



## **Filing Receipt**

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**Item Number - 61**

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Executive Director

## *Public Utility Commission of Texas*

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TO: Shelah Cisneros  
Commission Counsel

All Parties of Record

FROM: Katie Moore Marx *KMM*  
Administrative Law Judge

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*

DATE: June 18, 2024

Enclosed is the Proposed Order in the above-referenced case. By copy of this memo, the parties to this proceeding are being served with the Proposed Order.

Please place this docket on an open meeting agenda for the Commissioners' consideration. Please notify me and the parties of the open meeting date. The parties must file corrections or exceptions to the Proposed Order by July 2, 2024.

**If a party proposes a correction or exception, the party must fully explain the correction or exception and must provide a citation to the record to support the correction or exception.**

**If there are no corrections or exceptions, no response is necessary.**

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**DOCKET NO. 54147**

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

**PROPOSED ORDER**

This Order addresses the application of Rolling V Ranch Water Control and Improvement District No. 3 of Wise County to obtain a new certificate of convenience and necessity (CCN) for 2,367.5 acres that is certificated under the City of Rhome's CCN number 10989 in Wise County. The Commission issues Rolling V Ranch CCN number 13315 for the requested areas described in this Order, to the extent provided in this Order.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicant and Interested Entity**

1. Rolling V Ranch is a water control and improvement district operating under chapter 51 of the Texas Water Code (TWC).
2. Rolling V Ranch does not currently hold a CCN to provide water service to customers in Texas.
3. Rolling V Ranch owns and operates a public water system registered with the Texas Commission on Environmental Quality (TCEQ) as Rolling V Ranch WCID 3 of Wise County, identification number 2490098.
4. Rhome is a municipality in Texas.
5. Rhome operates, maintains, and controls facilities for providing retail water service to customers in Wise County under CCN number 10989.

**Application**

6. On September 23, 2022, Rolling V Ranch filed the application at issue in this proceeding.
7. On November 4, 2022, and February 16, March 3, May 9, and July 10, 2023, Rolling V Ranch filed supplemental information.
8. Rolling V Ranch's application, as supplemented, requests a service area that includes four non-contiguous areas totaling approximately 2,367.5 acres and 14 customer connections.
9. The requested areas are singly certificated under Rhome's CCN number 10989.
10. The requested areas are located approximately 0.7 miles south of downtown Rhome, Texas and are generally bounded on the north by State Highway 114; on the east by United States Highway 287; on the south by the Tarrant and Wise county line; and on the west by Farm-to-Market Road 718.
11. In Order No. 11 filed on August 10, 2023, the administrative law judge (ALJ) found the application, as supplemented, administratively complete.

**Notice**

12. On September 25, 2023, Rolling V Ranch filed the following:
  - a. the affidavit of Scott Eidman, attorney for Rolling V Ranch, attesting that notice was mailed on September 11, 2023, to neighboring utilities, county authorities, municipalities, landowners, customers, and affected parties;
  - b. the affidavit of Mr. Eidman attesting that notice was sent via first class mail on September 18, 2023, to landowners owning tracts of land over 25 acres wholly or partly inside the requested areas; and,
  - c. a publisher's affidavit attesting to the publication of notice in the *Wise County Messenger*, a newspaper of general circulation in Wise County, on August 24, 2023.
13. On October 6, 2023, Rolling V Ranch filed a publisher's affidavit attesting to the publication of notice in the *Wise County Messenger*, a newspaper of general circulation in Wise County, on September 28 and October 5, 2023.
14. In Order No. 13 filed on October 19, 2023, the ALJ found the notice sufficient.

**Evidentiary Record**

15. In Order No. 16 filed on February 21, 2024, the ALJ admitted the following evidence into the record of this proceeding:
- a. Rolling V Ranch's application filed on September 23, 2022;
  - b. Rolling V Ranch's supplement to the application filed on May 9, 2023;
  - c. Rolling V Ranch's revised dual certification agreement filed on July 10, 2023;
  - d. Commission Staff's fifth supplemental recommendation on administrative completeness and notice and proposed procedural schedule filed on August 9, 2023;
  - e. Rolling V Ranch's proof of notice filed on September 25, 2023;
  - f. Rolling V Ranch's supplemental proof of notice filed on October 6, 2023;
  - g. Commission Staff's recommendation on notice and proposed procedural schedule filed on October 18, 2023;
  - h. Commission Staff's first request for information (RFI) to Rolling V Ranch filed on October 23, 2023;
  - i. Rolling V Ranch's response to Commission Staff's first RFI filed on October 30, 2023;
  - j. Rolling V Ranch's executed consent form with attachment filed on December 18, 2023; and
  - k. Commission Staff's amended final recommendation and all attachments filed February 5, 2024.

**Adequacy of Existing Service**

16. Rolling V Ranch currently provides retail water service to 14 existing customers in the requested areas through Rolling V Ranch WCID 3 of Wise County, identification number 2490098, and such service has been continuous and adequate.
17. Rolling V Ranch has no violations listed in the TCEQ database.

**Need for Service**

18. There are 14 existing customers in the requested areas who have an ongoing need for water service.
19. There is anticipated growth and potential additional need for service in the requested areas.

**Effect of Issuing the CCN**

20. The requested areas will be dually certificated to Rolling V Ranch and Rhome.
21. Rolling V Ranch will be required to provide continuous and adequate water service to current and future customers in the requested areas.
22. Landowners in the requested areas will have a water provider available when they need to request water service.
23. All retail public utilities in the proximate area were provided notice of the transaction and none filed protests, adverse comments, or sought to intervene in this proceeding.
24. Rhome, the only adjacent retail public utility, consented to Rolling V Ranch's requested dual certification.
25. With the exception of the dual certification with Rhome, there will be no effect on any retail public utility providing service in the proximate area.

**Ability to Serve: Managerial and Technical**

26. Rolling V Ranch has a long-term contract to purchase water from Rhome.
27. Rolling V Ranch employs or contracts with TCEQ-licensed operators that will be responsible for operating the water system.
28. The Commission's complaint records go back five years and show three complaints against Rolling V Ranch's retail sewer service. All three complaints have been reviewed and closed by the Commission's consumer protection division.
29. Rolling V Ranch has the managerial and technical capability to provide continuous and adequate service to the requested areas.

**Feasibility of Obtaining Service from Adjacent Retail Public Utilities**

30. Rolling V Ranch is currently serving customers in the requested areas, has facilities in the requested areas, has approval from the TCEQ to build additional facilities in the requested areas to serve any future customers, and has sufficient capacity to serve the requested areas.
31. It is not feasible to obtain service from an adjacent retail public utility.

**Regionalization or Consolidation**

32. It will be necessary for Rolling V Ranch to construct a physically separate water system to serve the requested areas.
33. Rhome is the only retail public utility within one half mile of the outer boundary of the requested areas.
34. Rhome consented to dual certification of the requested areas and has a water supply contract with Rolling V Ranch.
35. Rolling V Ranch demonstrated that regionalization or consolidation with an adjacent retail public utility is not economically feasible.

**Ability to Serve: Financial Ability and Stability**

36. In lieu of meeting the leverage and operations tests described in 16 Texas Administrative Code (TAC) §§ 24.11(e)(2) and (3), Rolling V Ranch filed the following:
  - a. a letter from Rolling V Ranch's financial advisor indicating that Rolling V Ranch can issue debt in an amount sufficient to cover capital requirements to provide continuous and adequate service to the requested areas; and
  - b. 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 Ranch as of April 30, 2023.
37. Rolling V Ranch provided a copy of a developer agreement, in which the developer agreed to pay for the required capital improvements necessary to provide continuous and adequate water service to the requested areas and that Rolling V Ranch will reimburse the developer by issuing bonds.

38. Estimated costs for the capital improvements are expected to exceed \$100,000.
39. Rolling V Ranch submitted a capital improvement plan that included a budget and an estimated timeline for construction of all facilities necessary to provide full service to the requested areas, keyed to a map showing where the facilities will be located.
40. Rolling V Ranch demonstrated the financial capability and stability to pay for the facilities necessary to provide continuous and adequate service to the requested areas.

**Financial Assurance**

41. There is no need to require Rolling V Ranch to provide a bond or other financial assurance to ensure continuous and adequate service to the requested areas.

**Environmental Integrity and Effect on the Land**

42. The effects on environmental integrity and the land will be minimal and temporary as facilities are constructed to extend service to the requested areas.
43. The effects on environmental integrity and the land will not be adverse to such a degree that the CCN should not be granted.

**Improvement in Service or Lowering of Cost**

44. No lowering of cost to customers in the requested areas will result from issuance of the CCN.
45. Water service in the requested areas will improve because customers requiring service in the requested areas will be able to request service from Rolling V Ranch and Rhome.

**Map and Certificates**

46. On December 5, 2023, Commission Staff emailed the proposed map and certificates to Rolling V Ranch and Rhome.
47. On December 18, 2023, Rolling V Ranch filed its consent and Rhome's consent to the proposed map and certificates.
48. On February 5, 2024, Commission Staff filed the final map and certificates as attachments to its amended final recommendation.

**Informal Disposition**

49. More than 15 days have passed since completion of the notice provided in this docket.



50. No party filed a protest or motion to intervene.
51. Rolling V Ranch and Commission Staff are the only parties to this proceeding.
52. No party requested a hearing, and no hearing is needed.
53. Commission Staff recommended approval of the application.
54. 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 application under TWC §§ 13.041, 13.241, 13.242, 13.244, and 13.246.
2. Rolling V Ranch is a retail public utility as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
3. Rolling V Ranch's application meets the requirements of TWC § 13.244 and 16 TAC §§ 24.227 and 24.233.
4. Notice of the application complies with TWC § 13.246 and 16 TAC § 24.235(b).<sup>1</sup>
5. The Commission processed the application as required by the TWC, the Administrative Procedure Act,<sup>2</sup> and Commission rules.
6. After consideration of the factors in TWC §§ 13.241(a) and 13.246(c) and 16 TAC § 24.227(a) and (e), Rolling V Ranch demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested areas, as required by TWC § 13.241 and 16 TAC § 24.227.
7. It is not necessary for Rolling V Ranch to provide a bond or other financial assurance under TWC § 13.246(d) or 16 TAC § 24.227(f).

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<sup>1</sup> After this application was filed, 16 TAC § 24.235 was amended, effective July 19, 2023. Accordingly, all references and citations to 16 TAC § 24.235 in this Order are made to the version in effect at the time the application was filed.

<sup>2</sup> Tex. Gov't Code §§ 2001.001–.903.

8. Rolling V Ranch filed a capital improvements plan that complies with the requirements of TWC § 13.244(d)(3) and 16 TAC § 24.233(a)(6).
9. The developer agreement filed by Rolling V Ranch on March 3, 2024, is a sufficient firm capital commitment under 16 TAC § 24.11(e)(5)(B).
10. Rolling V Ranch demonstrated that regionalization or consolidation with an adjacent retail public utility is not economically feasible, as required by TWC § 13.241(d) and 16 TAC § 24.227(b).
11. Rolling V Ranch demonstrated that the issuance of a CCN to Rolling V Ranch will serve the public interest and 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).
12. Under TWC § 13.250, Rolling V Ranch is required to provide service to every customer within its certificated service area and to render continuous and adequate service within its service area.
13. Under TWC § 13.257(r) and (s), Rolling V Ranch must record a certified copy of the approved maps and certificates, along with a boundary description of the service areas, in the real property records of Wise County within 31 days of this Order and submit evidence of the recording to the Commission.
14. 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 Rolling V Ranch water CCN number 13315 as described in this Order and shown on the attached map.
2. The Commission approves the map attached to this Order.
3. The Commission issues the certificate attached to this Order.
4. Rolling V Ranch must provide service to every customer and applicant for service within the approved areas under CCN number 13315 who requests water service and meets the

terms of Rolling V Ranch's water service policies, and such service must be continuous and adequate.

5. Rolling V Ranch must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Wise County affected by this application and must file in this docket proof of the recording no later than 45 days after the date of this Order.
6. 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 \_\_\_\_\_ 2024.

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**THOMAS J. GLEESON, CHAIRMAN**

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**LORI COBOS, COMMISSIONER**

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**JIMMY GLOTFELTY, COMMISSIONER**

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**KATHLEEN JACKSON, COMMISSIONER**