtain a water and sewer CCN in Liberty County.
4. The requested area consists of 2,035.5 acres and 0 existing customers.
5. The requested area is located approximately 3.3 miles east of downtown Plum Grove, Texas, and is generally bounded on the north by a line 1 mile north of and parallel to Road 5018; on the east by Luce Bayou; on the south by Community Drive; and on the west by Las Vegas Drive.
6. In Order No. 3 filed on November 9, 2021, the administrative law judge (ALJ) found the application administratively complete.

Notice

7. On November 29, 2021, Liberty County filed the affidavit of Shelley Young, PE, Engineer, testifying that notice was mailed to current customers, landowners, neighboring utilities, and affected parties on November 8, 2021.

8. On November 29, 2021, Liberty County filed a publisher's affidavit attesting to publication of notice in the *Vindicator*, a publication of general circulation in Liberty County, on November 11, 2021, and November 18, 2021.
9. In Order No. 4 filed on January 13, 2022, the ALJ found the notice sufficient.

Map and Certificate

10. On February 28, 2022, Commission Staff emailed the proposed maps, tariffs, and certificates to Liberty County.
11. On March 2, 2022, Liberty County filed its consent to the proposed maps, tariffs, and certificates.
12. On June 15, 2022, Commission Staff filed the proposed map and certificate as attachments to the Agreed Motion to Admit Evidence.

Evidentiary Record

13. On June 15, 2022, Commission Staff filed an agreed motion to admit evidence and proposed notice of approval.
14. On July 18, 2022, Commission Staff filed supplemental agreed motion to admit evidence and proposed notice of approval.
15. In Order No. 9 filed on _____, 2022, the ALJ admitted the following into evidence:
 - (a) Liberty County's application, filed on August 5, 2021 (Interchange Item No. 1);
 - (b) Liberty County's confidential financial information bate stamp 78 to 92, filed on August 6, 2021 (Interchange Item No. 3);
 - (c) Liberty County's Response to RFI, filed on October 5, 2021 (Interchange Item No. 6);
 - (d) Liberty County's confidential 2019 and 2020 financial statement for Colony Ridge, Inc. bate stamp 1 - 21, filed on October 6, 2021 (Interchange Item No. 7);
 - (e) Staff's Recommendation on Administrative Completeness and Proposed Notice, filed on November 8, 2021 (Interchange Item No. 8);
 - (f) Liberty County's tear sheets, publishers affidavit, neighbor notices and neighbor notice affidavits, filed on November 29, 2021 (Interchange Item No. 10);
 - (g) Staff's Recommendation on Sufficiency of Notice, filed on January 10, 2022 (Interchange Item No. 11);
 - (h) Liberty County's Financial Guarantee Letter, filed on February 21, 2022 (Interchange Item No. 13);
 - (i) Liberty County's Executed CCN consent form, filed on March 2, 2022 (Interchange Item No. 14);
 - (j) Liberty County's Response to RFI, filed on March 30, 2022 (Interchange Item

No. 18); (k) Staff's Final Recommendation and attachments, filed on Ju, 2022 (Interchange Item No. 23); and (l) Staff's Confidential- Ethan Blanchard's Memo bate stamp 1 to 2, filed on July 7, 2022 (Interchange Item No. 28).

Adequacy of Existing Service – Texas Water Code (TWC) § 13.246(c)(1); 16 Texas Administrative Code (TAC) § 24.227(e)(1)

16. There are no existing customers therefore no service is currently being provided to the requested area.
17. Liberty County has a Texas Commission on Environmental Quality (TCEQ) approved public water system (PWS) Liberty County Utilities registered under PWS ID No. 1460197.
18. Liberty County has a wastewater treatment plant (WWTP) registered as Liberty County Utilities, Wastewater Discharge Permit No. WQ - 0015967001.

Need for Service - TWC § 13.246(c)(2); 16 TAC § 24.227(e)(2)

19. The Santa Fe subdivision, in Liberty County, is currently comprised of Sections 1-6.
20. Colony Ridge Development is the developer and has contracted with Utilities Investment Company to solely serve those sections. Colony Ridge Development now wishes to create a new company, Liberty County Utilities which will be owned by Colony Ridge Development owners as well as Shannon Marsh, owner of Utilities Investment Company.

Effect of Granting the Certificate - TWC § 13.246(c)(3); 16 TAC § 24.227(e)(3)

21. Granting the CCN request will obligate Liberty County to provide adequate and continuous service to the requested area.
22. No protests, adverse comments, or motions to intervene were filed by any adjacent retail public utility in this docket.
23. There will be no effect on any retail public utility serving the proximate area.
24. The landowners in the areas will have a water provider available when they need to request water service.

Ability to Serve: Managerial and Technical - TWC §§ 13.241(a), (b), 13.246(c)(4); 16 TAC § 24.227(a), (e)(4)

25. Liberty County has a TCEQ approved public water system Liberty County Utilities registered under PWS ID No. 1460197 and a WWTP registered as Liberty County Utilities, Wastewater Discharge Permit No. WQ - 0015967001.
26. A TCEQ approval letter was provided for the public water system, water treatment plant, and distribution system that will provide water service to the Santa Fe Subdivision.
27. A TCEQ approval letter was provided for the wastewater system that will provide sewer service to the Santa Fe Subdivision.

Feasibility of Obtaining Service from Adjacent Utilities - TWC § 13.246(c)(5) and 16 TAC § 24.227(e)(5)

28. There are no other water and sewer providers in the area.

Regionalization or Consolidation - TWC § 13.241(d) and 16 TAC § 24.227(b)

29. There TCEQ has approved plans for Liberty County to build facilities in the requested area to serve future customers and will have sufficient capacity to serve the area. Therefore, concerns of regionalization or consolidation do not apply.

Ability to Serve: Financial Ability and Stability - TWC §§ 13.241(a), 13.246(c)(6); 16 TAC §§ 24.11(e), 24.227(a), (e)(6)

30. Liberty County has a debt-to-equity ratio that is greater than 1.25, which meets one of the five leverage tests.
31. Liberty County filed a Financial Guarantee stating that Colony Ridge, Inc. is capable, available, and willing to cover any temporary cash shortages. Sufficient cash and net operating income available to cover possible future shortages provide an indication of financial stability and financial and managerial capability. Therefore, Liberty County meets the operations test.
32. Liberty County demonstrated the financial ability and stability to pay for the facilities necessary to provide continuous and adequate service to the requested area.

Financial Assurance - TWC § 13.246(d); 16 TAC § 24.227(f)

33. There is no need to require Liberty County to provide a bond or other financial assurance to ensure continuous and adequate service.

Environmental Integrity - TWC § 13.246(c)(7); 16 TAC § 24.227(e)(7)

34. The environmental integrity of the land will be minimally affected as facilities are constructed to provide service to the requested area.

Effect on the Land - TWC § 13.246(c)(9); 16 TAC § 24.227(e)(9)

35. The land will be minimally affected as facilities are constructed to provide service to the requested area.

Improvement in Service - TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)

36. Liberty County will provide service to the future residents of the planned development.

37. Liberty County will 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).

Lowering of Cost - TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)

38. No lowering of cost to customers in the requested area will result from granting the CCN as Liberty County is not yet providing service in the requested area.

Informal Disposition

39. More than 15 days have passed since the completion of notice provided in this docket.

40. No person filed a protest or motion to intervene.

41. Commission Staff and Liberty County are the only parties to this proceeding.

42. No party requested a hearing and no hearing is needed.

43. The decision is not adverse to any party.

II. Conclusion of Law

The Commission makes the following conclusions of law:

1. The Commission has jurisdiction over this proceeding under TWC §§ 13.041, 13.241, 13.244, and 13.246.
2. Liberty County is a retail public utility as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
3. Liberty County's notice 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. The application meets the requirements set forth in TWC § 13.244 and 16 TAC §§ 24.25 and 24.277.

¹ Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2008 & Supp. 2014).

6. After consideration of the factors in TWC § 13.246(c) and 16 TAC § 24.227(e), Liberty County has demonstrated adequate financial, managerial, and technical capability to providing continuous and adequate service to the requested service area as required by TWC § 13.241 and 16 TAC § 24.227.
7. It is not necessary for Liberty County to provide a bond or other financial assurance under TWC § 13.246(d).
8. Liberty County has demonstrated that granting water CCN number 13300 and sewer CCN number 21129 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. Under TWC § 13.257(r) and (s), Liberty County 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 Liberty County within 30 days of this Order and must submit evidence of the recording to the Commission.
10. 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 Liberty County water CCN number 13300 as described in this notice of approval and shown on the attached map.
2. The Commission grants Liberty County sewer CCN number 21129 as described in this notice of approval and shown on the attached map.
3. The Commission approves the certificate and map attached to this Notice of Approval.
4. Liberty County must serve every customer and applicant for service within the approved area under water CCN number 13300 who requests water service and meets the terms of Liberty County's water service, and such service must be continuous and adequate
5. Liberty County must serve every customer and applicant for service within the approved area under sewer CCN number 21129 who requests sewer service and meets the terms of Liberty County sewer service, and such service must be continuous and adequate.

6. Liberty County 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 30 days after the date of this notice of approval.
7. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas the _____ day of _____ 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE