



Control Number: 42983



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DOCKET NO. 42983

APPLICATION OF CITY OF SAN
MARCOS AND CRYSTAL CLEAR
WATER SUPPLY CORPORATION FOR
SALE, TRANSFER, OR MERGER OF
FACILITIES AND TO AMEND A
CERTIFICATE OF CONVENIENCE
AND NECESSITY IN COMAL,
GUADALUPE, AND HAYS COUNTIES
(37671-S)

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PUBLIC UTILITY COMMISSION
OF TEXAS

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PROPOSED NOTICE OF APPROVAL AND REQUEST TO ADMIT EVIDENCE

Staff of the Public Utility Commission files this Proposed Notice of Approval and Request to Admit Evidence of Crystal Clear Water Supply Corporation (Crystal Clear WSC) and the City of San Marcos application for the sale, transfer, or merger of a Retail Public Utility pursuant to TEX. WATER CODE ANN. §§ 13.246 and 13.301 and 30 TEX. ADMIN. CODE § 291.109. This Proposed Notice of Approval and Request to Admit Evidence includes findings of fact, conclusions of law, and ordering paragraphs. Staff contacted the parties to provide them with the opportunity to review and agree to the Proposed Order attached hereto and the parties have no objection. The Proposed Notice of Approval is timely filed on or before January 14, 2015.

I. BACKGROUND

On July 26, 2013, Crystal Clear WSC and the City of San Marcos filed a sale, transfer, merger (STM) application with the Texas Commission on Environmental Quality (TCEQ) pursuant to TEX. WATER CODE ANN. § 13.301 and Title 16, TEX. ADMIN. CODE (16 TAC) §§ 24.109 and 24.112. The parties requested to amend Certificate of Convenience and Necessity (CCN) No. 10298, held by the City of San Marcos and to transfer a portion of CCN No. 10297, held by Crystal Clear WSC, in Comal, Guadalupe, and Hays Counties. The TCEQ accepted the application for filing on January 10, 2014. The City of San Marcos indicated that notice of the application was concluded on April 7, 2014, triggering the 120-day deadline for STMs required by 16 TAC § 24.109(e). The 120-day deadline for Commission action on the application was August 5, 2014.

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On June 5, 2014, the TCEQ issued a letter informing the applicants that a public hearing would not be requested, that the parties could complete their proposed transaction, and that a transfer of the CCN would occur following receipt of a copy of the signed contract or bill of sale and documents supporting the disposition of customer deposits. The 365-day deadline to complete the transaction, as required by 16 TAC § 24.112(e), ends on June 5, 2015.

Effective September 1, 2014, the Commission began the economic regulation of water and sewer utilities and this case formerly pending at the TCEQ was transferred to the Commission. On September 24, 2014, Order No. 2 Requiring Comments on Status was issued requiring Staff to file an update on the status of the proceeding, to file a recommendation on the need for a hearing or on final disposition of the application, or to propose a procedural schedule by October 7, 2014. On October 7, 2014, Staff filed its Response to Order No. 2 in which Staff confirmed that the parties have submitted the proper documentation to the Commission to confirm that the transaction has been completed and that Staff was in the process of finalizing the maps for the parties' consent. The parties filed the completed and signed consent forms with the Commission on November 13, 2014. On October 14, 2014, Order No. 3 was issued requiring Staff to file a recommendation on final disposition of the application by December 15, 2014 and, if no disputed issues arose, for parties to file a proposed notice of approval with findings of fact, conclusions of law, and ordering paragraphs by January 14, 2015. On December 15, 2014, Staff filed its Final Recommendation, in which Staff recommended final approval of the application.

II. REQUEST TO ADMIT EVIDENCE

Parties request to admit the following evidence into the record of this proceeding: (a) Application of the City of San Marcos and Crystal Clear WSC and all attachments thereto, filed July 26, 2013; (b) all affidavits and attached proofs of notice; and (c) Commission Staff's Final Recommendation and all attachments thereto filed December 15, 2014.

III. PROPOSED NOTICE OF APPROVAL

Pursuant to Order No. 3, Staff recommends approval of the attached Proposed Notice of Approval. This docket was processed in accordance with applicable statutes and Texas Commission on Environmental Quality (TCEQ) and Public Utility Commission of Texas (PUC or Commission) rules. Notice of the Application was provided to interested parties. The only

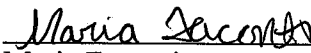
parties to this proceeding are Commission Staff, the City of San Marcos and Crystal Clear WSC. There are no contested issues of law or fact in this proceeding.

III. CONCLUSION

Commission Staff has reviewed the Application and recommends its approval. Commission Staff, therefore, respectfully requests that the Commission adopts the attached findings of fact and conclusions of law as well as granting the admittance of the specified pieces of evidence.

Respectfully Submitted,

Shelah J. Cisneros
Managing Attorney-Legal Division



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DATED: January 14, 2015

DOCKET NO. 42983 CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this the 14th of January, 2015, in accordance with P.U.C. Procedural Rule 22.74.



Maria Faconti

**ATTACHMENT 1
DOCKET NO. 42983**

APPLICATION OF CITY OF SAN	§	
MARCOS AND CRYSTAL CLEAR	§	
WATER SUPPLY CORPORATION FOR	§	PUBLIC UTILITY COMMISSION
SALE, TRANSFER, OR MERGER OF	§	
FACILITIES AND TO AMEND A	§	OF TEXAS
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY IN COMAL,	§	
GUADALUPE, AND HAYS COUNTIES	§	
(37671-S)	§	

PROPOSED ORDER

This Order addresses the Application of the City of San Marcos and Crystal Clear Water Supply Corporation (Crystal Clear WSC) to amend Certificate of Convenience and Necessity (CCN) No. 10298, held by the City of San Marcos and to acquire a portion of CCN No. 10297, held by Crystal Clear WSC, in Comal, Guadalupe, and Hays Counties. Public Utility Commission of Texas (Commission) Staff recommended approval of the Application on December 15, 2014. This docket was processed in accordance with applicable statutes and Texas Commission on Environmental Quality (TCEQ) and Public Utility Commission of Texas (PUC or Commission) rules. No party requested a hearing in this docket and there are no contested issues of law or fact in this proceeding. Based on the City of San Marcos and Crystal Clear WSCs' Application and Commission Staff's Final Recommendation, the Application is hereby approved.

The Commission adopts the following findings of fact and conclusions of law.

Fact Statements

1. On July 26, 2013, Crystal Clear WSC and the City of San Marcos filed with the TCEQ an Application for Sale, Transfer, or Merger of a Retail Public Utility pursuant to TEX. WATER CODE ANN. §§ 13.246, 13.254, 13.301 and P.U.C. SUBST. R. 24.109 and 24.112.
2. Crystal Clear WSC holds water CCN No. 10297 in Comal, Guadalupe, and Hays Counties.

3. The City of San Marcos holds water CCN No. 10298 in Comal, Guadalupe, and Hays Counties.
4. Currently, the boundaries for CCN Nos. 10297 and 10298 overlap, forming an area dually certified to both Crystal Clear WSC and the City.
5. The Application requested the transfer of approximately 4,510 acres of its service area in CCN No. 10297 to the City of San Marcos, and to amend Crystal Clear WSC's CCN No. 10297 accordingly.
6. The Application contemplates the transfer of 206 customers from the Crystal Clear WSC's CCN No. 10297 to the City of San Marcos.
7. Sufficient notice was published and provided to all affected and interested parties by April 7, 2014.
8. The comment period ended and TCEQ received one protest letter; however, the TCEQ determined that the concerns listed in the protest letter did not meet the criteria in Title 30, TEX. ADMIN. CODE (30 TAC) § 291.109(e).¹
9. A hearing on the merits was not necessary.
10. By letter dated June 5, 2014, the TCEQ instructed Crystal Clear WSC and the City of San Marcos to proceed with the sale and to provide final documentation of assets being transferred to Crystal Clear WSC and documents supporting the disposition of customer deposits.
11. On July 11, 2014, the City of San Marcos provided the TCEQ the signed sale contract. The City of San Marcos indicated that the signed sale contract provides that both parties will refund any customer deposits provided by customers whose service will be transferred.
12. On September 1, 2014, pursuant to House Bill 1600 and Senate Bill 567 of the 83rd Legislature, Regular Session, functions relating to the economic regulation of water and sewer utilities were transferred from the TCEQ to the PUC.

¹ Currently 16 TAC § 24.109(e).

13. On November 4, 2014, Commission Staff transmitted a map to Crystal Clear WSC and the City for review and consent.
14. On November 13, 2014, authorized parties for Crystal Clear WSC and the City signed documents consenting to the map of CCN Nos. 10297 and 10298 prepared by Staff.
15. The map described in Findings of Fact 13 and 14 are attached to Commission Staff's Final Recommendation. The CCNs of Crystal Clear WSC and the City are also attached to Commission Staff's Final Recommendation.
16. On December 15, 2014, Staff recommended that the Application to decertify a portion of and amend CCN No. 12098 and to acquire facilities held under and transfer a portion of CCN No. 10297 be approved.

Legal Conclusions

1. The Commission has jurisdiction over these matters pursuant to TEX. WATER CODE ANN. §§ 13.246, 13.254, 13.301 and P.U.C. SUBST. R. 24.109 and 24.112.
2. Crystal Clear WSC and the City of San Marcos are retail public utilities as defined in TEX. WATER CODE ANN. § 13.002(19) and P.U.C. SUBST. R. 24.3(41).
3. Public notice of the Application was provided as required by TEX. WATER CODE ANN § 13.301(a)(2).
4. This application was processed in accordance with the requirements of TEX. WATER CODE ANN. § 13.301, P.U.C. SUBST. R. 24.109 and 24.112.
5. Crystal Clear WSC and the City of San Marcos completed the sale within 365 days from the date of TCEQ's approval of the sale, consistent with P.U.C. SUBST. R. 24.112(e).
6. After considering the factors in TEX. WATER CODE ANN. § 13.246(c), Crystal Clear WSC has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and any areas certificated to the Purchaser.
7. Crystal Clear WSC and the City of San Marcos have demonstrated that the transaction requested in this application is necessary for the service, accommodation, convenience, and safety of the public.

8. The requirements for informal disposition pursuant to P.U.C. PROC. R. 22.35 have been met in this proceeding.

Ordering Paragraphs

In accordance with these statements of fact and legal conclusions, the Commission issues the following Order.

1. The City of San Marcos' Application is approved.
2. The 4,510 acre portion of Crystal Clear WSC's service area in CCN No. 10297 is decertified and transferred to the City of San Marcos CCN No. 10298.
3. Crystal Clear WSC's CCN No. 10297 and the City of San Marcos' CCN No. 10298 are hereby amended to reflect this Application.
4. This docket was processed in accordance with the terms and conditions set forth herein and in the CCNs.
5. The City of San Marcos shall serve every customer and applicant for service within the areas certified under CCN No. 10298, and such service shall be continuous and adequate.
6. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.

SIGNED AT AUSTIN, TEXAS the _____ day of January, 2015.

PUBLIC UTILITY COMMISSION OF TEXAS
