

Brooke T. Paup, *Chairwoman*
Bobby Janecka, *Commissioner*
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Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 3, 2025

Laurie Gharis, Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality

Re: Application by Arkansas Electric Cooperative Corporation for Approval to Construct a Wastewater Treatment Facility Pursuant to Texas Water Code Section 26.027(c).
TCEQ Docket No. 2025-1527-IWD

Dear Ms. Gharis:

Enclosed for filing with the Texas Commission on Environmental Quality is the Executive Director's recommendation regarding Arkansas Electric Cooperative Corporation's request for approval to construct a wastewater treatment facility. The following documents are attached:

- Executive Director's Memorandum
- Draft Order
- Copy of Arkansas Electric Cooperative Corporation's request

The Applicant is requesting the earliest setting currently available on the Commissioners' Agenda for the consideration of this request. At your earliest convenience, please request a TCEQ docket number for this matter.

Please do not hesitate to contact me should you have any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Fernando Salazar Martinez".

Fernando Salazar Martinez,
Staff Attorney
Environmental Law Division
Email: fernando.martinez@tceq.texas.gov

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

INTEROFFICE MEMORANDUM

To: Commissioners

Thru: Phillip Ledbetter, Director, Office of Legal Services
Charmaine Backens, Deputy Director, Environmental Law Division
Aubrey Pawelka, Senior Attorney, Environmental Law Division

From: Fernando Salazar Martinez, Staff Attorney, Environmental Law Division

Date: October 3, 2025

Subject: Arkansas Electric Cooperative Corporation; Application for an Order
Authorizing Commencement of Construction; Texas Pollutant Discharge
Elimination System (TPDES) Permit No. WQ0004589000
TCEQ Docket No. 2025-1527-IWD

DESCRIPTION OF MATTER:

Arkansas Electric Cooperative Corporation (Applicant) has submitted an application seeking an Authorization to Construct (ATC) from the Texas Commission on Environmental Quality (TCEQ or Commission) regarding its new wastewater treatment plant. According to the Applicant, the ATC is necessary as the new wastewater treatment plant must be constructed first to construct other aspects of their operation.

APPLICANT: Arkansas Electric Cooperative Corporation

TYPE: Authorization to Construct

The Executive Director recommends that the Commission grant the Applicant's request for an Authorization to Construct the wastewater treatment facility.

BACKGROUND:

Applicant proposes to operate the new Naples Power Plant and submitted its application for an Authorization to Construct on August 18, 2025. The Applicant submitted an application for new TPDES Permit No. WQ0004589000 on May 14, 2025, seeking authorization to discharge treated wastewater on an intermittent and flow-variable basis via Outfall 001. On May 22, 2025, the Water Quality Division declared the

application administratively complete. The application is currently under technical review.¹

Proposed Facility and Wastewater

The Applicant owns land located approximately 0.33 miles southeast of the intersection of State Highway 77 and County Road 4314, near the City of Naples, Morris County, Texas 75571, where the Applicant proposes to build the new Naples Power Plant, a proposed power generation facility with two dual-fuel (natural gas and fuel oil) simple cycle combustion turbines. The proposed facility's wastewater system will consist of: multimedia filters to treat raw water from on-site wells; a potable water system for sanitary use and the service/fire water storage tank for electric generating operations; multimedia filters that will intermittently generate a backwash wastestream routed to stormwater/wastewater collection sumps; an on-site septic tank and drain field system; an oil water separator; and an on-site pond.

Proposed Discharge Route

The Applicant proposes to discharge treated effluent into Segment No. 0303 of the Sulphur River Basin. According to its application, Segment No. 0303 is not listed as an impaired segment on the State's Clean Water Act § 303(d) List.

If the draft permit is issued, the effluent will be discharged into Mary Lees Branch, then to White Oak Creek, and then to Sulphur/South Sulphur River in Segment No. 0303 of the Sulphur River Basin. The unclassified receiving water uses are limited aquatic life use for Mary Lees Branch (intermittent with perennial pools) and high aquatic life uses for Mary Lees Branch (perennial). The designated uses for Segment No. 0303 are primary contact recreation and high aquatic life use.

Summary of Applicant's Request

According to its application, Applicant has requested an Authorization to Construct the proposed wastewater treatment facility before the issuance of a permit because construction of the proposed facility is set to start in November 2025. The Applicant

¹ The assigned permit writer has transmitted the draft permit to the Office of the Chief Clerk, and a draft Notice of Application and Preliminary Decision (NAPD) will soon be prepared. As of the date of this memorandum, it is premature to affirmatively state the TPDES application was declared technically complete.

states the proposed Naples Power Plant will have an underground oil water separator, which is one of the first pieces of equipment that will need to be installed prior to the issuance of the pending TPDES permit. The Applicant further states that this authorization is necessary to prevent delay in construction of the entire site, which would further delay its ability to begin producing electricity that contributes to the overall power grid in the State of Texas.

COMPLIANCE HISTORY:

The Water Quality Division prepared a Compliance History Report on July 25, 2025. According to the report, the Applicant currently has a Customer and Regulated Entity Rating of Not Applicable.²

AUTHORITY:

Pursuant to Tex. Water Code § 26.027(c), a person may not commence construction of a treatment facility until the commission has issued a permit to authorize the discharge of waste from the facility, except with the approval of the Commission. Under Tex. Water Code § 26.019, the Commission is authorized to issue orders and make determinations necessary to effectuate the purposes of Texas Water Code, Chapter 26.

EXECUTIVE DIRECTOR'S RECOMMENDATION:

The Executive Director recommends that Applicant's request for an Authorization to Construct the wastewater treatment facility be approved. The Applicant has provided a sufficient justification for obtaining authorization to construct the wastewater treatment facility by explaining that the authorization is necessary for reasonable and efficient construction startup and operation of its planned facility according to its proposed schedule for its overall site construction. In its application, Applicant explained that it intends to install an underground oil water separator that necessitates the requested authorization to prevent the delay in commencing construction of the entire site, which would further delay its ability to begin producing electricity that contributes to the overall power grid in the State of Texas.

² Arkansas Electric Cooperative Corporation is a new applicant, and the Naples Power Plant is a new site.

The Executive Director finds that allowing construction of the proposed wastewater treatment facility in coordination with other construction at the site to be a reasonable request. TCEQ has not received any public comments or requests for a contested case hearing on the Applicant's pending TPDES application. All timely public comments and hearing requests on this application will be considered by the Commissioners at a later date in accordance with TCEQ's rules in 30 Tex. Admin. Code Chapter 55.

The Executive Director is not aware of any public comments or hearing requests concerning this application at this time,³ but notes that if the Applicant's TPDES application is referred to the State Office of Administrative Hearings for a contested case hearing, it would significantly extend the permitting process, thereby preventing the coordination of construction activities for the wastewater treatment facility and the ongoing construction of the non-wastewater treatment aspects of the proposed facility.

As noted in the attached draft Order, allowing construction of the wastewater treatment facility to begin prior to the issuance of a TPDES permit does not authorize operation of, or discharge from, the proposed treatment facility until the Commission has issued a permit authorizing the discharge. Nor does approval of the ATC bind the Commission on the issuance or terms of a final permit; therefore, the Applicant proceeds with construction of the treatment facility at its own risk.

CONTACT: Thomas "Te" Starr, Permit Writer, Industrial Permits Team, Wastewater Permitting Section, Water Quality Division (MC-148), TCEQ, (512) 239-4570.

LEGAL: Fernando Salazar Martinez, Staff Attorney, Environmental Law Division (MC-173), TCEQ, (512) 239-3356.

³ As of September 23, 2025, the pending TPDES application is not available on the Commissioners' Integrated Database.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER Granting the Request by Arkansas Electric Cooperative Corporation for an Order Authorizing Commencement of Construction; TCEQ Docket No. 2025-1527-IWD

On **MONTH DAY, 202X**, the Texas Commission on Environmental Quality (Commission of TCEQ) considered Arkansas Electric Cooperative Corporation's (Applicant) request for an Order authorizing commencement of construction under §§ 26.019 and 26.027(c) of the Texas Water Code (TWC). Applicant has applied for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0004589000 to authorize the discharge of evaporative cooler blowdown, plant and equipment washdown, multimedia filter backwash, treated secondary containment stormwater, and stormwater from industrial area on an intermittent and flow variable basis via Outfall 001.

The Applicant owns land approximately 0.33 miles southeast of the intersection of State Highway 77 and County Road 4314, near the City of Naples, Morris County, Texas 75571, where it proposes to build the wastewater treatment facility. The facility will serve the Naples Power Plant, a proposed power generation facility with two dual-fuel (natural gas and fuel oil) simple cycle combustion turbines. The proposed wastewater treatment facility will consist of multimedia filters to treat raw water from on-site wells, a potable water system for sanitary use and the service/fire water storage tank for electric generating operations, multimedia filters that will intermittently generate a backwash waste stream routed to stormwater/wastewater collection sumps, an on-site septic tank and drain field system, an oil water separator, and an on-site pond.

The Applicant seeks authorization to commence construction of the wastewater treatment facility while the application for the TPDES permit is pending before the Commission. A copy of the request for Authorization to Construct (ATC) is attached as Exhibit A. Having considered the evidence, the Commission finds that the request by Arkansas Electric Cooperative Corporation should be granted.

FINDINGS OF FACT

1. On May 15, 2025, Arkansas Electric Cooperative Corporation submitted an application for new TPDES Permit No. WQ0004589000, seeking authorization to

discharge treated wastewater on an intermittent and flow-variable basis via Outfall 001.

2. Arkansas Electric Cooperative Corporation submitted a written request on August 18, 2025, for authorization to construct a new wastewater treatment facility.
3. Arkansas Electric Cooperative Corporation owns land located approximately 0.33 miles southeast of the intersection of State Highway 77 and County Road 4314, near the City of Naples, Morris County, Texas 75571, where it proposes to build a wastewater treatment facility to serve the Naples Power Plant, a proposed power generation facility with two dual-fuel (natural gas and fuel oil) simple cycle combustion turbines.
4. Arkansas Electric Cooperative Corporation requested an Authorization to Construct (ATC) while its application for the TPDES permit is pending before the Commission. The Applicant requested this ATC to allow reasonable and efficient construction startup, and operation of its planned facility according to proposed schedules for its overall site construction.

CONCLUSIONS OF LAW

1. TWC § 26.027(c) prohibits a person from commencing construction of a treatment facility until the Commission has issued a permit authorizing the discharge of waste from the facility, unless the Commission has approved the construction.
2. TWC § 26.019 authorizes the Commission to issue orders and make determinations necessary to effectuate the purposes of TWC Chapter 26.
3. The Findings of Fact above provide sufficient justification to issue this Order under TWC § 26.027.
4. This Order will effectuate the purposes of TWC Chapter 26.
5. This Order does not authorize operation of, or a discharge from, the wastewater treatment facility to be constructed under this Order before obtaining a permit or other authorization from the Commission.

THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS THAT:

1. Arkansas Electric Cooperative Corporation is authorized to commence construction of its proposed wastewater treatment facility located approximately 0.33 miles southeast of the intersection of State Highway 77 and County Road 4314, near the City of Naples, Morris County, Texas 75571
2. Arkansas Electric Cooperative Corporation is authorized to commence construction under this Order at its own risk. Any draft permit limitations or constraints contained in TCEQ Permit No. WQ0004589000 may change during the internal review process, the public comment process, or the contested case hearing process.

3. Arkansas Electric Cooperative Corporation shall not operate or discharge effluent from the facility to be constructed under this Order until it obtains a permit from the Commission.
4. This Order shall not constrain, bind, or commit the Commission in its decision on any proceeding or matter before the Commission relating to TCEQ Permit No. WQ0004589000.
5. This Order does not convey any property rights in either real or personal property, or any exclusive privileges; nor does it obviate the necessity of (1) complying with any applicable Federal, State, or local laws or regulations; and (2) obtaining Federal, State, or local permits or authorizations required by law for the activities otherwise authorized by this Order.
6. The Chief Clerk of the Commission is directed to forward a copy of this Order to Arkansas Electric Cooperative Corporation, the Executive Director of the Commission, and the Public Interest Counsel of the Commission, and to issue the Order and cause it to be recorded in the files of the Commission.

Issued this date:

TEXAS COMMISSION ON ENVIRONMENTAL
QUALITY

Brooke T. Paup, Chairwoman

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY WASTEWATER PERMIT APPLICATION

Application for Authorization to Construct

Texas Water Code Section 26.027 allows the construction of a wastewater treatment facility with the approval of the Commission. If the Commission approves this application, it will allow the construction of the facilities described in the permit application, subject to any limitations in the Commission Order. An Authorization to Construct **does not** authorize operation of the newly constructed facility, nor does it constitute any guarantee that a permit will be granted.

1. Applicant Name: Arkansas Electric Cooperative Corporation
2. Permit Number: WQ0004589000
3. Authorized representative or contact person, and phone number:
Kara Denney 512-632-9915
4. Date Application for Wastewater Permit was submitted: May 14, 2025
5. Date Application for Wastewater Permit was administratively complete: May 22, 2025
6. Have you received any notices of deficiency, requesting additional information that needed to be submitted for your application? Yes X No

If Yes, please provide dates of notices of deficiency and dates you responded to notices of deficiency:

Admin NOD dated May 20, 2025, response provided on May 21, 2025. Technical NOD dated May 20, 2025, response provided May 22, 2025. Technical NOD dated June 9, 2025, responses provided on June 17, 2025 and a follow up on July 7, 2025.

7. Please explain the reason you need authorization to construct before a final decision on your permit application has been made:

Construction of facility is set to start in November of 2025, the oil water separator will be installed underground so it will be one of the first pieces of equipment installed at the site. The TPDES permit is still being drafted by the permit writer and it not expected to be issued before the start of construction and installation of the oil water separator.

8. Please explain the harm if this authorization is not granted.

Delay in construction of the entire site would occur and would delay when the facility can begin producing electricity that contributes to the overall power grid in the State of Texas.

9. What stream segment will the proposed discharge flow into?

Segment No. 0303 of the Sulphur River Basin

10. Is this discharge into a water quality impaired segment (included in the State's 303(d) list)?

Yes ☐ (No) ☒

11. Have you received any public comments, inquiries or hearing requests regarding the wastewater permit application? Yes ☐ (No) ☒

If Yes, have you contacted the interested person to attempt to resolve their concerns?

If you have, please provide details regarding the possible resolution of those concerns.

N/A

12. Are you competing for a CCN with another provider, or are there other CCN issues of which you are aware? Yes ☐ No ☐ (N/A)

If Yes, please explain:

Industrial Permit

13. Do you understand that if a permit is issued, it may contain significantly different parameters than you have requested? Yes ☒ No ☐

14. Is your plant designed in such a way that you can deal with a significant reduction in effluent limitations if the permit is issued with lower parameters than you are anticipating?

Yes ☒ No ☐

15. Do you understand that this is not a permit to operate your facility? Yes ☒ No ☐

16. Do you understand that you may not receive a permit? Yes ☒ No ☐

17. Do you understand that, in addition to public comment, the TCEQ may also receive comments from the EPA, US Fish & Wildlife, the Army Corps of Engineers, the Texas Historical Commission, National Marine Fisheries Service, and Texas Parks & Wildlife, and that these comments may result in changes to your draft permit? Yes ☒ No ☐

CERTIFICATION

I certify that I understand that authorization to construct is not a permit to operate and does not guarantee that this facility will receive a permit. I understand that, during the application review, public comment, review by EPA and other state and federal agencies, and contested case hearing process, any proposed permit conditions may change, and that effluent limitations may become stricter, necessitating design changes in this facility. I also understand that the permit, if issued, may require a different location for wastewater facilities, a different location for the point of discharge, or may prohibit discharge entirely, requiring a different disposal method.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.



Authorized Signature*

Date August 18, 2025

Kollin Derynck
Printed Name

* This application must be signed by an authorized representative, as required under 30 TAC § 305.44.