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DOCKET NO. 54147

APPLICATION OF ROLLING V	§	PUBLIC UTILITY COMMISSION
RANCH WATER CONTROL AND	§	
IMPROVEMENT DISTRICT NO. 3	§	OF TEXAS
OF WISE COUNTY FOR A	§	
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY AND FOR DUAL	§	
CERTIFICATION WITH THE CITY OF	§	
RHOME IN WISE COUNTY	§	

COMMISSION STAFF'S FINAL RECOMMENDATION

On September 23, 2022, Rolling V Water Control and Improvement District No. 3 (Rolling V WCID No. 3) filed an application to obtain a water certificate of convenience and necessity (CCN) and for dual certification with the City of Rhome in Wise County.

On January 5, 2024, the administrative law judge filed Order No. 14, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a final recommendation on the application, if no hearing is requested by February 2, 2024. Therefore, this pleading is timely filed.

I. FINAL RECOMMENDATION

Staff has reviewed the application and supplemental information and, as detailed in the attached memoranda from Jolie Mathis, Infrastructure Division, and Fred Bednarski III, Rate Regulation Division, recommends approval of the application. Staff's review indicates that Rolling V WCID No. 3 meets the applicable technical, managerial, and financial requirements of Chapter 13 of the Texas Water Code and Title 16, Chapter 24 of the Texas Administrative Code and, therefore, is capable of providing continuous and adequate service. Additionally, Staff's review suggests that approval of the application is necessary for the service, accommodation, convenience, and safety of the public.

II. CONCLUSION

For the reasons detailed above, Staff respectfully requests that the Rolling V WCID No. 3's application be approved.

Dated: February 2, 2024

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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/s/ David Berlin
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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 February 2, 2024 in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ David Berlin
David Berlin

Public Utility Commission of Texas

Memorandum

TO: David Berlin, Attorney
Legal Division

FROM: Jolie Mathis, Utility Engineering Specialist
Infrastructure Division

DATE: February 2, 2024

RE: Docket No. 54147 – *Application of Rolling V Ranch Water Control and Improvement District No. 3 of Wise County for a Certificate of Convenience and Necessity and for Dual Certification with the City of Rhome in Wise County*

1. Application

On September 23, 2022, Rolling V Ranch Water Control and Improvement District No. 3 of Wise County (Rolling V WCID No. 3) filed with the Public Utility Commission of Texas (Commission) an application to obtain a water certificate of convenience and necessity (CCN) and for dual certification with the City of Rhome (Rhome) in Wise 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 14 customer connections and approximately 2,367.5 acres, comprised of dual certificated area with Rhome (CCN No. 10989).
- The application proposes the addition of approximately 2,367.5 acres and the issuance of water CCN number 13315 to Rolling V Ranch WCID No. 3.
- 2,367.5 acres will be dual certification between Rolling V Ranch WCID No. 3 (issuance of water CCN number 13315) and Rhome (CCN No. 10989).

2. Notice

Affidavits were provided affirming that notices were submitted to customers, neighboring utilities, affected parties, and that there are 24 landowners in the requested area. A map indicating the location of each landowner was also provided.

The deadline to intervene was November 6, 2023; 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)).

Customers in the requested area currently receive service from Rolling V WCID No. 3's Texas Commission on Environmental Quality (TCEQ) approved public water system (PWS) registered as Rolling V Ranch WCID 3 of Wise County, PWS ID No. 2490098. Rolling V WCID No. 3 does not have any violations listed in the TCEQ database. Rolling V WCID No. 3 will purchase water service from Rhome.

Construction of facilities is necessary for Rolling V WCID No. 3 to serve the requested area. Rolling V WCID No. 3 currently only has a sewer CCN. The Commission's complaint records, which go back 5 years, show no complaints against Rolling V WCID No. 3's sewer utility and three complaints against Rhome's water utility. All the complaints have been reviewed and closed by the Commission's Customer Protection Division.

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 14 existing customers and potential new customers in the requested areas.

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)).

Rolling V WCID No. 3 will be the certificated entity for the requested areas and will be required to provide continuous and adequate service to the requested areas.

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)).

TCEQ rule, 30 TAC § 290.46, Minimum Acceptable Operating Practices for Public Drinking Water Systems, requires the operation of a public water system by trained and licensed personnel. The production, treatment, and distribution facilities at the public water system must be operated at all times under the direct supervision of a water works operator who holds an applicable, valid license issued by the TCEQ executive director. The licensed operator of a public water system may be an employee, contractor, or volunteer. Rolling

V WCID No. 3 will have qualified TCEQ licensed operators licensed in water treatment to run the acquired systems.

Rolling V WCID No. 3 will have licensed operators to run the system operations. A Class B and C operator will be the responsible operator for the system.

- 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)).*

TCEQ has approved plans for Rolling V WCID No. 3 to build facilities in the requested areas to serve future customers and will have sufficient capacity to serve the areas. 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)).*

Rolling V WCID No. 3 is currently serving customers in the requested area, has facilities in the requested area to serve any future customers, and has sufficient capacity. Therefore, it is not feasible to obtain service from an adjacent retail public utility.

- 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)).*

Rolling V WCID No. 3 is extending an existing water treatment plant to provide service to the requested area. Rolling V WCID No. 3 provided a budget, an estimated timeline for construction, and a keyed map showing where facilities will be located. Construction began on September 23, 2023. Estimated costs to extend existing water system is expected to exceed \$100,000, therefore the need for firm capital commitment under 16 TAC § 24.11(e)(5) is required.

The Rate Regulation Division will be addressing the need for firm capital commitment criterion in a separate memo.

- 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 as facilities are constructed to provide service to the requested area.

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

Rolling V WCID No. 3 will continue to provide water service to the existing customers in the area. There will be no change in the quality or cost of service to customers.

4. Recommendation

Based on the mapping review by Dave Babicki, Infrastructure Division, and my technical and managerial review, I recommend that Rolling V WCID No. 3 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. 13315 is necessary for the service, accommodation, convenience and safety of the public.

Rolling V WCID No. 3 consented to the attached map and certificate on December 18, 2023.

Public Utility Commission of Texas

Memorandum

TO: David Berlin, Attorney
Legal Division

FROM: Fred Bednarski III, Financial Analyst
Rate Regulation Division

DATE: February 2, 2024

RE: Docket No. 54147 *Application of Rolling V Ranch Water Control and Improvement District No. 3 for a Certificate of Convenience and Necessity and for Dual Certification with the City of Rhome in Wise County*

On September 23, 2022, Rolling V Ranch Water Control and Improvement District No. 3 (Rolling V WCID No. 3 or applicant) filed an application to obtain a water certificate of convenience and necessity and for dual certification with the City of Rhome in Wise County under Subchapter G of Texas Water Code Chapter 13.

An owner or operator of a retail public utility must have the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and requested utility service areas, as established by 16 Texas Administrative Code (TAC) § 24.11(a).

In lieu of meeting the leverage test under 16 TAC § 24.11(e)(2) and operations tests under 16 TAC § 24.11(e)(3), a city or district may substantiate financial capability with a letter from the city's or district's financial advisor indicating that the city or district is able to issue debt (bonds) in an amount sufficient to cover capital requirements to provide continuous and adequate service and providing the owner or operator's independently audited year-end financial statement for the most recent fiscal year including the "unqualified opinion" of the auditor as established by 16 TAC § 24.11(e)(4)(C).

Leverage Test and Operations Test

Rolling V WCID No. 3's financial advisor, Robert W. Baird & Co., provided a letter indicating that Rolling V WCID No. 3 is able to issue debt (bonds) in an amount sufficient to cover capital requirements to provide continuous and adequate service to the requested area.¹ Rolling V WCID No. 3 also provided its audited financial statements containing an unqualified auditor's opinion from McCall Gibson Swedlund Barfoot PLLC stating that the financial statements present fairly, in all material respects, the financial position of Rolling V WCID No. 3 as of April 30, 2023.² Therefore, I recommend a finding that Rolling V WCID No. 3 substantiated financial capability and meets the requirements specified in 16 TAC § 24.11(e)(4)(C) and should not be required to meet the leverage and operations tests.

Capital Improvements

Required capital improvements exceed \$100,000 per Jolie Mathis', Utility Engineering Specialist, memorandum. Rolling V WCID No. 3 provided a developer agreement indicating the developer will pay for the required capital improvements to provide continuous and adequate water service to the requested area. Rolling V WCID No. 3 also agrees to reimburse the developer based on the issuance of bonds.³ Rolling V WCID No. 3's financial advisor, Robert W. Baird & Co., provided a letter indicating that Rolling V WCID No. 3's can issue debt (bonds) in an amount sufficient to cover capital requirements to provide continuous and adequate service to the requested area. Therefore, I recommend a finding that Rolling V WCID No. 3 provided a firm capital commitment and meets the requirements specified in 16 TAC § 24.11(e)(5)(B) and if necessary, a good cause exception should be granted.

Recommendation

Because Rolling V WCID No. 3 substantiated financial capability as established by 16 TAC § 24.11(e)(4)(C), I do not recommend that the Commission require additional financial assurance.

¹ Revised mapping items and supplemental financial test items, interchange item no. 17, at 46 thru 50 (Mar. 3, 2023).

² Response to commission staff first RFI, interchange item no. 36, at 11 thru 15 (Oct. 30, 2023).

³ Revised mapping items and supplemental financial test items, interchange item no. 17, at 33 thru 45 (Mar. 3, 2023).

Consequently, I recommend a finding that Rolling V WCID No. 3 demonstrates the financial and managerial capability needed to provide continuous and adequate service to the area subject to this application. My conclusions are based on information provided by Rolling V WCID No. 3 before the date of this memorandum and may not reflect any changes in Rolling V WCID No. 3's status after this review.