



Control Number: 54972



Item Number: 61

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FOUNTAIN VALLEY COMMISSION
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OPEN MEETING COVER SHEET COMMISSIONER MEMORANDUM

MEETING DATE: June 13, 2024

DATE DELIVERED: June 12, 2024

AGENDA ITEM NO.: 7


CAPTION: Docket No. 54972 – Application of the City of Marble Falls and Travis Lakeside Inc., dba Flat Rock Ranch, LP dba Capstone Water System for Sale, Transfer, or Merger of Facilities and Certificate Rights in Burnet County

DESCRIPTION: Chairman Thomas Gleeson Memorandum

Public Utility Commission of Texas

Memorandum

TO: Commissioner Lori Cobos
Commissioner Jimmy Glotfelty
Commissioner Kathleen Jackson

FROM: Chairman Thomas J. Gleeson 

DATE: June 12, 2024

RE: June 13, 2024, Open Meeting – Item No. 7
Docket No. 54972 – *Application of the City of Marble Falls and Travis Lakeside, Inc. dba Flat Rock Ranch, LP dba Capstone Water System for Sale, Transfer, or Merger of Facilities and Certificate Rights in Burnet County*

I agree with the ALJ's proposal for decision (PFD) in this case on all issues except notice. Marble Falls mailed notice of the sale and transfer of the Capstone system to affected customers and to other affected parties on July 28 and August 1, 2023.¹ In this proceeding, Marble Falls seeks to charge its 2023 utility rates to the customers of Capstone being acquired by Marble Falls. All 27 customer connections being acquired take service through 5/8" or 3/4" meter connections that are located *outside* of the city limits of Marble Falls.

The notice provided by Marble Falls states that Marble Falls' rates are lower than Capstone's existing rates. The billing comparison compares the rates for customers *inside* the city limits of Marble Falls to what customers pay under Capstone's existing rates. However, the customer connections Marble Falls is acquiring from Capstone are located *outside* of the city limits of Marble Falls for which the Marble Falls' rates are *higher* than Capstone's rates. The notice included a link to the city's website, which listed Marble Falls' 2023 utility rates for both inside-city-limits customers and outside-city-limits customers.

I believe the notice provided by Marble Falls was not proper and should be found deficient because it provided a billing comparison for inside-city-limits customers instead of a billing comparison for outside city-limits customers. Texas Water Code (TWC) § 13.301(a)(2) provides that the Commission may waive public notice for good cause.² Section 24.239(e)(1) of the Commission's water rules states that, "[u]nless notice is waived by the commission, proper notice must be given to affected customers and to other affected parties as required by the commission on the form prescribed by the commission."³ I believe it is appropriate, and good cause exists, for the Commission to waive the requirement for notice to the extent notice

¹ 16 TAC 24.239(b) and (e); Affidavit of Notice to Landowners (July 28, 2023); Affidavit of Notice to Current Customers, Neighboring Utilities, and Affected Parties (July 28, 2023); Affidavit of Notice to Landowners (Aug. 1, 2023); Commission Staff's Recommendation on Sufficiency of Notice at 1–2 (Aug. 14, 2023).

² TEXAS WATER CODE § 13.301(a)(2).

³ 16 TAC § 24.239(e)(1).

Public Utility Commission of Texas

Memorandum

is deficient in this case for the following reasons: 1) the notice provided a link to the city's website where the outside-city-limits rates are also listed; 2) the transaction has already been completed; and 3) the proposal for decision (in finding of fact 62) specifically finds that the transaction benefits the transferred customers even though their rates will be higher.

I believe the application meets all the requirements of TWC § 13.246(c) and recommend the Commission approve this STM. I recommend that the Commission modify the PFD to find that notice was not proper, and that good cause exists to waive the notice requirement, to the extent notice was deficient, for the reasons stated in this memo.

I look forward to discussing this matter with you at the open meeting.