



Control Number: 46494



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PUC DOCKET NO. 46494

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PUBLIC UTILITY COMMISSION
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APPLICATION OF WIEDENFELD §
WATER WORKS, INC. AND SWWC §
UTILITIES, INC. DBA WATER §
SERVICES, INC. FOR APPROVAL OF §
INTER-COMPANY TRANSFER OF §
ASSETS §

OF TEXAS

COMMISSION STAFF'S RECOMMENDATION ON TRANSACTION

COMES NOW the Staff of the Public Utility Commission of Texas (Commission), representing the public interest and files this Recommendation on Transaction, and would show the following:

I. BACKGROUND

On October 28, 2016, Wiedenfeld Water Works, Inc. (Wiedenfeld) and SWWC Utilities, Inc. dba Water Services, Inc. (SWWC) filed an application for sale, transfer, or merger of facilities and certificate of convenience and necessity rights in Kendall, Kerr, and Medina Counties. Specifically, the applicants seek approval to transfer assets of WWW to SWWC through an inter-company accounting entry. No change to the existing service area boundaries of either WWW or SWWC is requested. On December 21, 2016, Order No. 3 was issued, setting February 8, 2017 as the deadline for Staff to either file a request for hearing or its recommendation on the approval of the sale.

II. RECOMMENDATION TRANSACTION

Staff recommends that the transaction be approved, as supported by the attached memorandum from Leila Guerrero, Regulatory Accountant/Auditor and Sean Scaff, Engineering Specialist, of the Water Utility Regulation Division. Specifically, Staff recommends that SWWC Utilities has demonstrated the financial, technical, and managerial capability to provide continuous and adequate utility service. Staff further recommends that the Commission find that the transaction will serve the public interest and allow Wiedenfeld and SWWC Utilities to proceed with the proposed transaction.

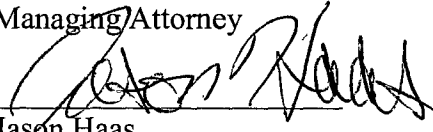
Dated: February 8, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Karen S. Hubbard
Managing Attorney

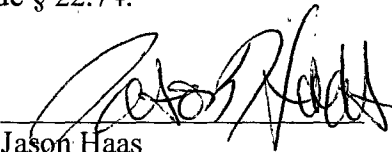


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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on February 8, 2017 in accordance with 16 Tex. Admin. Code § 22.74.



Jason Haas

PUC Interoffice Memorandum

To: Jason Haas, Attorney
Legal Division

Thru: Tammy Benter, Director
Water Utility Regulation Division

From: Leila Guerrero, Regulatory Accountant/Auditor
Sean Scaff, Engineering Specialist
Water Utility Regulation Division

Date: February 7, 2017

Subject: **Docket 46494**, *Application of SWWC Utilities, Inc. dba Water Services, Inc. and Wiedenfeld Water Works, Inc., for Sale, Transfer, or Merger of Facilities and Certificate Rights in Kendall, Kerr, and Medina Counties*

On October 31, 2016, Wiedenfeld Water Works, Inc. ("Wiedenfeld") and SWWC Utilities, Inc. dba Water Services, Inc. ("SWWC Utilities"), (Collectively, Applicants) filed with the Public Utility Commission of Texas ("Commission") an application for the sale, transfer, or merger of facilities and certificate rights in Kendall, Kerr, and Medina Counties, Texas. Specifically, SWWC Utilities seeks approval of inter-company transfer of all of the water assets and utility service area of Wiedenfeld, to cancel Wiedenfeld's water Certificate of Convenience and Necessity (CCN) No. 12052, and amend SWWC Utilities' CCN No. 11106. No change to the existing service area boundaries of either Wiedenfeld or SWWC Utilities is requested. This application is being reviewed pursuant to Texas Water Code Ann., §§ 13.301 and 13.242 to 13.250 (TWC) and the 16 Tex. Admin Code §§ 24.109 and 24.112 (TAC).

The application was deemed sufficient by the Commission on November 28, 2016. Notice to customers, neighboring systems, and affected parties was provided on December 7, 2016. The affidavit of notice was received by the Commission on December 8, 2016. The comment period ended January 6, 2017, and no protests or requests for hearing were received by the Commission.

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. Staff has reviewed the application and the supplemental information, and recommends that SWWC Utilities demonstrates adequate financial, managerial, and technical capability to provide service to the area subject to this application, as required by TWC § 13.301(b). In my review of the public interest factors and the financial, managerial, and technical capability of the Transferee, I reviewed the requested transaction pursuant to TWC § 13.246(c). Under this statute, the Commission shall consider the following nine criteria when amending a CCN:

- TWC §13. 246(c)(1) and 16 TAC § 24.102(d)(1) requires the Commission to consider the adequacy of service currently provided to the requested area. The area is currently served by Wiedenfeld by the following public water systems (PWS): PWS No. 1330019, known as the Cedar Springs; PWS No. 1330007, Center Point; PWS No. 1330080, Heritage Park; PWS No. 1330030, Hills and Dales; PWS No. 1330134, Oak Ridge Estates; PWS No. 1330035, Platten Creek; PWS No. 1630038, Rocky Creek; PWS No.1330128, Southern Hills; PWS No. 1330027, Verde Park; PWS No. 1330169, Vista Hills; PWS No. 1330015, Westwood Oaks;

PWS No. 1330141, Windwood Oaks; PWS No. 1330024, Woodhaven MHP. The facilities subject to this application include 855 current water connections.

On February 8, 2016, the Commission approved the application of SWWC Utilities for the transfer of 100% of the stock and ownership interest in Wiedenfeld. SWWC Utilities has been operating the Wiedenfeld systems since March 2016. This application enables SWWC Utilities to obtain the certificated service area they are already operating. SWWC Utilities is one of the largest investor owned water service providers in the state, and operates many other Texas Commission on Environmental Quality (TCEQ) approved water systems throughout the state. Therefore, I believe adequate service is currently provided in the requested area.

- TWC § 13.246(c)(2) and TAC § 24.102(d)(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) and 16 TAC § 24.102(d)(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 SWWC Utilities and Wiedenfeld, will be affected by this transaction. As a result of the proposed transaction CCN No. 11106 will be amended to include the facilities, customers and service area of Wiedenfeld and CCN No. 12052 will be cancelled.
- TWC § 13.246(c)(4) and 16 TAC § 24.102(d)(4) requires the Commission to consider the ability of the Purchaser to provide adequate service. SWWC Utilities is already providing retail water utility service to the proposed CCN area from the existing water systems being acquired.
- TWC § 13.246(c)(5) and 16 TAC § 24.102(d)(5) requires the Commission to consider the feasibility of obtaining service from an adjacent retail public utility. In this case, the residents in the proposed area are already receiving service and no additional service is needed. Therefore, it is not necessary to consider the feasibility of obtaining service from another entity since the area is already being served.
- TWC § 13.246(c)(6) and 16 TAC §§ 24.11 and 24.102(d)(6) requires the Commission to consider the financial ability of the Purchaser to pay for facilities necessary to provide continuous and adequate service. Staff noted several issues with the systems being transferred in a January 12, 2017, RFI to SWWC Utilities. The RFI requested information for alleged violations during TCEQ site investigations. SWWC Utilities response on January 27, 2017, included several actions plans and progress reports on the alleged violations. As these violations happened under Wiedenfeld's ownership and operation, this shows a willingness on the part of SWWC Utilities to be proactive in addressing any operational issues as they arise.
- TWC §§ 13.246(7), 13.246(9), and 16 TAC §§ 24.102(d)(7), 24.102(d)(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 systems are already in place.
- TWC § 13.246(8) and 16 TAC § 24.102(d)(8) requires the Commission to consider the probable improvement in service or lowering of cost to consumers. The customers' water rates will not be affected by the transactions as the rates will remain unchanged.

With respect to SWWC Utilities' financial and managerial capability, SWWC Utilities meets the

financial and managerial criteria set out in 16 TAC 24.11(e) and 24.102(d)(6). In addition, the proposed transaction is only an inter-company transfer of Wiedenfeld's assets to SWWC Utilities, Inc. dba Water Services, through an inter-company accounting entry. This is not a purchase of the assets.¹ SWWC Utilities provided with the application financial statements as of June 30, 2016, which were filed confidentially in this docket.

Based on the financial statements, SWWC Utilities has a long term debt to equity of less than 1 to 1, as of June 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. SWWC Utilities more than meet this criterion.

As of June 30, 2016, SWWC Utilities' has an annual coverage ratio of greater than 1.25 to 1. A ratio of at least 1.25 to 1 is preferred when reviewing financial capability to ensure that reserve funds for debt payments and repairs and maintenance are built up and maintained. SWWC Utilities more than meet this criterion.

16 TAC § 24.11(e)(3) refers to the operations test. This states that the owner or operator must demonstrate that sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations. SWWC Utilities shows that there is no cash shortages in the 2016 annual financial reports provided. The Purchaser did not provide a projected cash flows for the next five years. However, Transferee/Purchaser is an affiliate of Southwest Water Company which is a very stable utility service company in California and Texas.

As no system involved with this transfer has greater than 1,000 connections, SWWC Utilities is required to employ at least one operator with a class "C" license or higher. SWWC Utilities employs 12 employees with a class "C" or higher license. Due to the above factors and the fact that SWWC Utilities has the required number and licensed operators to handle any issues during daily operations, allowing the transaction will be in the benefit of the customer base in the area. Therefore, Staff recommends that SWWC Utilities has demonstrated the financial, technical, and managerial capability to provide continuous and adequate utility service. Staff recommends that the transaction will serve the public interest and Wiedenfeld and SWWC Utilities should proceed with the proposed transaction.

¹ SWWC Utilities and Wiedenfeld STM application, No. 12, page 6.