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DOCKET NO. 53476

APPLICATION OF LIQUID	§	
UTILITIES LLC FOR A	§	PUBLIC UTILITY COMMISSION
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY IN MONTGOMERY	§	OF TEXAS
COUNTY	§	

MOTION TO ADMIT EVIDENCE

I. BACKGROUND

On January 26, 2022, Liquid Utilities LLC (Liquid Utilities) filed an application to obtain a Sewer Certificate of Convenience and Necessity (CCN) in Montgomery County. The requested service area consists of 55 acres and 159 proposed connections.

On March 17, 2023, the administrative law judge filed Order No. 11 requiring Staff (Staff) of the Public Utility Commission of Texas (Commission) to supplement its final recommendation addressing 16 Texas Administrative Code (TAC) § 24.25(b)(1)(B) and whether the information provided by Liquid Utilities is sufficient to comply with 16 TAC § 24.227 by April 14, 2023. Therefore, this pleading is timely filed.

II. MOTION TO ADMIT EVIDENCE

Staff moves to admit the following evidence into the record of evidence in this proceeding.

- a. Staff's supplemental recommendation on final disposition, including the revised memorandum from Jolie Mathis.

III. CONCLUSION

Staff respectfully requests that the items listed above be admitted into the record of this proceeding as evidence.

Dated: April 14, 2023

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Marisa Lopez Wagley
Interim Division Director

Sneha Patel
Managing Attorney

/s/ Bradley Reynolds
Bradley Reynolds
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DOCKET NO. 53149

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 on April 14, 2023 in accordance with the Second Order Suspending Rules filed in Project No. 50664.

/s/ Bradley Reynolds
Bradley Reynolds

DOCKET NO. 53149

APPLICATION OF LIQUID UTILITIES	§	PUBLIC UTILITY COMMISSION
LLC FOR A CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	OF TEXAS
MONTGOMERY COUNTY	§	

**COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION ON FINAL
DISPOSITION**

On January 26, 2022, Liquid Utilities LLC (Liquid Utilities) filed an application to obtain a sewer certificate of convenience and necessity (CCN) in Montgomery County. The application requests a service area that includes 55 acres and 159 proposed connections.

On March 17, 2023, the administrative law judge filed Order No. 11 requiring Staff (Staff) of the Public Utility Commission of Texas (Commission) to supplement its final recommendation addressing 16 Texas Administrative Code (TAC) § 24.25(b)(1)(B) and whether the information provided by Liquid Utilities is sufficient to comply with 16 TAC § 24.227 by April 14, 2023. Therefore, this pleading is timely filed.

I. RECOMMENDATION ON FINAL DISPOSITION

Staff has reviewed the application and supplemental information and, as detailed in the attached revised memorandum from Jolie Mathis, Infrastructure Division, and Fred Bednarski, Rate Regulation Division, whose memorandum was filed on January 19, 2023, recommends that the application be approved. Staff's review indicates that the application meets the applicable technical, managerial, and financial requirements of Texas Water Code Chapter 13 and 16 Texas Administrative Code Chapter 24. Specifically, Staff recommends that Liquid Utilities complied with the requirements of 16 TAC § 24.25(b)(1)(B) and 16 TAC § 24.227. Therefore, Liquid Utilities is capable of providing continuous and adequate water service. Additionally, Staff recommends that approval of the application is necessary for the service, accommodation, convenience, and safety of the public. Accordingly, Staff recommends approval of Liquid Utilities' application.

II. CONCLUSION

Staff respectfully requests the entry of an order consistent with the above recommendation.

Dated: April 14, 2023

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Marisa Lopez Wagley
Interim Division Director

Sneha Patel
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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 on April 14, 2023 in accordance with the Second Order Suspending Rules filed in Project No. 50664.

/s/ Bradley Reynolds
Bradley Reynolds

Public Utility Commission of Texas

Memorandum

TO: Bradley Reynolds, Attorney
Legal Division

FROM: Jolie Mathis, Utility Engineering Specialist
Infrastructure Division

DATE: April 14, 2023

RE: Docket No. 53149 – *Application of Liquid Utilities, LLC for a Certificate of Convenience and Necessity in Montgomery County*

1. Application

On January 26, 2022, Liquid Utilities, LLC (Liquid) filed with the Public Utility Commission of Texas (Commission) an application to obtain a sewer Certificate of Convenience and Necessity in Montgomery County, Texas under Texas Water Code (TWC) §§ 13.242 through 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 through 24.237.

Based on the mapping review by Hank Journeay, Infrastructure Division:

The requested area includes 0 customer connections and approximately 55 acres of uncertificated area.

The result of the application will be the addition of approximately 55 acres to Liquid new sewer CCN.

2. Notice

The deadline to intervene was August 8, 2022; there were no motions to intervene, protests, or opt-out requests received.

3. Factors Considered

Under TWC §§ 13.241 and 13.246, and 16 TAC §§ 24.11(e) and 24.227, the Commission must consider certain factors when granting or amending a water or sewer CCN. Therefore, the following factors were considered.

- 3.1. *Consideration of the adequacy of service currently provided to the requested area and system compliance (TWC § 13.246(c)(1); 16 TAC § 24.227(a) and (e)(1)).*

There are no customers in the requested area.

3.2. Consideration of the need for additional service in the requested area (TWC § 13.246(c)(2); 16 TAC § 24.227(e)(2)).

A new residential development is being built in the requested area.

3.3. Consideration of the effect of granting an amendment on the recipient of the certificate or amendment, on the landowners in the area, and on any other retail public utility of the same kind already servicing the proximate area (TWC §§ 13.241(b) and 13.246(c)(3), 16 TAC § 24.227(e)(3)).

Liquid will be the certificated entity for the requested area and will be required to provide continuous and adequate service to the requested area.

The landowners in the area will have a sewer provider available when they need to request water/sewer service.

There will be no effect on any retail public utility servicing the proximate area. All retail public utilities in the proximate area were provided notice of the CCN amendment requested in this application and did not request to intervene.

3.4. Consideration of the managerial and technical ability of the applicant to provide adequate service (TWC § 13.246(c)(4); 16 TAC § 24.227(a) and (e)(4)).

The Texas Commission on Environmental Quality (TCEQ) approved wastewater treatment plant (WWTP) that will be providing service to the requested area is registered as 1486 Asset, LLC, Wastewater Discharge Permit No. WQ0015921001.

A TPDES Transfer Form was filed with TCEQ on March 23, 2023 to transfer TPDES Permit WQ0015921001 from 1486 Asset LLC to Liquid.

Liquid is a new entrant in the utility business. Liquid will be working closely with an experienced contract operations company to provide continuous and adequate sewer service.

3.5. The applicants' demonstration that regionalization or consolidation with another retail public utility is not economically feasible when construction of a physically separate water or sewer system is required to provide service to the requested area. (TWC § 13.241(d); 16 TAC § 24.227(b)).

There are no other retail sewer utilities in the proximate area that can supply the necessary sewer requirements for the proposed development. Therefore, concerns of regionalization or consolidation do not apply.

3.6. Consideration of the feasibility of obtaining service from an adjacent retail public utility (TWC § 13.246(c)(5); 16 TAC § 24.227(e)(5)).

Currently, there are no other sewer providers in the area.

- 3.7. *An application for a certificate of public convenience and necessity or for an amendment to a certificate must contain: a capital improvements plan, including a budget and estimated timeline for construction of all facilities necessary to provide full service to the entire proposed service area (TWC § 13.244(d)(3)).*

The wastewater treatment plant has been constructed and is ready to provide service to customers. As the plant is already fully operational a timeline for construction of the facilities is not necessary. The memo from Fred Bednarski in Rate Regulation states that Liquid meets the requirements specified under 16 TAC § 24.11(e)(3).

- 3.8. *Consideration of the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service (TWC § 13.246(c)(6); 16 TAC §§ 24.227(a) and (e)(6), 24.11(e)).*

The Rate Regulation Division will be addressing this criterion in a separate memo.

- 3.9. *Requirement of the applicant to provide a bond or other financial assurance in a form and amount specified by the Commission to ensure that continuous and adequate utility service is provided (TWC §§ 13.246(d); 16 TAC § 24.227(f)).*

The Rate Regulation Division will be addressing this criterion in a separate memo.

- 3.10. *Consideration of the environmental integrity and the effect on the land to be included in the certificated area (TWC § 13.246(c)(7) and (9); and 16 TAC § 24.227(e)(7) and (9)).*

The environmental integrity of the land will be minimally affected collection lines are installed to provide service to the requested area.

- 3.11. *Requirements as to size, form, identification, minor changes, and filing of tariffs for a person applying for a CCN that is not currently a retail public utility. (16 TAC § 24.25(b)(1)(b)).*

Liquid provided a rate study to support the proposed rates which included all calculations and projections for the wastewater treatment plant and estimated revenue collection from the first few years of service. The wastewater treatment plant construction has been completed.

- 3.12. *Consideration of the probable improvement in service or lowering of cost to consumers (TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)).*

Future residents of the planned development will have sewer service.

During the Commission's January 27, 2022, open meeting, the tap fee for Docket No. 50944 was discussed. The resulting ruling was to not use the standard residential tap fees

agreed to in the settlement and instead include a provision in the tariff to charge for the actual cost of each individual tap. Docket No. 50944 is for the Monarch I LP (Monarch) multi-county rate case. Monarch is a Class A utility with more than 30,000 customers. Currently there are only five Class A utilities regulated in Texas. There are many more Class D utilities such as Liquid, that are not as large and do not cover more than one county. Therefore, there is usually little difference between residential tap installations as the type of ground formations in their service areas and the parts, labor and equipment rental costs do not vary significantly.¹ In the case of Liquid, sewer service will be provided to approximately 159 customers in Montgomery County. Liquid has proposed a tap fee of \$1250.00. I recommend that the proposed tap fee is reasonable. In order to true-up the proposed tap fees and rates, I recommend that Liquid 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).

4. Recommendation

Based on the mapping review by Hank Journeay, Infrastructure Division, and my technical and managerial review, I recommend that Liquid meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations, is capable of providing continuous and adequate service. I further recommend that approving this application to obtain a sewer CCN No. 21132 is necessary for the service, accommodation, convenience and safety of the public.

Liquid consented to the attached maps, tariffs, and certificates on November 4, 2022.

¹ Road bores are an exception to a standard tap fee. This additional construction is addressed in a utility's tariff, such as the one included in the settlement in this docket, by a provision that allows the actual cost of the road bore and the tap fee. If the utility's main water line is across a public road, it is likely that a road bore is necessary to install a tap for a new customer.