



Filing Receipt

Received - 2023-02-24 11:45:45 AM
Control Number - 53336
ItemNumber - 38

DOCKET NO. 53336

APPLICATION OF BIG EASY AGUA	§	PUBLIC UTILITY COMMISSION
LLC FOR A CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	OF TEXAS
COLORADO COUNTY	§	

**COMMISSION STAFF'S SUPPLEMENTAL FINAL RECOMMENDATION AND
MOTION TO ADMIT EVIDENCE**

I. INTRODUCTION

On March 11, 2022, Big Easy Agua LLC (Big Easy) filed an application to obtain a water Certificate of Convenience and Necessity (CCN) in Colorado County.

On January 27, 2023, the administrative law judge filed Order No. 10, instructing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a supplement to its final recommendation addressing 16 Texas Administrative Code (TAC) § 24.25(b)(1)(B) and (C) and the need for service and to move to admit the same by February 24, 2023. Therefore, this pleading is timely filed.

II. STAFF'S SUPPLEMENT TO ITS FINAL RECOMMENDATION

Staff has reviewed the application and, as detailed in the attached memorandum from Jolie Mathis of the Infrastructure Division, supplements its December 1, 2022 recommendation¹ and maintains its recommendation that Big Easy's application for a water CCN be approved. Staff notes that this memorandum is substantively the same as the original final recommendation memorandum filed on December 1, 2022; however, it contains the additional information required by Order No. 10.

As Ms. Mathis notes in her memorandum, Staff reviewed the application and has determined that the Applicant has provided the required documentation to fulfill 16 TAC § 24.25(b)(1)(B). Additionally, in order to true-up the proposed tap fees and rates, Staff recommends that Big Easy be required to file a rate application with the Commission within 18 months from the date service begins pursuant to 16 TAC § 24.25(b)(1)(C). Accordingly, Staff recommends that Big Easy has fulfilled the requirements under 16 TAC § 24.25(b)(1)(B) and (C).

¹ Commission Staff's Supplemental Final Recommendation (Dec. 1, 2022) (erroneously labelled as a supplemental final recommendation).

Finally, as noted in Ms. Mathis' memorandum, Staff reviewed the application and concluded that there is a need for service as there are potential new customers in the requested area. The application notes that Big Easy Ranch Development LLC is developing a subdivision that will require retail water service that Big Easy can provide. To date, four homes are under construction with several more in the review process. The TCEQ has also approved plans for Big Easy to build facilities in the requested area in order to serve these future customers. Accordingly, Staff has considered and concluded that there is a need for additional service in the requested area, as required by Texas Water Code § 13.246(c)(2) and 16 TAC § 24.227(e)(2).

III. MOTION TO ADMIT EVIDENCE

Staff hereby requests that this supplemental final recommendation be admitted into the record.

IV. CONCLUSION

Staff respectfully recommends that Big Easy has adequately addressed 16 TAC § 24.25(b)(1)(B) and (C) and the need for service and accordingly recommends that Big Easy's application for a water CCN be approved. Staff also respectfully requests that this supplemental final recommendation be admitted into the record.

Dated: February 24, 2023

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Keith Rogas
Division Director

John Harrison
Managing Attorney

/s/ Ian Groetsch
Ian Groetsch
State Bar No. 24078599
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7465
(512) 936-7268 (facsimile)
Ian.Groetsch@puc.texas.gov

DOCKET NO. 53336

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 February 24, 2023, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Ian Groetsch
Ian Groetsch

Public Utility Commission of Texas

Memorandum

TO: Ian Groetsch, Attorney
Legal Division

FROM: Jolie Mathis, Utility Engineering Specialist
Infrastructure Division

DATE: February 24, 2023

RE: Docket No. 53336 – *Application of Big Easy Agua LLC for a Certificate of Convenience and Necessity in Colorado County*

1. Application

On March 11, 2022, Big Easy Agua LLC (Big Easy) filed with the Public Utility Commission of Texas (Commission) an application to obtain a water certificate of convenience and necessity (CCN) in Colorado 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 Dave Babicki, Infrastructure Division:

The requested area includes 0 customer connections and approximately 1,039 acres, comprised of uncertificated area.

The application proposes the addition of approximately 1,039 acres to Big Easy's new CCN No. 13303

The application indicates that the total acreage being requested is approximately 1,029 acres. Based on the mapping review by Mr. Babicki it was determined the requested area is approximately 1,039 acres.

2. Notice

The deadline to intervene was May 27, 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)).*

There is a need for service as there are potential new customers in the requested area. Big Easy Ranch Development LLC is developing a 120-lot subdivision as part of the overall Big Easy Ranch Development. These homes will require retail water service that Big Easy Agua LLC will provide. To date, four homes are under construction, with several more in the review process.

The Texas Commission on Environmental Quality (TCEQ) has approved plans for Big Easy to build facilities in the requested area to serve future customers and will have sufficient capacity to serve the area. A copy of the TCEQ approval letter for the water system and distribution system was filed November 9th, 2022.

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)).*

Big Easy 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 water provider available when they need to request water 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 applicant is a new entrant to the utility service industry. However, the applicant will hire utility professionals to help operate the system and to assist in regulatory compliance.

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 neighboring utilities. The TCEQ has approved plans for Big Easy 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.

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 water providers in the area.

3.7. ***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.

3.8. ***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.

3.9. ***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 as facilities are constructed to provide service to the requested area.

3.10. ***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 water 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 Big Easy, 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 Big Easy, water service will be provided to approximately 120 customers in Colorado County. The proposed tap fee for Big Easy's customers is \$1,000. I recommend that the proposed tap fee is reasonable. I recommend that Big Easy has provided all the required documentation to fulfill 16 TAC § 24.25(b)(1)(B). In order to true-up the proposed tap fees and rates, I recommend that Big

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.

Easy be required to 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 Dave Babicki, Infrastructure Division, and my technical and managerial review, I recommend that Big Easy 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 water CCN No. 13303 is necessary for the service, accommodation, convenience and safety of the public.

Big Easy consented to the attached map, tariff, and certificate on September 19, 2022.