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DOCKET NO. 55810

APPLICATION OF MCC UTILITIES,	§	PUBLIC UTILITY COMMISSION
LLC FOR CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY IN	§	OF TEXAS
HARRIS COUNTY	§	

COMMISSION STAFF’S RECOMMENDATION ON FINAL DISPOSITION

On November 7, 2023, MCC Utilities, LLC (MCC Utilities) filed an application to obtain a water certificate of convenience and necessity (CCN) and sewer CCN in Harris County, under Texas Water Code §§ 13.242 through 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 through 24.237.

On March 19, 2024, the administrative law judge filed Order No. 4, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to request a hearing or file a recommendation on final disposition by May 23, 2024. Therefore, this pleading is timely filed.

I. RECOMMENDATION ON FINAL DISPOSITION

Staff has reviewed the application and supplemental information and, as detailed in the attached memoranda from Tsungirirai Gatora of the Infrastructure Division and Fred Bednarski III of the Rate Regulation Division, recommends that the application be approved. Staff’s review indicates that MCC Utilities’ application 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, MCC Utilities is capable of providing continuous and adequate water and sewer service. Staff recommends that approval of the application is necessary for the service, convenience, and safety of the public. Accordingly, Staff recommends approval of MCC Utilities’ application. Staff additionally recommends that, in order to true-up the proposed rates, MCC Utilities be directed to file a rate application with the Commission within 18 months from the date that MCC Utilities begins charging customers for service, pursuant to 16 TAC § 24.25(b)(1)(C).

II. CONCLUSION

For the reasons detailed above, Staff respectfully requests that MCC Utilities’ application be approved and that MCC Utilities be directed to file a rate application with the Commission within 18 months from the date that MCC Utilities begins charging customers for service.

Dated: May 22, 2024

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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/s/ David Skawin
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DOCKET NO. 55810

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 May 22, 2024, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ David Skawin
David Skawin

Public Utility Commission of Texas

Memorandum

TO: David Skawin, Attorney
Legal Division

FROM: Tsungirirai Gotor, Sr. Infrastructure Analyst
Infrastructure Division

DATE: May 22, 2024

RE: Docket No. 55810 – *Application of MCC Utilities, LLC for Certificates of Convenience and Necessity in Harris County*

1. Application

On November 7, 2023, MCC Utilities, LLC (MCC Utilities) filed with the Public Utility Commission of Texas (Commission) an application to obtain a water certificate of convenience and necessity (CCN) and sewer CCN in Harris County, 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 310 customer connections and approximately 10.8 acres of uncertificated area to amend (add) to MCC Utilities, LLC and the issuance of water CCN number 13317 and sewer CCN number 21145.
- The application proposes the addition of approximately 10.8 acres and the issuance of water CCN number 13317 and sewer CCN 21145 number to MCC Utilities, LLC.

2. Notice

Affidavits were provided affirming that notices were submitted to customers, cities, districts, neighboring retail public utilities, the county judge, the groundwater conservation district, and that there no landowners in the requested area.

The deadline to intervene was March 29, 2024; 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 MCC Utilities Texas Commission on Environmental Quality (TCEQ) approved public water system (PWS) registered as Meadows at Cypress Creek Water Plant, PWS ID No./Wastewater Discharge Permit No. 1013567 and wastewater treatment plant (WWTP) registered as Meadows at Cypress Creek, Wastewater Discharge Permit No. WQ0015381001. MCC Utilities does not have any violations listed in the TCEQ database.

No additional construction is necessary for MCC Utilities to serve the requested area.

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 310 existing customers and potential new customers in the requested area.

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)).*

MCC Utilities will be the certificated entity for the requested area and will be required to provide continuous and adequate service to the requested area.

The landowners in the requested area will have a water and sewer provider available when they need to request water and sewer 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 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. MCC

Utilities will have qualified TCEQ licensed operators licensed in water treatment to run the system(s).

TCEQ rule, 30 TAC §30.331(b), Wastewater Operators and Operations Companies, requires the operators of a domestic wastewater treatment facility to have a valid license issued by the TCEQ executive director. MCC Utilities will have qualified TCEQ licensed operators licensed in wastewater treatment to run the system.

MCC Utilities will have licensed operators to run the system operations. A Class B operator will be the responsible operator for the system.

No additional construction is necessary for MCC Utilities to serve the requested area.

- 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)).***

MCC Utilities is currently providing service to the requested area. 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)).***

MCC Utilities 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)).***

There are no improvements necessary to provide continuous and adequate service to the requested area, therefore, a capital improvements plan is not necessary.

- 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 not be affected as no additional construction is needed 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)).*

MCC Utilities will continue to provide water and sewer service to the existing customers in the area.

In order to true-up the proposed tap fees and rates, I recommend that MCC Utilities file a rate application with actual financial information with the Commission within 18 months from the date MCC Utilities begins charging customers for service.

4. Recommendation

Based on the mapping review by Dave Babicki, Infrastructure Division, and my technical and managerial review, I recommend that MCC Utilities meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations, and is capable of providing continuous and adequate service. I further recommend that approving this application to obtain a water CCN No. 13317 and sewer CCN No. 21145 is necessary for the service, accommodation, convenience and safety of the public.

MCC Utilities consented to the attached maps, tariffs, and certificates on May 7, 2024.

Public Utility Commission of Texas

Memorandum

TO: David Skawin, Legal Division
Legal Division

FROM: Fred Bednarski III, Financial Analyst
Rate Regulation Division

DATE: May 22, 2024

RE: Docket No. 55810 – *Application of MCC Utilities, LLC for Certificates of Convenience and Necessity in Harris County*

On November 7, 2023, MCC Utilities, LLC (MCC) filed an application to obtain a water Certificate of Convenience and Necessity (CCN) and sewer CCN in Harris 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. MCC must demonstrate that it meets one of the five leverage tests under 16 TAC § 24.11(e)(2) as well as the operations test under 16 TAC § 24.11(e)(3).

Leverage Test

My analysis is based on MCC's financial statements ending December 31, 2022. Based upon my review of the financial statements, I calculate the debt-to-equity ratio to be 0.00 as shown in confidential attachment FB-1. Because the debt-to-equity ratio is less than one, I recommend a finding that MCC meets the leverage test specified in 16 TAC § 24.11(e)(2)(A).

Operations Test

An owner or operator must demonstrate sufficient available cash to cover projected cash shortages for operations and maintenance expense during the first five years of operations, as required by 16 TAC § 24.11(e)(3).

MCC provided financial projections indicating no cash shortages to cover for the first five years of operations as shown in confidential attachment FB-1. Therefore, I recommend a finding that MCC meets the operations test specified in 16 TAC § 24.11(e)(3).

Capital Improvements

Per the memorandum provided by Tsungirirai Gatora, Sr. Infrastructure Analyst, no capital improvements are required to provide continuous and adequate water and sewer service to the requested area. Therefore, I recommend a finding that MCC should not be required to provide loan approval documents or 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 MCC meets the financial tests, I do not recommend that the Commission require additional financial assurance.

Consequently, I recommend a finding that MCC 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 MCC before the date of this memorandum and may not reflect any changes in MCC's status after this review.