



## **Filing Receipt**

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Accordingly, the ALJ rescinds her finding in Order No. 14 that notice is sufficient. By May 31, 2023, HydroTex must file the requested affidavit.

By July 3, 2023, Commission Staff must file a recommendation on the supplemental notice provide by HydroTex.

## II. Commission Staff's Final Recommendation

HydroTex is requesting a new certificate of convenience and necessity (CCN) and is proposing to provide service to a residential development of 120 homes situated on 88 acres located in Liberty County.

TWC § 13.244(d)(3) requires that an application for an amendment or a new CCN to a CCN must contain a capital improvement plan, including a budget and estimated timeline for construction of all facilities necessary to provide full service to the entire proposed service area. A pro forma budget is not a capital improvements plan under the Water Code and Commission rules. A capital improvements plan includes a budget and estimated timeline for construction of all facilities necessary to provide full service to the entire proposed area and must be keyed to a map showing where facilities will be located to provide service.<sup>3</sup>

Under 16 TAC § 24.11(e)(5):

If the applicant is proposing service to a new CCN area or a substantial addition to its current CCN area requiring capital improvements in excess of \$100,000, the applicant must provide the following: . . . (B): The owner must submit loan approval documents or firm capital commitments affirming funds are available to install: (i) the plant and equipment necessary to serve projected customers in the first two years of projections; or (ii) a new water system or substantial addition to an existing water system if the applicant is proposing service to a new CCN area or a new subdivision.<sup>4</sup>

Based on the foregoing and in light of the recent remands and memoranda from the Commissioners,<sup>5</sup> the ALJ requires Commission Staff to address HydroTex's capital improvement plan and financial assurances under 16 TAC § 24.11(e)(5) in the final recommendation.

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<sup>3</sup> See *Application of Liberty County Utilities, LLC for Water and Sewer Certificates of Convenience and Necessity in Liberty County*, Docket No. 52391, Order Remanding Proceeding to Docket Management at 2 (Oct. 20, 2023).

<sup>4</sup> *Id.*

<sup>55</sup> See, e.g., *Application of Liberty County Utilities, LLC for Water and Sewer Certificates of Convenience and Necessity in Liberty County*, Docket No. 52391, Order Remanding Proceeding to Docket Management at 2 (Oct. 20, 2023) and *Application of Waters of Vista Ranch Water Supply Corporation and Aqua Water Supply Corporation*

### III. Requiring Clarification

In Commission Staff's July 27, 2022 supplemental recommendation on administrative completeness and notice and proposed procedural schedule, Commission Staff requested that the case be re-styled to "Application of HydroTex, LLC for a Certificate of Convenience and Necessity and for the Decertification of a Portion of Southern Horizons' " Certificate of Convenience and Necessity in Liberty County."

The ALJ requires Commission Staff to clarify whether this request is still pending and whether the case should be re-styled. Commission Staff may file its clarification with its final recommendation, which is due July 3, 2023.

### IV. Amending Procedural Schedule

The following procedural schedule is established for further processing:

Event	Date
Deadline to intervene	March 28, 2023
HydroTex affidavit on notice	May 31, 2023
Deadline for Commission Staff to provide final maps, certificate, and tariff (if applicable) to HydroTex for review and consent	June 9, 2023
Deadline for HydroTex to file signed consent forms with the Commission	June 23, 2023
If no hearing is requested, deadline for Commission Staff to file a final recommendation on the application, and to file a clarification on re-styling the docket and recommendation on the supplemental notice	July 3, 2023
If no hearing is requested, deadline for parties to file a joint motion to admit evidence and proposed findings of fact, conclusions of law, and ordering paragraphs	July 14, 2023

Signed at Austin, Texas the 19th day of May 2023.

PUBLIC UTILITY COMMISSION OF TEXAS



CHRISTINA DENMARK  
ADMINISTRATIVE LAW JUDGE

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