



Filing Receipt

Filing Date - 2024-01-31 10:46:33 AM

Control Number - 54947

Item Number - 32

DOCKET NO. 54947

APPLICATION OF EMERALD HILLS	§	PUBLIC UTILITY COMMISSION
WATER FOR A CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	OF TEXAS
SAN PATRICIO COUNTY	§	

JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

On May 1, 2023, Emerald Hills Water (Emerald Hills) filed an application to obtain a water certificate of convenience and necessity (CCN) in San Patricio County. Emerald Hills filed supplemental information on May 22, 2023, June 29, 2023, July 7, 2023, August 4, 2023, August 24, 2023, and October 4, 2023.

On January 18, 2024, the administrative law judge (ALJ) filed Order No. 8, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) and Emerald Hills (collectively, the Parties) to file joint proposed findings of fact and conclusions of law by January 31, 2024. Therefore, this pleading is timely filed.

I. JOINT MOTION TO ADMIT EVIDENCE

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

1. Application of Emerald Hills Water for a Certificate of Convenience and Necessity in San Patricio County, filed on May 1, 2023 (AIS Item No. 1);
2. Mapping Documents, filed on May 22, 2023 (AIS Item No. 3);
3. Revised documents: Cover Letter General Location Map Detail Map Digital Mapping Data Letter of Service Request, filed on June 29, 2023 (AIS Item No. 6);
4. Cover Letter Questions 11 and 26 revised Appendix B revised Facilities Map Survey Proposed Rate sheet Background Information, filed on July 7, 2023 (AIS Item No. 8);
5. Cover Letter Revised Financial Projections Rate Study Rate Sheet Water Utility Tariff, filed on August 4, 2023 (AIS Item No. 10);
6. Cover Letter Revised Financial projections to replace the others due to corrections, filed on August 4, 2023 (AIS Item No. 11);
7. Commission Staff's Recommendation on Administrative Completeness and Notice and Proposed Procedural Schedule, filed on August 8, 2023 (AIS Item No. 14);

8. Publishers Affidavit, Newspaper Tear sheets x 2, Customer Affidavit, Customer Notice, Notice to Corpus Christi Port Authority, Notice to Lake City, Notice to Lakeside, Land Owner Affidavit, Land Owner Notification, Mathis Notice to Neighboring System, ETC, filed on August 24, 2023 (AIS Item No. 16);
9. Commission Staff's Recommendation on Sufficiency of Notice and Proposed Procedural Schedule, filed on October 2, 2023 (AIS Item No. 17);
10. 1. Landowner Affidavit 2. Landowner Notification 3. Copy of post marked envelope 4. 54947-5 clarify, filed on October 4, 2023 (AIS Item No. 19);
11. Commission Staff's Clarification, filed on October 10, 2023 (AIS Item No. 20);
12. 54947 Consent Form Signed, filed on December 19, 2023 (AIS Item No. 22); and
13. Commission Staff's Final Recommendation and attachments, filed on December 20, 2023 (AIS Item No. 25).

II. PROPOSED NOTICE OF APPROVAL

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

III. CONCLUSION

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

Date: January 31, 2024

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Marisa Lopez Wagley
Division Director

Andy Aus
Managing Attorney

/s/ David Berlin
David Berlin
State Bar No. 24126088
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7442
(512) 936-7268 (facsimile)
David.Berlin@puc.texas.gov

EMERALD HILLS WATER

/s/ Sam Drugan
Sam Drugan, Attorney at Law
State Bar No. 06136200
Post Office Box 159
Kingsbury, Texas 78638
(210) 415-5224
sdrugan@wdblaw.com

DOCKET NO. 54947

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 January 31, 2024 in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ David Berlin
David Berlin

DOCKET NO. 54947

APPLICATION OF EMERALD HILLS	§	PUBLIC UTILITY COMMISSION
WATER FOR A CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	OF TEXAS
SAN PATRICIO COUNTY	§	

JOINT PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of Emerald Hills Water (Emerald Hills) for a water certificate of convenience and necessity (CCN) for approximately 81.2 uncertificated acres in San Patricio County. The Commission issues Emerald Hills CCN number 21183 for the requested area described in this Notice of Approval, to the extent provided in this Notice of Approval.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Emerald Hills is a non-profit organization.
2. Emerald Hills does not currently hold a CCN to provide water service to customers in Texas.
3. Emerald Hills currently has a Texas Commission on Environmental Quality (TCEQ) approved public water system (PWS) registered as Emerald Hills RV Park, PWS ID No. 2050077.

Application

4. On May 1, 2023, Emerald Hills filed the application at issue in this proceeding.
5. On May 22, 2023, June 29, 2023, July 7, 2023, August 4, 2023, August 24, 2023, and October 4, 2023, Emerald Hills filed supplemental information.
6. In the application, as supplemented, Emerald Hills requests a service area that is approximately 81.2 acres and would serve 62 customer connections.
7. The requested area is approximately 0.25 miles northeast of downtown Lakeside, Texas, and is generally bounded on the north by Lake Corpus Christi; on the east by the intersection of County Road 4 and Brown Lane; on the south by County Road 4; and on the west by Sunny Lane.

8. In Order No. 4 filed on August 9, 2023, the administrative law judge (ALJ) found the application, as supplemented, administratively complete.

Notice

9. On August 24, 2023, Emerald Hills proof of mailed notice, including an affidavit signed by Lyndon Nance, stating that notice was mailed to Current Customers, Neighboring Utilities, and Affected Parties on August 10, 2023.
10. On August 24, 2023, Emerald Hills filed proof of notice to landowners, including an affidavit of notice to landowners signed by Lyndon Nance, attesting to the provision of notice to landowners owning tracts of land over 25 acres wholly or partly inside the requested CCN area on August 10, 2023.
11. On August 24, 2023, Emerald Hills filed a signed, dated, and notarized Publisher's Affidavit form for the August 17, 2023, and August 24, 2023, publication of notice in the *News of San Patricio*.
12. On October 4, 2023, Emerald Hills re-filed proof of mailed notice to landowners.
13. On October 10, 2023, Staff clarified that Emerald Hills utilized the Commission's most up-to-date proof of notice affidavit.
14. In Order No. 6 filed on October 19, 2023, the ALJ found the notice sufficient.

Evidentiary Record

15. In Order No. [] filed on [], the ALJ admitted the following evidence into the record of this proceeding:
 - a. Application of Emerald Hills Water for a Certificate of Convenience and Necessity in San Patricio County, filed on May 1, 2023 (AIS Item No. 1);
 - b. Mapping Documents, filed on May 22, 2023 (AIS Item No. 3);
 - c. Revised documents: Cover Letter General Location Map Detail Map Digital Mapping Data Letter of Service Request, filed on June 29, 2023 (AIS Item No. 6);
 - d. Cover Letter Questions 11 and 26 revised Appendix B revised Facilities Map Survey Proposed Rate sheet Background Information, filed on July 7, 2023 (AIS Item No. 8);
 - e. Cover Letter Revised Financial Projections Rate Study Rate Sheet Water Utility Tariff, filed on August 4, 2023 (AIS Item No. 10);

- f. Cover Letter Revised Financial projections to replace the others due to corrections, filed on August 4, 2023 (AIS Item No. 11);
- g. Commission Staff's Recommendation on Administrative Completeness and Notice and Proposed Procedural Schedule, filed on August 8, 2023 (AIS Item No. 14);
- h. Publishers Affidavit, Newspaper Tear sheets x 2, Customer Affidavit, Customer Notice, Notice to Corpus Christi Port Authority, Notice to Lake City, Notice to Lakeside, Land Owner Affidavit, Land Owner Notification, Mathis Notice to Neighboring System, ETC, filed on August 24, 2023 (AIS Item No. 16);
- i. Commission Staff's Recommendation on Sufficiency of Notice and Proposed Procedural Schedule, filed on October 2, 2023 (AIS Item No. 17);
- j. 1. Landowner Affidavit 2. Landowner Notification 3. Copy of post marked envelope 4. 54947-5 clarify, filed on October 4, 2023 (AIS Item No. 19);
- k. Commission Staff's Clarification, filed on October 10, 2023 (AIS Item No. 20);
- l. 54947 Consent Form Signed, filed on December 19, 2023 (AIS Item No. 22); and
- m. Commission Staff's Final Recommendation and attachments, filed on December 20, 2023 (AIS Item No. 25).

Adequacy of Existing Service

- 16. There are 62 existing customers in the requested area.
- 17. Emerald Hills is currently serving customers in the requested area.

Need for Service

- 18. There is a need for service as there are 62 existing customers in the requested area.

Effect of Issuing the Certificate

- 19. By issuing the CCN, Emerald Hills will be the certificated water utility for the requested area and will be required to provide continuous and adequate service to the requested area.
- 20. Landowners in the requested area will have a water provider available when they need to request water service.
- 21. All retail public utilities in the proximate area were provided notice of the application and did not request to intervene.
- 22. There will be no effect on any retail public utility servicing the proximate area.

Ability to Serve: Managerial and Technical

23. Emerald Hills has a TCEQ approved PWS registered as Emerald Hills RV Park, PWS ID No. 2050077.
24. Emerald Hills provided engineering planning maps that show all its water facilities.
25. Emerald Hills has one violation listed in the TCEQ database that has since been resolved.
26. Emerald Hills will have licensed operators to run the system operations. A Class A operator will be the responsible operator for the system.
27. Emerald Hills has the managerial and technical capability to provide continuous and adequate service to the requested area.

Feasibility of Obtaining Service from Adjacent Retail Public Utility

28. Emerald Hills is currently serving customers in the requested area, has facilities in the requested area to serve any future customers, and has sufficient capacity.
29. It is not feasible to obtain service from an adjacent retail public utility.

Regionalization or Consolidation

30. It will not be necessary for Emerald Hills to construct a physically separate water system to serve the requested area.
31. Because the requested area will not require construction of a physically separate water system, consideration of regionalization or consolidation with an adjacent retail public utility is not required.

Ability to Serve: Financial Ability and Stability

32. Based on the financial statements, Emerald Hills has a debt-to-equity ratio of 0.75.
33. Because Emerald Hills has a debt-to-equity ration of less than one, Emerald Hills meets the leverage test specified in 16 TAC § 24.11(e)(2)(A)
34. Emerald Hill's financial projections show that there are no projected shortages to cover for the first five years of operations, satisfying the operations test.
35. Because no capital improvements are required to provide continuous and adequate water service to the requested area, Emerald Hills meets the requirements specified in 16 TAC § 24.11(e)(5)(B)

Financial Assurance

36. There is no need to require Emerald Hills 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

37. The environmental integrity of the land will not be affected as no additional construction is needed to provide service to the requested area.

Improvement in Service or Lowering Cost to Consumers

38. No change in the quality or cost to customers will result from issuance of the CCN because Emerald Hills will continue to provide water service to the existing customers in the area.

Proposed Tariff, Rate Study, Supporting Documentation, and Timelines

39. Emerald Hills filed a rate study and pro forma financial statements in support of its proposed rates.
40. Emerald Hills provided all calculations supporting its proposed rates.
41. Emerald Hills provided all assumptions for projections included in its rate study.

Map, Certificate, and Tariff

42. On November 17, 2023, Commission Staff emailed the proposed map, certificate, and tariff to Emerald Hills.
43. On December 19, 2023, Emerald Hills filed its consent to the proposed map, certificate, and tariff.
44. On December 20, 2023, Commission Staff filed the proposed map, certificate, and tariff.

Informal Disposition

45. More than 15 days have passed since the completion of notice provided in this docket.
46. No person filed a protest or motion to intervene.
47. Emerald Hills and Commission Staff are the only parties to this proceeding.
48. No party requested a hearing, and no hearing is needed.
49. Commission Staff recommended approval of the sale.
50. 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 Texas Water Code (TWC) §§ 13.041, 13.241, 13.244, and 13.246.
2. Emerald Hills is a retail public utility as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
3. Notice of the application complies with TWC § 13.246 and 16 TAC § 24.235.
4. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,¹ the TWC, and Commission rules.
5. The application meets the requirements set forth in TWC § 13.244 and 16 TAC § 24.277.
6. The Commission considered the factors in TWC § 13.246(c) and 16 TAC § 24.227(e) when evaluating Emerald Hills' application.
7. Emerald Hills possesses the financial, managerial, and technical capability to provide continuous and adequate water service to the requested area, as required by TWC § 13.241 and 16 TAC § 24.227.
8. It is not necessary for Emerald Hills to provide a bond or other financial assurance under TWC § 13.246(d) or 16 TAC § 24.227(f).
9. Emerald Hills 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).
10. Emerald Hills demonstrated that issuance of CCN number 13314 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).
11. Under TWC § 13.250, Emerald Hills is required to serve every consumer within its certificated service area and to render continuous and adequate service within its service area.
12. Under TWC § 13.257(r) and (s), Emerald Hills must record a certified copy of the approved map and certificate, along with a boundary description of the service area, in

¹ Tex. Gov't Code §§ 2001.001-.903.

- the real property records of San Patricio County within 31 days of this Notice of Approval and must submit evidence of the recording to the Commission.
13. Under 16 TAC § 24.25(b)(1)(B)(vi), Emerald Hills is required to file notice with the Commission once billing for water service begins.
 14. Under 16 TAC § 24.25(b)(1)(C), Emerald Hills is required to file a rate application with actual financial information with the Commission within 18 months from the date service begins.
 15. 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 Emerald Hills CCN number 13314 as described in this Notice of Approval and shown on the attached map.
2. The Commission approves the map and tariff attached to this Notice of Approval.
3. The Commission issues the certificate attached to this Notice of Approval.
4. Emerald Hills must provide service to every customer and applicant for service within the approved area under CCN number 13314 who requests water service and meets the terms of Emerald Hills' water service policies, and such service must be continuous and adequate.
5. Emerald Hills must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in San Patricio 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 Notice of Approval.
6. Within ten days of the date this Notice of Approval is filed, Commission Staff must provide the Commission with a clean copy of Emerald Hills' water tariff approved in this Notice of Approval to be stamped *Approved* and retained by Central Records.
7. Emerald Hills must comply with 16 TAC § 24.25(b)(1)(B)(vi) and file notice to the Commission once billing for water service begins.
8. Emerald Hills must file a rate application with actual financial information with the Commission within 18 months from the date water service begins.

9. 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 January 2024.

PUBLIC UTILITY COMMISSION OF TEXAS

REBECCA BROMLEY-WILLIAMS
ADMINISTRATIVE LAW JUDGE