



Control Number: 45942



Item Number: 33

Addendum StartPage: 0

DOCKET NO. 45942

**APPLICATION OF SWEA GARDENS §
ESTATE UTILITY, INC. AND §
MUNICIPAL OPERATIONS, LLC FOR §
SALE, TRANSFER OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN HARRIS COUNTY §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

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NOTICE OF APPROVAL

This Notice addresses the application of Swea Gardens Estate Utility, Inc. and Municipal Operations, LLC for sale, transfer, or merger of facilities and certificate rights in Harris County. Specifically, Municipal Operations seeks approval to transfer Swea Gardens water certificate of convenience and necessity (CCN) No. 11872 and associated facilities to Municipal Operations. Commission Staff recommended approval of the application. The application is approved.

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

I. Findings of Fact

Procedural History, Description, and Background

1. On May 9, 2016, the applicants filed an application for approval of the sale, transfer, or merger of facilities and certificate rights in Harris County.
2. Swea Gardens holds water CCN No. 11872 in Harris County.
3. Approval of the application would transfer the service area and facilities of CCN No. 11872 held by Swea Gardens to Municipal Operations.
4. The total service area being requested includes approximately 14 acres and 495 existing customers. The transaction will have no effect on the current customers' rates and services.
5. On May 10, 2016, Order No. 1 was issued, requiring Commission Staff to file a recommendation regarding the administrative completeness of the application.
6. On June 30, 2016, Municipal Operations filed additional information to supplement the application.

7. On October 12, 2016, Municipal Operations provided an irrevocable standby letter of credit.¹
8. On October 31, 2016, Order No. 6 was issued, finding the application, as amended, administratively complete, requiring notice, and establishing a procedural schedule.
9. On November 23, 2016 and December 5, 2016, Municipal Operations filed affidavits regarding the provision of notice of the application including copies of individual notices.
10. On December 12, 2016, Order No. 7 was issued, deeming notice sufficient and complete, and adopting a procedural schedule.
11. On February 14, 2017, Order No. 8 was issued, authorizing the transaction to proceed, and instructing the applicants to provide monthly status reports and closing documents and evidence of the disposition of any remaining customer deposits.
12. On March 16, 2017 and March 22, 2017, Municipal Operations filed closing documents and a list of all customer deposits that were transferred from Swea Gardens to Municipal Operations.
13. On March 29, 2017, Order No. 9 was issued, finding the closing documents sufficient and complete and establishing procedural deadlines for the remainder of the proceeding.
14. On April 25, 2017 and May 4, 2017, Municipal Operations filed a signed consent form agreeing to the final map, revised tariff, and revised certificate, as prepared by Commission Staff.
15. On May 4, 2017, Swea Gardens filed a signed consent form consenting to the map, tariff, and certificate as prepared by Commission Staff.
16. On May 9, 2017, Commission Staff recommended that the application be approved and included a proposed certificate, map, and tariff for Municipal Operations.
17. The certificate, map, and tariff described in Findings of Fact Nos. 14, 15 and 16 are attached to this Notice.

¹ Confidential - Irrevocable Standby Letter of Credit for Municipal Operations, LLC, (AIS Item No. 12) (Oct. 12, 2016).

18. On May 16, 2017, Swea Gardens, Municipal Operations, and Commission Staff filed a joint request to admit evidence and proposed notice of approval.
19. On June 14, 2017, Order No. 10 was issued, admitting evidence into the record of this proceeding.

Notice

20. On May 20, 2016, notice of the application was published in the *Texas Register*.
21. Notice of the application was mailed to neighboring utilities, cities, and affected parties on November 15, 2016 and November 28, 2016.

Informal Disposition

22. More than 15 days have passed since completion of the notice provided in this docket.
23. No protests have been filed, no requests for hearing have been filed, and no issues of fact or law are disputed by any party.

II. Conclusions of Law

1. The Commission has jurisdiction over this matter under Texas Water Code §§13.041, 13.241, and 13.254 (TWC).
2. Municipal Operations and Swea Gardens are retail public utilities as defined in TWC § 13.002(19) and 16 TAC § 24.3(59) (TAC).
3. Public notice of the application was provided as required by TWC § 13.301(a)(2).
4. The application was processed in accordance with the requirements of the TWC §§ 13.301 and 16 TAC §§ 24.109.
5. Municipal Operations and Swea Gardens completed the sale within 180 days from the date of the Commission's approval of the sale, consistent with 16 TAC § 24.109(o).
6. After considering the factors in TWC § 13.246(c), Municipal Operations has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area.

7. Municipal Operations and Swea Gardens have demonstrated that the sale and transfer of service area and facilities for CCN No. 11872 requested in this application are necessary for the service, accommodation, convenience, or safety of the public.
8. Under TWC §13.257(r), Municipal Operations 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 area or a portion of the service area is located; and submit to the Commission evidence of the recording.
9. 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 orders:

1. The amended application for sale, transfer, or merger is approved.
2. The service area and facilities in Harris County associated with CCN No. 11872 are transferred to Municipal Operations.
3. Municipal Operations shall serve every customer and applicant for service within the area previously served by Swea Gardens under water CCN No. 11872, and such service shall be continuous and adequate.
4. Municipal Operations shall comply with the recording requirements of TWC § 13.257(r) for the area in Harris County affected by the transfer and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.
5. 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 14th day of June 2017.

PUBLIC UTILITY COMMISSION OF TEXAS



IRENE MONTELONGO
DIRECTOR, DOCKET MANAGEMENT

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Municipal Operations, LLC

Water CCN No. 11872

PUC Docket No. 45942

Transferred Swea Gardens Estate Utility, Inc., CCN No. 11872 in Harris County



Water CCN



11872 - Municipal Operations LLC



12288 - Seller Water Company

0 200 400
Feet





Public Utility Commission of Texas

By These Presents Be It Known To All That

Municipal Operations, LLC

having duly applied for certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Municipal Operations, LLC is entitled to and is hereby granted this

Certificate of Convenience and Necessity No. 11872

to provide continuous and adequate water utility service to that service area or those service areas in Harris County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45942 are on file at the Commission offices in Austin, Texas; and are a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of Municipal Operations, LLC to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, the 14th day of June 2017.



WATER UTILITY TARIFF

Docket Number: 45942

Municipal Operations, LLC
(Utility Name)

P.O. BOX 40526
(Business Address)

Houston, Texas 77240-0526
(City, State, Zip Code)

713-937-1959
(Area Code/Telephone)

This tariff is effective for utility operations under the following Certificate of Convenience and Necessity:

11872

This tariff is effective in the following counties:

Harris

This tariff is effective in the following cities or unincorporated towns (if any):

None

This tariff is effective in the following subdivisions or public water systems:

SWEA Gardens Estates, PWS 1010218

TABLE OF CONTENTS

The above utility lists the following sections of its tariff (if additional pages are needed for a section, all pages should be numbered consecutively):

SECTION 1.0 -RATE SCHEDULE.....	2
SECTION 2.0 - SERVICE RULES AND POLICIES	5
SECTION 3.0 - EXTENSION POLICY	9

APPENDIX A – DROUGHT CONTINGENCY PLAN

APPENDIX B – SERVICE AGREEMENT

SECTION 1.0 -- RATE SCHEDULE

Section 1.01 - Rates

<u>Meter Size</u>	<u>Monthly Minimum Charge</u>	<u>Gallonge Charge</u>
5/8" or 3/4"	<u>\$43.14</u> (Includes 0 gallons)	<u>\$2.06</u> per 1,000 gallons

*Plus additional pass through fees listed below.

*Pass Through Fee

City of Houston Purchased Water Fee \$4.44 per 1,000 gallons
Applies to **all** gallons used.

Gallonge charge is related to the implementation of purchasing water from the City of Houston (CoH) in the amount of \$4.35 per 1,000 gallons subject to a 2% adjustment for water loss.

FORM OF PAYMENT: The utility will accept the following forms of payment:

Cash ☒ Check ☒ Money Order ☒ Credit Card ☐ Other ☐ (specify)
THE UTILITY MAY REQUIRE EXACT CHANGE FOR PAYMENTS AND MAY REFUSE TO ACCEPT PAYMENTS MADE USING MORE THAN \$1.00 IN SMALL COINS. A WRITTEN RECEIPT WILL BE GIVEN FOR CASH PAYMENTS.

REGULATORY ASSESSMENT.....1.0%
PUC RULES REQUIRE THE UTILITY TO COLLECT A FEE OF ONE PERCENT OF THE RETAIL MONTHLY BILL AND REMIT THE FEE TO THE TCEQ.

Section 1.02 - Miscellaneous Fee

TAP FEE \$350.00
TAP FEE COVERS THE UTILITY'S COSTS FOR MATERIALS AND LABOR TO INSTALL A STANDARD RESIDENTIAL 5/8" or 3/4" METER. AN ADDITIONAL FEE TO COVER UNIQUE COSTS IS PERMITTED IF LISTED ON THIS TARIFF.

TAP FEE (Unique Costs).....Actual Cost
FOR EXAMPLE, A ROAD BORE FOR CUSTOMERS OUTSIDE OF SUBDIVISIONS OR RESIDENTIAL AREAS.

TAP FEE (Large Meter).....Actual Cost
TAP FEE IS THE UTILITY'S ACTUAL COST FOR MATERIALS AND LABOR FOR METER SIZE INSTALLED.

METER RELOCATION FEE.....Actual Relocation Cost, Not to Exceed Tap Fee
THIS FEE MAY BE CHARGED IF A CUSTOMER REQUESTS THAT AN EXISTING METER BE RELOCATED.

SECTION 1.0 – RATE SCHEDULE (Continued)

METER TEST FEE.....\$25.00

THIS FEE WHICH SHOULD REFLECT THE UTILITY'S COST MAY BE CHARGED IF A CUSTOMER REQUESTS A SECOND METER TEST WITHIN A TWO-YEAR PERIOD AND THE TEST INDICATES THAT THE METER IS RECORDING ACCURATELY. THE FEE MAY NOT EXCEED \$25.

RECONNECTION FEE

THE RECONNECT FEE MUST BE PAID BEFORE SERVICE CAN BE RESTORED TO A CUSTOMER WHO HAS BEEN DISCONNECTED FOR THE FOLLOWING REASONS (OR OTHER REASONS LISTED UNDER SECTION 2.0 OF THIS TARIFF):

- a) Nonpayment of bill (Maximum \$25.00)\$25.00
- b) Customer's request that service be disconnected\$25.00

TRANSFER FEE\$10.00

THE TRANSFER FEE WILL BE CHARGED FOR CHANGING AN ACCOUNT NAME AT THE SAME SERVICE LOCATION WHEN THE SERVICE IS NOT DISCONNECTED.

LATE CHARGE (EITHER \$5.00 OR 10% OF THE BILL)10%

PUC RULES ALLOW A ONE-TIME PENALTY TO BE CHARGED ON DELINQUENT BILLS. A LATE CHARGE MAY NOT BE APPLIED TO ANY BALANCE TO WHICH THE PENALTY WAS APPLIED IN A PREVIOUS BILLING.

RETURNED CHECK CHARGE\$30.00

RETURNED CHECK CHARGES MUST BE BASED ON THE UTILITY'S DOCUMENTABLE COST.

CUSTOMER DEPOSIT RESIDENTIAL (Maximum \$50).....\$50.00

COMMERCIAL & NON-RESIDENTIAL DEPOSIT1/6TH OF ESTIMATED ANNUAL BILL

LINE EXTENSION AND CONSTRUCTION CHARGES:

REFER TO SECTION 3.0—EXTENSION POLICY FOR TERMS, CONDITIONS, AND CHARGES WHEN NEW CONSTRUCTION IS NECESSARY TO PROVIDE SERVICE.

SECTION 1.0 – RATE SCHEDULE (Continued)

PURCHASED WATER AND/OR DISTRICT FEE PASS THROUGH CLAUSE

Changes in fees imposed by any non-affiliated third party water supplier or underground water district having jurisdiction over the Utility shall be passed through as an adjustment to the water gallonage charge according to the following formula:

Adjusted Gallonage Rate (AG) = $G + [B/(1 - L)]$, Where:

AG = adjusted gallonage charge, rounded to nearest one cent;

G = approved gallonage charge, per 1,000 gallons;

B = change in fee (per 1,000 gallons);

L = water or sewer line loss for preceding 12 months, not to exceed 0.15 (15%)

SECTION 2.0 -- SERVICE RULES AND POLICIES

Section 2.01 -- Public Utility Commission of Texas Rules

The utility will have the most current Public Utility Commission of Texas (PUC or Commission) Rules, Chapter 24, available at its office for reference purposes. The Rules and this tariff shall be available for public inspection and reproduction at a reasonable cost. The latest Rules or commission approved changes to the Rules supersede any rules or requirements in this tariff.

Section 2.02 - Application for and Provision of Water Service

All applications for service will be made on the utility's standard application or contract form (attached in the Appendix to this tariff), will be signed by the applicant before water service is provided by the utility. A separate application or contract will be made for each service location.

After the applicant has met all the requirements, conditions and regulations for service, the utility will install tap, meter and utility cut-off valve and/or take all necessary actions to initiate service. The utility will serve each qualified applicant for service within 5 working days unless line extensions or new facilities are required. If construction is required to fill the order and if it cannot be completed within 30 days, the utility will provide the applicant with a written explanation of the construction required and an expected date of service.

Where service has previously been provided, service will be reconnected within one working day after the applicant has met the requirements for reconnection.

The customer will be responsible for furnishing and laying the necessary customer service pipe from the meter location to the place of consumption. Customers may be required to install a customer owned cut-off valve on the customer's side of the meter or connection.

Section 2.03 - Refusal of Service

The utility may decline to serve an applicant until the applicant has complied with the regulations of the regulatory agencies (state and municipal regulations) and for the reasons outlined in the PUC Rules. In the event that the utility refuses to serve an applicant, the utility will inform the applicant in writing of the basis of its refusal. The utility is also required to inform the applicant that a complaint may be filed with the Commission.

Section 2.04 -- Customer Deposits

If a residential applicant cannot establish credit to the satisfaction of the utility, the applicant may be required to pay a deposit as provided for in Section 1.02 - Miscellaneous Fees of this tariff. The utility will keep records of the deposit and credit interest in accordance with PUC Rules.

Residential applicants 65 years of age or older may not be required to pay deposits unless the applicant has an outstanding account balance with the utility or another water or sewer utility which accrued within the last two years.

SECTION 2.0 – SERVICE RULES AND POLICIES (Continued)

Nonresidential applicants who cannot establish credit to the satisfaction of the utility may be required to make a deposit that does not exceed an amount equivalent to one-sixth of the estimated annual billings.

Refund of deposit. - If service is not connected, or after disconnection of service, the utility will promptly refund the customer's deposit plus accrued interest or the balance, if any, in excess of the unpaid bills for service furnished. The utility may refund the deposit at any time prior to termination of utility service but must refund the deposit plus interest for any residential customer who has paid 18 consecutive billings without being delinquent.

Section 2.05 - Meter Requirements, Readings, and Testing

All water sold by the utility will be billed based on meter measurements. The utility will provide, install, own and maintain meters to measure amounts of water consumed by its customers. One meter is required for each residential, commercial, or industrial connection.

Service meters will be read at monthly intervals and as nearly as possible on the corresponding day of each monthly meter reading period unless otherwise authorized by the Commission.

Meter tests. The utility will, upon the request of a customer, and, if the customer so desires, in his or her presence or in that of his or her authorized representative, make without charge a test of the accuracy of the customer's meter. If the customer asks to observe the test, the test will be made during the utility's normal working hours at a time convenient to the customer. Whenever possible, the test will be made on the customer's premises, but may, at the utility's discretion, be made at the utility's testing facility. If within a period of two years the customer requests a new test, the utility will make the test, but if the meter is found to be within the accuracy standards established by the American Water Works Association, the utility will charge the customer a fee which reflects the cost to test the meter up to a maximum \$25 for a residential customer. Following the completion of any requested test, the utility will promptly advise the customer of the date of removal of the meter, the date of the test, the result of the test, and who made the test.

Section 2.06 - Billing

Bills from the utility will be mailed monthly unless otherwise authorized by the Commission. The due date of bills for utility service will be at least sixteen (16) days from the date of issuance. The postmark on the bill or, if there is no postmark on the bill, the recorded date of mailing by the utility will constitute proof of the date of issuance. Payment for utility service is delinquent if full payment, including late fees and the regulatory assessment, is not received at the utility or the utility's authorized payment agency by 5:00 p.m. on the due date. If the due date falls on a holiday or weekend, the due date for payment purposes will be the next workday after the due date.

A late penalty of either \$5.00 or 10.0% will be charged on bills received after the due date. The penalty on delinquent bills will not be applied to any balance to which the penalty was applied in a previous billing. The utility must maintain a record of the date of mailing to charge the late penalty.

SECTION 2.0 – SERVICE RULES AND POLICIES (Continued)

Each bill will provide all information required by the PUC Rules. For each of the systems it operates, the utility will maintain and note on the monthly bill a local or toll-free telephone number (or numbers) to which customers can direct questions about their utility service.

In the event of a dispute between a customer and a utility regarding any bill for utility service, the utility will conduct an investigation and report the results to the customer. If the dispute is not resolved, the utility will inform the customer that a complaint may be filed with the commission.

Section 2.07 - Service Disconnection

Utility service may be disconnected if the bill has not been paid in full by the date listed on the termination notice. The termination date must be at least 10 days after the notice is mailed or hand delivered.

The utility is encouraged to offer a deferred payment plan to a customer who cannot pay an outstanding bill in full and is willing to pay the balance in reasonable installments. However, a customer's utility service may be disconnected if a bill has not been paid or a deferred payment agreement entered into within 26 days from the date of issuance of a bill and if proper notice of termination has been given.

Notice of termination must be a separate mailing or hand delivery in accordance with the PUC Rules.

Utility service may also be disconnected without notice for reasons as described in the PUC Rules.

Utility personnel must be available to collect payments and to reconnect service on the day of and the day after any disconnection of service unless service was disconnected at the customer's request or due to a hazardous condition.

Section 2.08 - Reconnection of Service

Service will be reconnected within 24 hours after the past due bill and any other outstanding charges are paid or correction of the conditions which caused service to be disconnected.

Section 2.09 - Service Interruptions

The utility will make all reasonable efforts to prevent interruptions of service. If interruptions occur, the utility will re-establish service within the shortest possible time. Except for momentary interruptions due to automatic equipment operations, the utility will keep a complete record of all interruptions, both emergency and scheduled and will notify the commission in writing of any service interruptions affecting the entire system or any major division of the system lasting more than four hours. The notice will explain the cause of the interruptions.

Prorated Bills - If service is interrupted or seriously impaired for 24 consecutive hours or more, the utility will prorate the monthly base bill in proportion to the time service was not available to reflect this loss of service.

SECTION 2.0 – SERVICE RULES AND POLICIES (Continued)

Section 2.10 - Quality of Service

The utility will plan, furnish, and maintain production, treatment, storage, transmission, and distribution facilities of sufficient size and capacity to provide a continuous and adequate supply of water for all reasonable consumer uses. Unless otherwise authorized by the TCEQ, the utility will maintain facilities as described in the TCEQ Rules and Regulations for Public Water Systems.

Section 2.11 - Customer Complaints and Disputes

If a customer or applicant for service lodges a complaint, the utility will promptly make a suitable investigation and advise the complainant of the results. Service will not be disconnected pending completion of the investigation. If the complainant is dissatisfied with the utility's response, the utility must advise the complainant that he has recourse through the PUC complaint process. Pending resolution of a complaint, the Commission may require continuation or restoration of service.

The utility will maintain a record of all complaints which shows the name and address of the complainant, the date and nature of the complaint and the adjustment or disposition thereof, for a period of two years after the final settlement of the complaint.

SECTION 2.20 – SPECIFIC UTILITY SERVICE RULES AND POLICIES

This section contains specific utility service rules in addition to the rules previously listed under Section 2.0. It must be reviewed and approved by the Commission and in compliance with PUC rules to be effective.

SECTION 3.0--EXTENSION POLICY

Section 3.01 - Standard Extension Requirements

LINE EXTENSION AND CONSTRUCTION CHARGES: No contribution in aid of construction may be required of any customer except as provided for in this approved extension policy.

The customer will be given an itemized statement of the costs, options such as rebates to the customer, sharing of construction costs between the utility and the customer, or sharing of costs between the customer and other applicants prior to beginning construction.

The utility will bear the full cost of any over-sizing of water mains necessary to serve other customers in the immediate area. The individual residential customer shall not be charged for any additional production, storage, or treatment facilities. Contributions in aid of construction may not be required of individual residential customers for production, storage, treatment or transmission facilities unless otherwise approved by the Commission under this specific extension policy.

COSTS THE UTILITIES SHALL BEAR. Within its certified area, the utility will pay the cost of the first 200 feet of any water main or distribution line necessary to extend service to an individual residential customer within a platted subdivision. However, if the residential customer requesting service purchased the property after the developer was notified in writing of the need to provide facilities to the utility, the utility may charge for the first 200 feet. The utility must also be able to document that the developer of the subdivision refused to provide facilities compatible with the utility's facilities in accordance with the utility's approved extension policy after receiving a written request from the utility.

Developers may be required to provide contributions in aid of construction in amounts to furnish the system with all facilities necessary to comply with TCEQ's Rules and Regulations for Public Water Systems.

SECTION 3.20—SPECIFIC UTILITY EXTENSION POLICY

This section contains the utility's specific extension policy which complies with the requirements already stated under Section 3.01. It must be reviewed and approved by the Commission and in compliance with PUC rules to be effective.

Residential customers not covered under Section 3.01 will be charged the equivalent of the costs of extending service to their property from the nearest transmission or distribution line even if that line does not have adequate capacity to serve the customer. However, if the customer places unique, non-standard service demands upon the system, the customer may be charged the additional cost of extending service to and throughout their property, including the cost of all necessary transmission and storage facilities necessary to meet the service demands anticipated to be created by that property.

Developers may be required to provide contributions in aid of construction in amounts sufficient to furnish the development with all facilities necessary to provide for reasonable local demand requirements and to comply with TCEQ minimum design criteria for facilities used in the production, transmission, pumping, or treatment of water or TCEQ minimum requirements. For purposes of this subsection, a developer is one who subdivides or requests more than two meters on a piece of property. Commercial, industrial, and wholesale customers will be treated as developers.

APPENDIX A – DROUGHT CONTINGENCY PLAN

“This page incorporates by reference the utility’s Drought Contingency Plan, as approved and periodically amended by the Texas Commission on Environmental Quality.”

APPENDIX B – APPLICATION FOR SERVICE
(Utility Must Attach Blank Copy)