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DOCKET NO. 55810

APPLICATION OF MCC UTILITIES, LLC FOR CERTIFICATES OF CONVENIENCE AND NECESSITY IN HARRIS COUNTY	§ § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

COMES NOW, MCC Utilities, LLC (MCC Utilities) together with the Staff (Staff) of the Public Utility Commission of Texas (Commission) (collectively, Parties), and files this Joint Motion to Admit Evidence and Proposed Notice of Approval. In support thereof, the Parties show the following:

I. BACKGROUND

On November 7, 2023, MCC Utilities filed an application to obtain new water and sewer certificates of convenience and necessity in Harris County, Texas. MCC Utilities seeks to provide water and sewer services to 310 customer connections within an area consisting of approximately 10.8 acres. On March 19, 2024, Order No. 4 was issued, directing the parties to file a joint motion to admit evidence along with proposed findings of fact, conclusions of law, and ordering paragraphs by June 14, 2024. Therefore, this pleading is timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

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

- (a) MCC Utilities' Application, filed on November 7, 2023 (Interchange Item No. 1);
- (b) MCC Utilities' Attachment "M" Confidential Financial Information for CCN Application. Filed on November 8, 2023 (Interchange Item No. 2);
- (c) MCC Utilities' First Supplement to Cure Deficiencies filed on January 8, 2024 (Interchange Item No. 7);
- (d) Staff's Commission Staff's Supplemental Recommendation on Administrative Completeness and Notice and Proposed Procedural Schedule, filed on February 7, 2024 (Interchange Item No. 8);
- (e) MCC Utilities' Response to Staff's First Request for Information, filed on March 4, 2024 (Interchange Item No. 11);

- (f) MCC Utilities' Proof of Notice, filed on March 6, 2024 (Interchange Item No. 12);
- (g) Staff's Commission Staff's Recommendation on Sufficiency of Notice and Proposed Procedural Schedule, filed on March 18, 2024 (Interchange Item No. 15);
- (h) MCC Utilities' First Supplement to Response to Staff's First Request for Information, filed on March 26, 2024 (Interchange Item No. 17);
- (i) MCC Utilities' Consent Form for Certificates of Convenience and Necessity in Harris County, filed on May 8, 2024 (Interchange Item No. 19);
- (j) MCC Utilities' Responses to Staff RFI 2-1, filed on May 20, 2024 (Interchange Item No. 20);
- (k) Staff's Final Recommendation on Final Disposition, including Confidential Attachment FB-1, filed on May 22, 2024 (Interchange Item Nos. 21-22);
- (l) Staff's Amended Final Recommendation on Final Disposition filed on June 11, 2024 (Interchange Item No. 23); and
- (m) The attached map and certificate.

III. PROPOSED NOTICE OF APPROVAL

The Parties respectfully request that the Commission adopt the findings of fact, conclusions of law, and ordering paragraphs contained in the proposed notice of approval provided as Attachment A.

IV. CONCLUSION

The Parties respectfully request that the Commission grant the Motion to Admit Evidence and adopt the attached Proposed Notice of Approval.

Dated: June 14, 2024

Respectfully submitted,

/s/ Jeffrey L. Earl

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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 June 14, 2024, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Jeffrey L. Earl
Jeffrey L. Earl

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

This Notice of Approval addresses the November 7, 2023 application of MCC Utilities, LLC (MCC Utilities) for a new water certificate of convenience and necessity (CCN) No. 13317 and sewer CCN No. 21145 in Harris County, Texas, to add approximately 10.8 acres of uncertified area and 310 current customer connections. The Public Utility Commission (Commission) approves the application to approve new water CCN No. 13317 and new sewer CCN No. 21145.

I. Findings of Fact

The Commission makes the following findings of facts:

Applicant

1. MCC Utilities is a Texas corporation registered with the Texas Secretary of State under file number 802679696.
2. MCC Utilities owns and operates a public water system registered with the Texas Commission on Environmental Quality (TCEQ), public water system (PWS) number 1013567.
3. MCC Utilities owns and operates a wastewater treatment plant (WWTP) registered with the TCEQ under wastewater discharge permit number WQ0015381001.

Application

4. On November 7, 2023, MCC Utilities filed an application to obtain new water and sewer certificates of convenience and necessity in Harris County, under Texas Water Code §§ 13.242 through 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 through 24.237.
5. MCC Utilities filed a supplement to the application on January 8, 2023.

6. MCC Utilities seeks to provide water and sewer service to 310 customer connections within an area consisting of approximately 10.8 acres.
7. The requested area is located approximately 6 miles northwest of downtown Jersey Village, Texas, and is generally bounded on the north by the intersection of Huffmeister Road and Shaft Drive; on the east by Huffmeister Road; on the south by Bertani Lane; and on the west by Knigge Cemetery Road.
8. In Order No. 3 filed on February 7, 2024, the administrative law judge (ALJ) found the application, as supplemented, administratively complete.

Notice

9. On March 6, 2024, MCC Utilities filed the affidavit of Jeffrey L. Earl, Attorney for MCC Utilities, attesting that notice was provided via first-class mail to all neighboring utilities and affected parties on February 14, 2024.
10. On March 6, 2024, MCC Utilities filed the affidavit of Mr. Earl, attesting that, as of the time of the application, there were no landowners owning tracts of land over 25 acres wholly or partly inside the requested CCN area.
11. On March 6, 2024, MCC Utilities filed the publisher's affidavit of Tom M. Morin, Publisher of *Daily Court Review*, a newspaper of general circulation in Harris County, attesting that the notice was published in *Daily Court Review* on February 23 and 28, 2024.
12. In Order No. 4 filed on March 19, 2024, the ALJ deemed the notice sufficient.

Evidentiary Record

13. On _____, Order No. ____ was issued, admitting the following evidence into the record:
 - (a) MCC Utilities' Application, filed on November 7, 2023; (b) MCC Utilities' Attachment "M" Confidential Financial Information for CCN Application. Filed on November 8, 2023;
 - (c) MCC Utilities' First Supplement to Cure Deficiencies filed on January 8, 2024; (d) Commission Staff's Commission Staff's Supplemental Recommendation on Administrative Completeness and Notice and Proposed Procedural Schedule, filed on February 7, 2024; (e) MCC Utilities' Response to Staff's First Request for Information, filed on March 4, 2024; (f) MCC Utilities' Proof of Notice, filed on March 6, 2024; (g) Commission Staff's Commission Staff's Recommendation on Sufficiency of Notice and Proposed Procedural Schedule, filed on March 18, 2024; (h) MCC Utilities' First Supplement to Response to Staff's First Request for Information, filed on March 26, 2024;

(i) MCC Utilities' Consent Form for Certificates of Convenience and Necessity in Harris County, filed on May 8, 2024; (j) MCC Utilities' Responses to Staff RFI 2-1, filed on May 20, 2024; (k) Commission Staff's Recommendation on Final Disposition, including Confidential Attachment FB-1, filed on May 22, 2024; (l) Commission Staff's Amended Recommendation on Final Disposition, filed on June 11, 2024; and (m) the map and certificate attached to the parties' joint motion to admit evidence and proposed notice of approved filed on June 14, 2024.

Adequacy of Existing Service

14. Customers in the requested area currently receive water service from MCC Utilities' TCEQ-approved PWS registered as Meadows at Cypress Creek Water Plant, PWS ID No. 1013567 and sewer service from MCC Utilities' WWTP registered as Meadows at Cypress Creek, Wastewater Discharge Permit No. WQ0015381001.
15. MCC Utilities does not have any violations listed in the TCEQ database.

Need for Additional Service

16. There is a need for water and sewer service as there are 310 existing customers and potential new customers in the requested area.

Effect of Approving the Transaction

17. 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.
18. The landowners in the requested area will have a water and sewer provider available when they need to request water and sewer service.
19. There will be no effect on any retail public utility servicing the proximate area.
20. All retail public utilities in the proximate area were provided notice of the CCN requested in this application and did not request to intervene.

Ability to Serve: Managerial and Technical

21. MCC Utilities will have qualified TCEQ licensed operators licensed in water treatment to run the system(s).
22. MCC Utilities will have qualified TCEQ licensed operators licensed in wastewater treatment to run the system.
23. MCC Utilities will have licensed operators to run the system operations. A Class B operator will be the responsible operator for the system.

24. MCC Utilities has the managerial and technical capability to provide continuous and adequate service to the requested area.

Ability to Serve: Financial Ability

25. MCC Utilities has a debt-to-equity ratio of less than one satisfying the leverage test.
26. MCC Utilities financial projections indicate no shortages to cover for the first five years of operations satisfying the operations tests.
27. No additional capital improvements are necessary for MCC Utilities to serve the requested area.
28. MCC Utilities demonstrated the financial capability and stability to provide continuous and adequate service to the requested area.

Financial Assurance

29. There is no need to require MCC Utilities to provide a bond or other financial assurance to ensure continuous and adequate service.

Feasibility of Obtaining Service from Adjacent Retail Public Utility

30. 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.
31. For the reasons stated above, it is not feasible to obtain service from an adjacent retail public utility.

Environmental Integrity and Effect on the Land

32. The environmental integrity of the land will not be affected as no additional construction is necessary for MCC Utilities to provide service to the requested area.

Improvement of Service or Lowering Cost to Consumers

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

Map and Certificate

34. On April 25, 2024, Commission Staff emailed its proposed final map and certificate to MCC Utilities.
35. On May 3, 2024, Commission Staff emailed revised final maps and certificates to MCC Utilities.

36. On May 8, 2024, MCC Utilities filed its consent to the proposed final map and certificate.
37. On June 14, 2024, the parties filed the proposed final map and certificate as attachments to the joint motion to admit evidence and joint proposed notice of approval.

Informal Disposition

38. More than 15 days have passed since the completion of the notice provided in this docket.
39. No person filed a protest or motion to intervene.
40. MCC Utilities and Commission Staff are the only parties to this proceeding.
41. No party requested a hearing, and no hearing is necessary.
42. Commission Staff recommended approval of the application.
43. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law:

1. The Commission has jurisdiction over these matters pursuant to Texas Water Code (TWC) §§ 13.041, 13.241, 13.242, 13.244, and 13.246.
2. MCC Utilities is a retail public utility as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. MCC Utilities provided public notice of the application in compliance with TWC § 13.246 and 16 TAC § 24.235.
4. The application meets the requirements set forth in TWC § 13.244 and 16 TAC §§ 24.227 and 24.233.
5. The Commission processed the application as required by the TWC, the Administrative Procedure Act,¹ and Commission rules.
6. After considering the factors in TWC § 13.246(c) and 16 TAC §§ 24.227(e), MCC Utilities is entitled to approval of the application, having demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and its current service are as required by TWC § 13.241(a) and 16 TAC § 24.227.
7. MCC Utilities demonstrated that regionalization or consolidation is not economically feasible, as required by TWC § 13.241(d) and 16 TAC 24.227(b).

¹ Tex. Gov't Code §§ 2001.001-.903

8. All water and sewer improvements have been completed and no further improvements are planned, therefore MCC Utilities does not have to affirm funds in compliance with 16 TAC § 24.11(e)(5)(B).
9. It is not necessary for MCC Utilities to provide a bond or other financial assurance under TWC § 13.246(d) or 16 TAC 24.227(f).
10. MCC Utilities has demonstrated that approval of the application 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. MCC Utilities has TCEQ-approved systems that have met the TCEQ design criteria for water and sewer treatment plants, TCEQ rules, and the TWC within the requirement of 16 TAC § 24.227(a)(2)(A).
12. Under TWC § 13.250, MCC Utilities 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. Pursuant to TWC § 13.257(r) and (s), MCC Utilities is required to record a certified copy of the approved CCN and map, along with a boundary description of the service area in the real property records of each county in which the service areas or a portion of the service area is located and submit to the Commission evidence of the recording.
14. The requirements for informal disposition pursuant to 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 enters the following order:

1. The commission approves MCC Utilities' water CCN number 13317 and sewer CCN number 21145, which contain the requested area described in this Notice of Approval and shown on the attached map.
2. The Commission approves the map and tariff pages attached to this Notice of Approval.
3. The Commission issues the certificates attached to the Notice of Approval .
4. MCC Utilities must provide water service to every customer and applicant for service within the approved areas under CCN number 13317 who requests water service and meets

the terms of MCC Utilities' water service policies, and such service must be continuous and adequate.

5. MCC Utilities must provide sewer service to every customer and applicant for service within the approved areas under CCN number 21145 who requests sewer service and meets the terms of MCC Utilities' sewer service policies, and such service must be continuous and adequate.
6. MCC Utilities must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Kaufman 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.
7. Within ten days of the date this Notice of Approval is filed, Commission Staff must provide the Commission with a clean copy of TWU's most current comprehensive tariff, including the tariff pages approved by this Notice of Approval, to be stamped Approved and retained by Central Records.
8. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

SIGNED AT AUSTIN, TEXAS on the ____ day of _____, 2024

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE