



Control Number: 44992



Item Number: 18

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RECEIVED

APPLICATION OF TEXAMERICA CENTER AND RIVERBEND WATER RESOURCES DISTRICT FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN BOWIE COUNTY	§ § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS	2015 DEC 22 PM 2:15 PUBLIC UTILITY COMMISSION FILING CLERK
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**COMMISSION STAFF'S FINAL RECOMMENDATION  
RESPONSE TO ORDER NO. 4**

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this Final Recommendation. In support thereof, Staff shows the following:

**I. BACKGROUND**

On July 30, 2015, TexAmerica Center (TexAmerica) and Riverbend Water Resource District (Riverbend) (collectively, Applicants) filed an application for approval of the sale, transfer, or merger of facilities and certificate rights in Bowie County (Application). TexAmerica currently possesses retail water Certificate of Convenience and Necessity (CCN) No. 13210 and sewer CCN No. 21067. Riverbend seeks to purchase the water and sewer facilities from TexAmerica.

On November 23, 2015, the Administrative Law Judge (ALJ) issued Order No. 4 granting Staff's request to extend the deadline to request a hearing or file a final recommendation on final disposition from December 7, 2105 to December 22, 2015. Therefore, this pleading is timely filed.

**II. RECOMMENDATION**

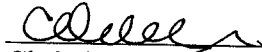
Staff recommends that the requested transaction be approved, as supported by the attached memorandum of Leila Guerrero, Regulatory Accountant/Auditor of the Water Utilities Divisions. Specifically, Staff recommends that Riverbend has demonstrated adequate financial, managerial, and technical capability to provide service to the area subject to this application, as required by Tex. Water Code § 13.301(b). Staff further recommends that the Applicants be allowed to proceed with the proposed transactions.

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Respectfully Submitted,

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**DOCKET NO. 44992**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on December 21, 2015, in accordance with 16 TAC § 22.74.



Christina R. Switzer

# Attachment

## PUC Interoffice Memorandum

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**To:** Christina Switzer, Attorney  
Legal Division

**Thru:** Tammy Benter, Director  
Lisa Fuentes, Work Leader  
Water Utilities Division

**From:** Leila Guerrero, Regulatory Accountant/Auditor  
Water Utilities Division

**Date:** December 21, 2015

**Subject:** *Docket No. 44992, Application of TexAmericas Center and Riverbend Water Resources District for Sale, Transfer, or Merger of Certificates Rights in Bowie County*

On July 30, 2015, the Riverbend Water Resources District ("Purchaser" or "Riverbend") filed an application for the sale, transfer, or merger (STM) of Certificates of Convenience and Necessity (CCNs) Nos. 13210 (water) and 21067 (sewer) in Bowie County, Texas. Specifically, Riverbend seeks approval to acquire all water and sewer facilities, customers, service area, and to transfer CCN Nos. 13210 and 21067 from TexAmericas Center ("Seller" or "TexAmericas"). As a result of the proposed transaction, Riverbend would acquire CCN Nos. 13210 and 21067 and TexAmericas would no longer be in the utility business. This application is being reviewed pursuant to the criteria in the Tex. Water Code Ann. §§ 13.241, 13.246, and 13.301 (TWC) and 16 Tex. Admin. Code §§ 24.102, 24.109, and 24.112 (TAC).

The application was accepted for filing by the Commission on August 31, 2015. Notice to customers, neighboring systems, and affected parties was provided on September 14, 18, and 23, 2015. The affidavit of notice was received by the Commission on October 16, 2015. The comment period ended October 23, 2015, and no protests or requests for hearing were received by the Commission. Public notice was proper for the transaction.

Pursuant to TWC § 13.301(e), before the expiration of the 120-day notification period, the Commission is required to notify all known parties to the transaction whether the Commission will hold a hearing to determine if the transaction will serve the public interest. For this case, I do not recommend a hearing be held based on my review of the information in the application and the criteria listed below. I find that Riverbend demonstrates adequate financial, managerial, and technical capability to provide service to the area subject to this application, as required by TWC § 13.301(b). I reviewed the public interest factors, the financial, managerial, and technical capability of the Purchaser pursuant to TWC § 13.246(c). Under this statute, the Commission shall consider the following nine criteria when granting a CCN:

- TWC §13.246(c)(1) requires the Commission to consider the adequacy of service currently provided to the requested area. The proposed area is currently served by TexAmericas' Public Water System (PWS) Identification (ID) No. 0190021, known as the Red River Redevelopment Authority water system. The facilities subject to this application include approximately 28,952 acres and 68 water and 77 sewer current connections. However, as of September 9, 2015, the current number of customers was decreased to 28 water and 29

sewer connections. Review of the records of the Texas Commission on Environmental Quality (TCEQ) indicate that the PWS has no unresolved violations or complaints. Therefore, I believe adequate service will be provided in the requested area.

- TWC § 13.246(c)(2) requires the Commission to consider the need for service in the requested area. The fact that there are existing customers in the requested area demonstrates the need for service.
- TWC § 13.246(c)(3) requires the Commission to consider the effect of granting of a certificate or of an amendment on the recipient and on any other retail water utility servicing the proximate area. Only Riverbend, TexAmericas, and the current customers will be affected by this transaction. As a result of the proposed transaction, the CCN Nos. 13210 and 21067, facilities and customers will be transferred to Riverbend.
- TWC §13.246(c)(4) requires the Commission to consider the ability of the Purchaser to provide adequate service. The Purchaser will provide retail water and sewer utility service using the existing water and sewer systems being acquired, pending the closure and approval of the transactions.
- TWC §13.246(c)(5) requires the Commission to consider the feasibility of obtaining service from an adjacent retail public utility. In this case, the customers in the proposed area are already receiving service and will subsequently receive service from Riverbend.
- TWC §13.246(c)(6) requires the Commission to consider the financial ability of the Purchaser to pay for facilities necessary to provide continuous and adequate service. The existing system does not have any outstanding violations and does not require major capital improvements or repairs.
- TWC §§13.246(7) and (9) require the Commission to consider the environmental integrity and the effect on the land to be included in the certificate. In this situation, there will be no impact on the environment and the land as the water and sewer systems are already in place and no repairs or improvements are required at this time.
- TWC § 13.246(8) requires the commission to consider the probable improvement in service or lowering of cost to consumers. The customers' water and sewer rates will not be affected by the transaction and the level of service will remain the same.

With respect to the Riverbend's financial and managerial capability, Riverbend provided an Independent Accountant's Report for Riverbend's forecasted statements of net position, statements of revenue, expenses and changes in net position, and cash flows for September 30, 2016, 2017, 2018, 2019, and 2020, in accordance with attestation standards established by the American Institute of Certified Public Accountants.

Riverbend's projected enterprise fund for September 30, 2016, show total assets of \$21.61 million and net position of \$7.79 million. Riverbend's long term debt to net position ratio for the enterprise fund is \$12.28 million to \$7.79 million, or 1.58 to 1.00 (1.58: 1), for September 30, 2016. A ratio of less than 1 to 1 is preferred when demonstrating financial capability because it demonstrates that the Purchaser funds capital and operations with more equity than debt. Although the first year operations do not show a good debt to equity ratio ("DER"), Riverbend's DER will improve in subsequent years, as follows: FY2017 = 1.47:1; FY2018 = 1.34:1; FY2019 = 1.21:1; and FY2020 = 1.07:1.

For the FY2016, Riverbend's enterprise funds indicate net operating income (loss) of (\$144,051) after depreciation of \$598,463 and debt service payable for the year including interest of \$1.31 million. The net operating income (loss) does not include the "facility charge income" of \$922,599. With the inclusion of the facility charge income, net income for FY2016 would be \$778,549. Although the projections for FY2016 do not show a good Debt Service Coverage Ratio (DSCR) for Riverbend, the expenses include a one-time bond issuance cost of \$249,685. The fact that Riverbend will not be paying bond issuance cost for FY 2017 onwards, will provide a positive impact to the annual net operating income for Riverbend because the expenses will be reduced which will increase the net income. The projected statement of revenues, expenses and changes in net position show improvement every year from FY2016 to FY2020. In addition, Riverbend has reserves for its annual bond payments and reserves for capital improvements.

As a result of the proposed STM, TexAmericas' utility staff will transfer to Riverbend ensuring consistent operations. Riverbend's Executive Director has over 15 years of utility experience in water and wastewater operations as a City Manager in the Dallas-Fort Worth Metroplex. In addition, the proposed water and wastewater utilities to be transferred to Riverbend do not have any unaddressed outstanding violations with the TCEQ. Therefore, I believe Riverbend has the managerial capability to provide continuous and adequate utility service.

Staff recommends the Commission find that the transaction will serve the public interest and allow Riverbend and TexAmericas to proceed with the proposed transaction. Staff also recommends that the Riverbend and TexAmericas be ordered to file documentation as evidence that all assets have been transferred from TexAmericas to Riverbend and that the disposition of any remaining deposits have been addressed as soon as possible pursuant to 16 TAC § 24.109(g).

Lastly, the approval of the sale expires one year from the date of the Commission's written approval of the sale. If the sale is not consummated within that period, and unless Riverbend and TexAmericas request and receive an extension from the Commission, the approval is void and Riverbend and TexAmericas must re-apply for the approval of the sale. In addition, Riverbend and TexAmericas should be informed that the CCNs will remain in the name of TexAmericas until the transfer is complete and approved in accordance with the PUC rules and regulations as required by 16 TAC § 24.112(e).