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DOCKET NO. 45656

APPLICATION OF AQUA TEXAS, INC.	§	PUBLIC UTILITY COMMISSION
AND MONTGOMERY COUNTY	§	
MUNICIPAL UTILITY DISTRICT	§	OF TEXAS
NO. 126 FOR SALE, TRANSFER, OR	§	
MERGER OF FACILITIES AND	§	
CERTIFICATE RIGHTS IN	§	
MONTGOMERY COUNTY	§	

2017 SEP 26 PM 4:09
PUBLIC UTILITY COMMISSION
TAMARA BLEWIS

**CORRECTED
NOTICE OF APPROVAL**

This Corrected Notice addresses the application of Aqua Texas, Inc. d/b/a Aqua Texas and Montgomery County Municipal Utility District No. 126 for the sale, transfer, or merger of facilities and certain certificate rights in Montgomery County. MUD 126 is removed from Conclusion of Law No. 9 and original Ordering Paragraph 7 is deleted. Additionally, typographical errors are corrected. The application, as amended and supplemented, is approved.

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

I. Findings of Fact

Procedural History, Description, and Background

1. On February 24, 2016, Aqua and MUD 126 filed an application for approval and enforcement of certain contract terms designating certificate of convenience and necessity (CCN) service areas under Texas Water Code § 13.248 (TWC) and for decertification of certain areas under TWC § 13.254.
2. Aqua holds water CCN No. 13203 and sewer CCN No. 21065 in Montgomery and other counties; portions of which are located within MUD 126's boundary.
3. MUD 126 requests the transfer from Aqua of the portions of Aqua's water and sewer certificated service areas that are located inside MUD 126's boundaries, totaling approximately 173.63 acres.

4. Aqua seeks to decertify from CCN Nos. 13203 and 21065 slivers of property adjacent to the service area requested by MUD 126 that would be left behind and that would be difficult or impossible to serve, totaling approximately 6.42 acres.
5. On June 29, 2016, Aqua and MUD 126 amended the application to seek the sale and transfer of the requested portion of Aqua' water and sewer service areas to MUD 126 under TWC § 13.251 and 16 Texas Administrative Code § 24.112 (TAC).¹ No changes were made to the portion of the application requesting decertification.
6. MUD 126 currently does not hold a CCN, and seeks issuance of new water and sewer CCNs.
7. There are no current Aqua customers or facilities located in the requested service areas and no Aqua customers or facilities are proposed for transfer to MUD 126 as part of this application. Therefore, no customer deposit transfers or refunds are required for application approval.
8. On July 28, 2016, Order No. 6 was issued, revising the style of the proceedings, deeming the application complete, addressing notice, and establishing a procedural schedule.
9. On September 7, 2016, Order No. 7 was issued, deeming the notice of this application provided by Aqua to be sufficient and adopting a procedural schedule for continued processing of the application.
10. On October 17, 2016, Commission Staff recommended approval of the proposed transaction indicating that the proposed transaction meets the relevant statutory and regulatory requirements.
11. On October 19, 2016, Order No. 8 was issued, approving the sale and authorizing the transaction to proceed.
12. On July 20, 2017, Aqua filed a bill of sale and other closing documents to show that the transaction was finalized.

¹ 16 TAC § 24.112 was repealed December 21, 2016. All references herein to 16 TAC § 24.112 shall be construed to mean that Commission rule as in effect at the time the application was filed.

13. On August 4, 2017, Commission Staff recommended that the closing documents provided were sufficient to show that the transaction was fully completed, stated that there were no customer deposits and proposed a procedural schedule for continued processing of the application.
14. On August 8, 2017, Order No. 9 was issued, deeming the closing documentation provided to be sufficient and establishing a further procedural schedule.
15. On August 28, 2017, Aqua and MUD 126 filed signed consent forms for the proposed maps and certificates, as prepared by Commission Staff.
16. On September 5, 2017, Commission Staff, Aqua and MUD 126 filed a joint proposed notice of approval and request to admit evidence; with the certificates and maps referenced in Finding of Fact No. 15 attached.
17. The CCN certificates and maps for Aqua and for MUD 126 described in Findings of Fact No. 15 and 16 were attached to the Notice of Approval issued on September 19, 2017.
18. On September 19, 2017, Order No. 11 was issued, admitting evidence into the record and a Notice of Approval was issued.
19. On September 25, 2017, the parties requested corrections to the Notice of Approval issued on September 19, 2017 and Order No. 11.
20. On September 29, 2017, Corrected Order No. 11 was issued.

Notice

21. Notice of the application was published in the *Texas Register* on March 11, 2016.
22. Notice of the application was mailed to neighboring systems, landowners, cities and affected parties on August 16, 2016.
23. On August 23, 2016, Aqua filed an affidavit of notice attesting to mailed notice.

Informal Disposition

24. More than 15 days have passed since completion of all notice required for this docket.
25. Aqua, MUD 126, and Commission Staff are the only parties to this proceeding.

26. No protest, motion to intervene, or request for hearing was filed in this docket; therefore, no hearing is necessary.

II. Conclusions of Law

1. The Commission has jurisdiction over this proceeding under TWC §§ 13.041, 13.241, 13.246, 13.251 and 13.254.
2. MUD 126 and Aqua are retail public utilities as defined in TWC § 13.002(19) and Aqua is also a utility as defined in TWC § 13.002(23).
3. Public notice of the application was provided as required by 16 TAC § 24.112(c).
4. The application was processed in accordance with the requirements of TWC §§ 13.251, 13.246 and 13.254, and the requirements of 16 TAC §§ 24.112 and 24.113.
5. MUD 126 and Aqua completed the sale within one year from the date of the Commission's approval of the sale, consistent 16 TAC § 24.112(e).
6. After consideration of the factors in TWC § 13.246(c), MUD 126 is entitled to approval of the application, having demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested areas.
7. Aqua is entitled to approval of the application, having consented to the requested partial decertification of its water and sewer certificated service areas, as required by TWC § 13.254(a) and 16 TAC § 24.113(a).
8. MUD 126 and Aqua have demonstrated that the service area transfers, the new certificates and the decertifications requested in this application are necessary for the service, accommodation, convenience, and safety of the public, as required by TWC § 13.246(b).
9. Under TWC § 13.257(r) and 16 TAC § 24.106(e), Aqua is required to record a certified copy of the approved CCN map, along with a boundary description of the service area, in the real property records of each county in which the service area or portion of the service area is located, and submit to the Commission evidence of the recording.
10. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

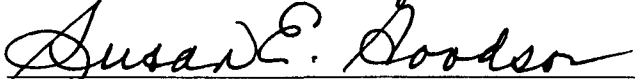
III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following Order:

1. The application, as amended and supplemented, is approved.
2. Aqua's CCN Nos. 13203 and 21065 are amended consistent with this Notice, to reflect the transfer of approximately 173.63 acres of water and sewer service area to MUD 126 and the decertification of approximately 6.42 acres of service area.
3. Aqua shall continue to serve every customer and applicant for service within the area covered by its CCN Nos. 13203 and 21065, and such service shall be continuous and adequate.
4. Aqua shall comply with the recording requirements in TWC § 13.257(r) for the area in Montgomery County affected by the application and submit to the Commission evidence of recording no later than 31 days after receipt of this Notice.
5. MUD 126 is issued new water CCN No. 13258 and sewer CCN No. 21104 with this Notice, reflecting the transfer of approximately 173.63 acres of water and sewer service area from Aqua.
6. MUD 126 shall serve every customer and applicant for service within the area covered by its CCN Nos. 13258 and 21104, and such service shall be continuous and adequate.
7. 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 29th day of September 2017.

PUBLIC UTILITY COMMISSION OF TEXAS



SUSAN E. GOODSON

ADMINISTRATIVE LAW JUDGE