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DOCKET NO. 52391

APPLICATION OF LIBERTY COUNTY	§	PUBLIC UTILITY COMMISSION
UTILITIES, LLC FOR WATER AND	§	
SEWER CERTIFICATES OF	§	OF TEXAS
CONVENIENCE AND NECESSITY IN	§	
LIBERTY COUNTY	§	

COMMISSION STAFF’S SUPPLEMENTAL FINAL RECOMMENDATION

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, March 30, 2022 and November 21, 2022.

On January 6, 2023, the Staff (Staff) of the Public Utility Commission of Texas (Commission) filed a recommendation regarding the sufficiency of Liberty County’s filing. Staff files this supplemental final recommendation to include Staff’s memorandum and confidential attachment.

I. STAFF’S SUPPLEMENTAL FINAL RECOMMENDATION

Staff has reviewed Liberty County’s application and, as detailed in the memorandum of Ethan Blanchard of the Commission’s Rate Regulation Division, Staff recommends that the application be approved.

II. SUPPLEMENTAL MOTION TO ADMIT EVIDENCE

Staff requests the entry of the following item into the record of this proceeding:

- A. Staff’s Supplemental Final Recommendation and Confidential attachments, filed on January 13, 2023 (Interchange Item No. 52).

III. CONCLUSION

For the reasons discussed above, Staff respectfully recommends that Liberty County's application be approved. Further, Staff respectfully requests that the item listed above be admitted into the record of this proceeding as evidence.

Dated: January 13, 2023

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 January 13, 2023, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/Mildred Anaele
Mildred Anaele

Public Utility Commission of Texas

Memorandum

TO: Mildred Anaele
Legal Division

FROM: Ethan Blanchard
Rate Regulation Division

DATE: January 13, 2023

RE: Docket No. 52391 – *Application of Liberty County Utilities, LLC for Water and Sewer Certificates of Convenience and Necessity in Liberty County*

On August 5, 2021, Liberty County Utilities, LLC (LCU) filed an application to for new water and sewer certificates of convenience and necessity (CCN) Subchapter G of Texas Water Code Chapter 13.

An owner or operator of a retail public utility must have the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and requested utility service areas, as established by 16 Texas Administrative Code (TAC) § 24.11. LCU must demonstrate that it meets one of the five leverage tests under 16 TAC § 24.11(e)(2) as well as the operations test under 16 TAC § 24.11(e)(3).

Leverage Test

LCU filed a Financial Guarantee stating that Colony Ridge, Inc. is capable, available, and willing to cover any temporary cash shortages, until “the completion of all of the facilities required to provide water and wastewater service” to the area served by the CCN.¹

My analysis is based on financial statements ending December 31, 2021. These financial statements contain an unqualified auditor’s opinion from EEPB stating that the financial

¹ Application, *Confidential Response to Order Remanding Proceeding to Docket Management*, item no. 43, at bates 5 (Nov. 21, 2022).

statements present fairly, in all material respects, the financial position of Colony Ridge, Inc. as of December 31, 2021.²

Based upon my review of the financial statements of Colony Ridge, Inc., I calculate a debt-to-equity ratio equal to 0.11.³ Because the ratio is less than one, I recommend a finding that Colony Ridge, Inc. meets the leverage test specified in 16 TAC § 24.11(e)(2)(A). Therefore, I recommend a finding that—through their affiliate—LCU meets the leverage test as specified in 16 TAC § 24.11(e)(2)(E).

Operations Test

An owner or operator must demonstrate sufficient available cash to cover projected cash shortages for operations and maintenance expense during the first five years of operations; or an affiliated interest may provide a written guaranty of coverage of temporary cash shortages if the affiliated interest also satisfies the leverage test, as required by 16 TAC § 24.11(e)(3).

LCU projects operating shortages in the first two years of operations, however this amount is exceeded by their guarantor's available cash.⁴ In addition to providing a written guaranty, Colony Ridge, Inc. satisfied the leverage test. Therefore, I recommend a finding that LCU meets the operations test specified in 16 TAC § 24.11(e)(3).

Capital Improvement Plan

An applicant proposing service to a new CCN area must provide documentation of adequate funding for the purchase of an existing system plus any improvements necessary to provide continuous and adequate service to the existing customers per 16 TAC § 24.11(e)(5)(B).

The applicant has filed documentation demonstrating adequate funding of the planned system improvements for the Santa Fe water and wastewater systems.⁵ LCU has demonstrated that enough cash, a firm capital, has already been committed to the guarantor who, by nature of their Guaranty, has committed the requisite capital to the applicant. Therefore, I recommend a finding

² *Id.*, at bates 12.

³ The calculations for which can be found in confidential Attachment EB-1.

⁴ Application, *Response to RFI*, item no. 6, at page 13 (Oct. 5, 2021). The calculations for which can be found in confidential Attachment EB-1.

⁵ The calculations for which can be found in confidential Attachment EB-1.

that LCU satisfies the requirements of 16 TAC § 24.11(e)(5)(B).

Recommendation

Because LCU meets the financial tests, I do not recommend that the Commission require additional financial assurance.

Consequently, I recommend a finding that LCU demonstrates the financial and managerial capability needed to provide adequate service to the area subject to this application. My conclusions are based on information provided by LCU before the date of this memorandum and may not reflect any changes in LCU's status after this review.