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DOCKET NO. 53485

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

JOINT MOTION TO ADMIT EVIDENCE

I. INTRODUCTION

On April 12, 2022, Gideon Water, LLC (Gideon Water) filed an application for a water certificate of convenience and necessity (CCN) in Montgomery County under Subchapter G of Texas Water Code Chapter 13. The requested service area consists of 79 acres and 0 customer connections.

In Order No. 11 filed on April 18, 2023, the administrative law judge set April 28, 2023, as the deadline for the parties to file joint proposed findings of fact and conclusions of law. Therefore, this pleading is timely filed.

II. MOTION TO ADMIT EVIDENCE

The Parties move to admit the following items into the record of this proceeding:

- a. Gideon's application and all attachments filed on April 12, 2022 (Interchange Item No. 1);
- b. Gideon's affidavit of financial ability and financial information filed on April 13, 2022 (Interchange Item No. 2);
- c. Commission Staff's recommendation on administrative completeness, proposed notice, and proposed procedural schedule, filed on May 12, 2022 (Interchange Item No. 5);
- d. Gideon's proof of notice, filed on June 23, 2022 and August 4, 2022 (Interchange Item Nos. 7 and 12);
- e. Commission Staff's supplemental recommendation on notice filed on September 1, 2022 (Interchange Item No. 13);
- f. Gideon's consent form filed on December 14, 2022;
- g. Gideon's supplemental financial information filed on March 9, 2023;
- h. Gideon's response to Commission Staff's first request for information filed on March 9, 2023;
- i. Commission Staff's final recommendation and confidential FB-1 Bate Stamp-1 to 1 attachment filed on March 31, 2023;
- j. the proposed final map, certificate, and tariff filed on March 31, 2023;

III. PROPOSED NOTICE OF APPROVAL

The Parties respectfully request that the attached Joint Proposed Notice of Approval be adopted.

IV. CONCLUSION

The Parties respectfully request that an order be issued granting this Motion to Admit Evidence and adopting the attached Proposed Notice of Approval.

Dated: April 26, 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 will be provided to all parties of record via electronic mail on April 26, 2023, in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ John Harrison
John Harrison

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APPLICATION OF GIDEON WATER	§	PUBLIC UTILITY COMMISSION
LLC FOR A CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	OF TEXAS
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PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of Gideon Water LLC (Gideon) to obtain a water certificate of convenience and necessity (CCN) in Montgomery County. The Commission grants Gideon water CCN number _____.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

2. Gideon is a Texas limited liability company registered with the Texas secretary of state under filing number 0804431999.
3. Gideon has received conditional approval from the Texas Commission on Environmental Quality (TCEQ), to construct, operate, maintain, and control the Gideon Ranch water system to provide water service in Montgomery County.

Application

4. On April 12, 2022, Gideon filed the application at issue in this proceeding.
5. Gideon's application, as supplemented, requests a service area comprised of 79 acres, and no current customer connections.
6. The requested service area is being developed by Gideon and will include a subdivision with 50 lots and 3 restricted reserves.
7. The requested area is located approximately 2.5 miles southwest of downtown Magnolia, Texas, and is generally bounded on the north by Whispering Pines; on the east by Alford Road; on the south by the intersection of Alford Road and Forestview Drive; and on the west by East Lakeshore Drive.

8. In Order No. 2 filed on May 13, 2022, the administrative law judge (ALJ) found the application administratively complete.
9. On April 13, 2022, February 9, 2023 and March 9, 2023, Gideon filed supplemental information.

Notice

10. On June 10, 2022, Gideon filed the affidavit of Shelly Young, engineer for Gideon, attesting that notice was mailed to affected parties, landowners, and neighboring utilities on May 18, 2022.
11. On June 10, 2022, Gideon filed a publisher's affidavit attesting to publication of notice in the Houston Chronicle dba Cypress Creek Mirror, a newspaper of general circulation in Montgomery County, on May 18 and 25, 2022.
12. On August 4, 2022, Gideon filed a supplemental affidavit of Shelly Young attesting to the provision of notices to affected parties, landowners, and neighboring utilities on May 18, 2022.
13. In Order No. 5 filed on September 2, 2022, the ALJ found the notice sufficient.

Evidentiary Record

14. In Order No. ____ filed on _____, the ALJ admitted the following evidence into the record of this proceeding:
 - a. Gideon's application and all attachments filed on April 12, 2022;
 - b. Gideon's affidavit of financial ability and financial information filed on April 13, 2022;
 - c. Commission Staff's recommendation on administrative completeness, proposed notice, and proposed procedural schedule, filed on May 12, 2022;
 - d. Gideon's proof of notice, filed on June 23, 2022 and August 4, 2022;
 - e. Commission Staff's supplemental recommendation on notice filed on September 1, 2022;
 - f. Gideon's consent form filed on December 14, 2022;

- g. Gideon's supplemental financial information filed on March 9, 2023;
- h. Gideon's response to Commission Staff's first request for information filed on March 9, 2023;
- i. Commission Staff's final recommendation and confidential FB-1 Bate Stamp-1 to 1 attachment filed on March 31, 2023;
- j. the proposed final map, certificate, and tariff filed on March 31, 2023;

Adequacy of Existing Service

- 15. There are no existing customers in the requested area.
- 16. Water service is not currently being provided to the requested area.
- 17. Additional construction is necessary for Gideon to serve the requested area.

Need for Additional Service

- 18. The requested area is currently being developed to include a subdivision with 50 lots and 3 restricted reserves.
- 19. Gideon received a request for service from the developer.
- 20. Gideon filed a copy of the water system agreement between itself and the developer, demonstrating the need for water service in the requested area.

Effect of Issuing the Certificate

- 21. Gideon will be the certificated water utility for the requested area and will be obligated to provide adequate and continuous water service to future customers in the requested area.
- 22. Issuing the CCN will enable Gideon to provide water service to the developer in accordance with their water system agreement.
- 23. Landowners in the requested area will have access to a water provider when they need to request water service and will not have to install or operate individual water wells.
- 24. No protests, adverse comments, or motions to intervene were filed by any adjacent retail public utility in this docket.

25. There will be no effect on any retail public utility providing service to the proximate area.

Ability to Serve: Technical and Managerial

26. Gideon has received conditional approval from the TCEQ to construct the water system.
27. Gideon provided subdivision plats, engineering planning maps, and other large-scale maps that show all its water facilities and illustrate, separately, facilities for production, transmission, and distribution of its services.
28. Gideon is a new utility and does not have any violations listed in the TCEQ database.
29. Gideon intends to employ or contract with a TCEQ-licensed operator to operate the water system that will serve the requested area.
30. Gideon has the managerial and technical capability to provide continuous and adequate service to the requested area.

Feasibility of Obtaining Service from an Adjacent Retail Public Utility

31. Gideon received a request for service from the developer of the requested area and executed a water system agreement with the developer.
32. There are no other retail water service providers within one half mile from the outer boundary of the requested area.
33. It is not feasible to obtain service from an adjacent retail public utility.

Regionalization or Consolidation

34. It is necessary for Gideon to build a physically separate water system in order to provide service to the requested area.
35. There are no other retail public water utilities within one half mile from the outer boundary of the requested area.
36. Gideon demonstrated that regionalization or consolidation with an adjacent retail public utility is not economically feasible.

Ability to Serve: Financial Ability and Stability

37. Gideon demonstrated that its affiliate, Frey, Inc. is capable, available, and willing to cover temporary cash shortages and has a debt-to-equity ratio that is less than one, satisfying the leverage test.
38. Gideon demonstrated that its affiliate has sufficient cash on hand to cover any projected operations and maintenance shortages during the first five years of operations after issuance of the CCN, satisfying the operations test.
39. Gideon provided a written guarantee from its affiliate to pay for cash shortages and capital improvement costs. The guarantee additionally states the distribution system has already been installed and most of the water plant equipment has been ordered and paid for. Gideon's affiliate also provided a letter from its bank indicating funds are available to cover the projected cash shortages and capital improvement costs as indicated in confidential attachment FB-1, attached to Commission Staff's supplemental final recommendation.
40. The developer will pay for any capital improvements needed to provide continuous and adequate service to the requested area.
41. Gideon demonstrated the financial capability and stability to pay for facilities necessary to provide continuous and adequate service to the requested area.

Financial Assurance

42. There is no need to require Gideon to provide a bond or other financial assurance to ensure continuous and adequate service to the requested area.

Environmental Integrity and Effect on the Land

43. Future construction will be necessary for Gideon to provide service to the requested area.
44. Gideon has received conditional approval from the TCEQ for the construction of the water system and related facilities.
45. The effects on the land and on environmental integrity will not be to such a degree that the CCN should not be issued.

Improvement in Service or Lowering Cost to Consumers

- 46. Water service to the requested area will improve because Gideon will be obligated to serve future customers in the requested area.
- 47. No lowering of cost to customers will result from issuance of the CCN.

Proposed Tariff, Rate Study, Supporting Documentation, and Timelines

- 48. Gideon filed a proposed tariff.
- 49. Gideon filed a rate study and pro forma financial statements in support of its proposed rates.
- 50. Gideon provided all calculations supporting its proposed rates.
- 51. Gideon provided all assumptions for projections included in its rate study.
- 52. Gideon provided an estimated completion date for the water system.
- 53. Service and billing will commence upon the approval of this application by the Commission and completion of the water system.

Map, Certificate, and Tariff

- 54. On December 13, 2022, Commission Staff emailed the proposed map, certificate, and tariff to Gideon.
- 55. On December 14, 2022, Gideon filed its consent to the proposed map, certificate, and tariff.
- 56. On March 31, 2023, Commission Staff filed the proposed map, certificate, and tariff.

Informal Disposition

- 57. More than 15 days have passed since the completion of notice provided in this docket.
- 58. No person filed a protest or motion to intervene.
- 59. Gideon and Commission Staff are the only parties to this proceeding.
- 60. No party requested a hearing and no hearing is needed.
- 61. Commission Staff recommended approval of the application.

62. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this proceeding under Texas Water Code (TWC) §§ 13.041, 13.241, 13.242, 13.244, and 13.246.
2. Gideon will be a retail public utility as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. Gideon's application meets the requirements of TWC § 13.244 and 16 TAC §§ 24.25(b)(1) and 24.233.
4. Gideon provided notice of the application that complies with TWC § 13.246 and 16 TAC § 24.235.
5. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,¹ the TWC, and Commission rules.
6. After considering the factors in TWC §§ 13.241(a) and 13.246(c) and 16 TAC §§ 24.11(e) and 24.227(a) and (e), Gideon demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service in the requested service area as required by TWC § 13.241 and 16 TAC § 24.227.
7. Gideon demonstrated that regionalization or consolidation with another retail public utility is not economically feasible, as required by TWC § 13.241(d) and 16 TAC § 24.227(b).
8. It is not necessary for Gideon to provide a bond or other financial assurance under TWC § 13.246(d) or 16 TAC § 24.227(f).
9. Gideon demonstrated that issuance of CCN number 13303 is necessary for the service, accommodation, convenience, or safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(d).
10. Under TWC § 13.257(r) and (s), Gideon must record a certified copy of the approved map and certificate, along with a boundary description of its service area, in the real property

¹ Tex. Gov't Code Ann. §§ 2001.001-.903.

records of Montgomery County within 31 days of this Order and must submit evidence of the recording to the Commission.

11. Under 16 TAC § 24.25(b)(1)(B)(vi), Gideon must file notice with the Commission once billing for water service begins.
12. Under 16 TAC § 24.25(b)(1)(C), Gideon must file a rate application with actual financial information with the Commission within 18 months from the date service begins.
13. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission issues CCN number _____, attached to this Order, to Gideon for the requested area described in this Order and shown on the attached map.
2. The Commission approves the map and tariff attached to this Order.
3. Gideon must provide service to every customer and applicant for service within the approved area under CCN number _____ who requests water service and meets the terms of Gideon's water service policies, and such service must be continuous and adequate.
4. Gideon must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Montgomery County affected by the application and file in this docket proof of the recording no later than 45 days after the date of this Order.
5. Gideon must comply with 16 TAC § 24.25(b)(1)(B)(vi) and file notice to the Commission once billing for water service begins in Docket No. _____, Compliance Filing for Docket No. 53485 (Application of Gideon Water, LLC to Obtain a Certificate of Convenience and Necessity in Montgomery County).
6. Gideon must comply with the requirements in 16 TAC § 24.25(b)(1)(C) and file a rate application with the Commission within 18 months from the date water service begins.

7. Within ten days of the date this Order is filed, Commission Staff must provide the Commission with a clean copy of the tariff approved in this Order to be stamped Approved and retained by Central Records.
8. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted

Signed at Austin, Texas the ___ day of ____ 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE