



Control Number: 46170



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RECEIVED

APPLICATION OF VISTA VERDE §
WATER SYSTEMS INC. AND SIMPLY §
AQUATICS, INC. FOR SALE, §
TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN MONTGOMERY COUNTY §

PUBLIC UTILITY COMMISSION

2017 JUN 19 AM 9:52
PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

COMMISSION STAFF'S RECOMMENDATION ON THE APPROVAL OF SALE

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

I. Background

On July 14, 2016, Vista Verde Water Systems, Inc. (Vista Verde) and Simply Aquatics, Inc. (Simply Aquatics) (collectively the Applicants) filed an application for the sale, transfer, or merger of facilities and certificate rights in Montgomery County. Specifically, Simply Aquatics seeks approval to acquire all of the water system assets of Vista Verde held under water certificate of convenience and necessity (CCN) No. 13034, and the certificate itself. The total area being requested includes approximately 346 acres and serves 45 current customers.

On May 17, 2017, Order No. 9 was issued requiring Staff to request a hearing or file a recommendation on the approval of the sale and on the CCN amendment by June 5, 2017. Accordingly, this pleading is timely filed.

II. Recommendation

As supported by the attached memorandum of Patricia García, Engineering Specialist of the Commission's Water Utility Regulation Division, Staff recommends that the Applicants be approved to proceed with the proposed transaction. Staff recommends approval of the application because it satisfies Tex. Water Code §§ 13.241, 13.246, and 13.301, and 16 Tex. Admin. Code §§ 24.102, 24.109 and 24.112 (TAC). Approving this application to transfer the water CCN No. 13034 to Simply Aquatics and issuing a water CCN number to Simply Aquatics is necessary for

the service, accommodation, convenience and safety of the public. Staff notes there are no deposits held by Vista Verde for the customers being served. Staff further recommends that a public hearing is not necessary and that the Applicants file documentation as evidence that all assets have been transferred to the acquiring entity as soon as possible.

III. Conclusion

Staff respectfully requests that an order be issued consistent with this Recommendation.


Dated: June 5, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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DOCKET NO. 46170

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on June 5, 2017, in accordance with 16 TAC § 22.74.



Ralph J. Daigneault

PUC Interoffice Memorandum

To: Ralph Daigneault
Legal Division

Thru: Tammy Benter, Director
Heidi Graham, Manager
Water Utilities Division

From: Patricia Garcia, Engineering Specialist
Water Utilities Division

Date: June 5, 2017

Subject: *Docket 46170, Application of Vista Verde Water Systems, Inc. and Simply Aquatics, Inc. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Montgomery County*

On July 14, 2016, Simply Aquatics, Inc., (Simply Aquatics or Purchaser) and Vista Verde Water Systems, Inc. (Vista Verde or Seller), (collectively Applicants) filed an application for the sale, transfer, or merger of facilities and certificate rights in Montgomery County, Texas pursuant to Texas Water Code Ann. § 13.301 (TWC) and the 16 Tex. Admin. Code §§ 24.109 and 24.112 (TAC). Specifically, Simply Aquatics seeks approval to acquire all of the water system assets, customers and service area under Vista Verde's Certificate of Convenience and Necessity (CCN) No. 13034. If approved, Simply Aquatics will be issued a water CCN to serve the area formerly covered by CCN No. 13034 and CCN No. 13034 will be cancelled.

Notice

Proper public notice of the application was provided to customers, neighboring systems, landowners, cities and affected parties Montgomery County. An affidavit stating notices were provided to all affected parties on February 15, 2017 was filed with the Commission on April 4, 2017. The comment period ended March 17, 2017, and no protests or opt-out requests were received.

Criteria Considered

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, Staff does not believe a hearing is necessary because the transaction will serve the public interest. Staff believes Simply Aquatics demonstrates adequate financial, managerial and technical (FMT) capability to provide continuous and adequate service to the existing service area plus the area currently under Vista Verde. TWC § 13.246(c) requires the Commission to consider nine criteria when granting or amending a CCN. Therefore, the following criteria were considered:

TWC § 13.246(c)(1) requires the Commission to consider the adequacy of service currently provided to the requested area.

The public water systems (PWS) being transferred by this application is Vista Verde Water Systems, Identification Number (ID. No.) 1700694, which meets the Texas Commission on Environmental Quality's (TCEQ) drinking water standards as required by 16 TAC § 24.102(a)(1). The La Playa Subdivision Water System is a groundwater system with one active well to provide service to the 37 customers in the area.

Simply Aquatics has been operating Vista Verde since April 2013, when the previous operator turned over the system operations to them. A review of TCEQ's records indicates that the PWS has several violations for radium, capacity and reporting violations. Simply Aquatics will be resolving the violations. They have drilled a new well for the water system to address the radium and capacity violations. The well is currently listed as proposed in the TCEQ's Drinking Water Watch database. Approving the requested transaction will allow Simply Aquatics to address the violations as required.

TWC § 13.246(c)(2) requires the Commission to consider the need for service in the requested area.

The purpose of the transaction is to transfer Vista Verde Water Systems to Simply Aquatics. The customers are currently receiving water from the Vista Verde Water Systems. Simply Aquatics is currently operating the water system.

TWC § 13.246(c)(3) requires the Commission to consider the effect of granting an amendment on the recipient and on any other retail water utility servicing the proximate area.

Only the Applicants will be affected by this transaction.

TWC § 13.246(c)(4) requires the Commission to consider the ability of the Applicants to provide adequate service.

The Vista Verde Water Systems is a groundwater system with one active well and one proposed well. The proposed well was constructed to address radium violations and capacity issues. Simply Aquatics will be taking the necessary steps required by the TCEQ to bring the proposed well into active service.

TWC § 13.246(c)(5) requires the Commission to consider the feasibility of obtaining service from an adjacent retail public utility.

The Vista Verde Water Systems is currently serving the customers in the CCN area, therefore, the feasibility of obtaining service from another adjacent retail public utility was not considered.

TWC § 13.246(c)(6) requires the Commission to consider the financial ability of the Applicant to pay for facilities necessary to provide continuous and adequate service.

Based on the information provided by the Purchaser in this filing, the Purchaser has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and proposed utility service area.

The requirements for the financial test to meet financial assurance are described in 16 TAC §24.11(e) and include the requirement that the applicant meet one or more of several leverage tests and an operations test.

The Applicant has a debt service coverage (DSC) ratio of 3.0. After unpaid bills are paid in full and net losses from the subsidiary utilities are covered, the Applicant has a DSC ratio of 1.39. A

ratio of more than 1.25 is preferred because this means that the utility is able to pay back its debts adequately. The DSC is calculated using annual net operating income before depreciation and non-cash expenses divided by annual combined long term debt service (payments). Therefore, the Applicant meets the leverage test requirement.

The operations test requires that the owner or operator must demonstrate sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations. The Applicant has enough net income, after unpaid bills are paid in full and debt service payments are made, to cover the utility's shortages. Therefore, the Applicant meets the operations test requirement.

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.

The environmental integrity of the land will not be effected as the Vista Verde Water Systems is currently serving the customers in the requested area.

TWC § 13.246(8) requires the Commission to consider the probable improvement in service or lowering of cost to consumers.

The Vista Verde Water Systems is currently being operated by Simply Aquatics. The approval of this application will allow Simply Aquatics to continue to provide service to the customers of the Vista Verde Water Systems.

The Applicants meet all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations. Approving this application to transfer the water CCN No. 13034 to Simply Aquatics and issuing a water CCN number to Simply Aquatics is necessary for the service, accommodation, convenience and safety of the public.

Recommendation

Pursuant to 16 TAC § 24.109(f), Staff recommends that the transaction be found to serve the public interest and that the Applicants be approved to proceed with the proposed transaction.. Staff notes there are no deposits held by Vista Verde Water Systems for the customers being served. Staff further recommends that a public hearing is not necessary.