



Control Number: 52391



Item Number: 57

Peter M. Lake
Chairman

Will McAdams
Commissioner

Lori Cobos
Commissioner

Jimmy Glotfelty
Commissioner

Kathleen Jackson
Commissioner



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Public Utility Commission of Texas

TO: Chairman Peter M. Lake
Commissioner Will McAdams
Commissioner Lori Cobos
Commissioner Jimmy Glotfelty
Commissioner Kathleen Jackson

All Parties of Record

FROM: Stephen Journeay, Commission Counsel

DATE: February 13, 2023

RE: February 16, 2023 Open Meeting – Item No. 3
Docket No. 52391 – *Application of Liberty County Utilities, LLC for Water and Sewer Certificates of Convenience and Necessity in Liberty County*

A revised proposed order in the above-referenced docket is posted for consideration and action by the Commission. If the Commission approves the revised proposed order, I recommend the following changes.

Proposed finding of fact 58 should be deleted because it is inaccurate. The finding should be replaced with four new findings of fact describing the guaranty filed by Liberty County Utilities in this proceeding.

~~58. There is no need to require Liberty County Utilities to provide a bond or other financial assurance to ensure continuous and adequate service to the requested areas.~~

XX. On November 21, 2022, Liberty County Utilities filed a financial guaranty executed by its majority owner, Colony Ridge.

XX. Under the guaranty, Colony Ridge guarantees the performance of Liberty County Utilities' obligations to design, construct, operate, and maintain water and sewer facilities to serve the requested areas.



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XX. Under the guaranty, Colony Ridge guarantees to fund any temporary cash shortages of Liberty County Utilities.

XX. The guaranty is a primary, irrevocable, and unconditional guaranty of payment and performance that will remain in full force and effect and is binding on Colony Ridge and its successors and assigns until the completion of all the facilities required to provide water and sewer service to the requested service areas.

A new conclusion of law should be added after proposed conclusion of law 4 because it is necessary to support the order.

X. The application meets the requirements set forth in TWC § 13.244 and 16 TAC § 24.227.

Proposed conclusion of law 5 should be revised and divided into two conclusions of law for clarity and accuracy.

~~5. After consideration of~~The Commission considered the factors in TWC § 13.246(c) and 16 TAC § 24.11, and 24.227(e) when evaluating Liberty County Utilities' application, Liberty County Utilities has demonstrated adequate financial, managerial, and technical capability to provide continuous and adequate water and sewer service to the requested service area as required by TWC § 13.241 and 16 TAC § 24.227.

X. Liberty County Utilities possesses the financial, managerial, and technical capability to provide continuous and adequate water and sewer service to the requested areas as required by TWC § 13.241 and 16 TAC § 24.227.

Proposed conclusion of law 6 should be deleted because it is inaccurate.

~~6. Liberty County Utilities meets the requirements set forth in TWC § 13.244 and 16 TAC § 24.25, 24.233(a)(6), and 24.277.~~

Proposed conclusion of law 7 should be deleted because it is misleading. The conclusion should be replaced with two new conclusions of law that address the Commission's financial assurance requirements.

~~7. It is not necessary for Liberty County Utilities to provide a bond or other financial assurance under TWC § 13.246(d).~~

X. It was necessary for Liberty County Utilities to provide additional financial assurance under 16 TAC § 24.11(e)(5)(B).

X. The guaranty filed by Liberty County Utilities on November 18, 2022, is a sufficient firm capital commitment under 16 TAC § 24.11(e)(5)(B).

A new conclusion of law should be added after proposed conclusion of law 8 to address the requirements of TWC § 13.250.

- X. Under TWC § 13.250, Liberty County Utilities is required to serve every consumer within its certificated service areas and to render continuous and adequate service within its service area.

Proposed ordering paragraph 8 should be revised to conform with the Commission's order-writing style.

8. Within ten days of the date of this Order, ~~Commission Staff~~the parties must provide the Commission with a clean copy of ~~the tariffs~~Liberty County Utilities' tariffs for CCNs 13300 and 21129 to be stamped *Approved* and retained by Central Records.

Finally, the Commission should delegate to the Office of Policy and Docket Management the authority to modify the order to conform to the *Citation and Style Guide for the Public Utility Commission of Texas* and to make other non-substantive changes to the order for such matters as capitalization, spelling, grammar, punctuation, style, correction of numbering, and readability.

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