



Control Number: 47922



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DOCKET NO. 47922

**APPLICATION OF DAL-HIGH WATER §
LLC AND MONARCH UTILITIES I, §
L.P. FOR SALE, TRANSFER, OR §
MERGER OF FACILITIES AND §
CERTIFICATE RIGHTS IN §
HENDERSON COUNTY §**

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PUBLIC UTILITY COMMISSION
OF TEXAS

NOTICE OF APPROVAL

This Notice addresses the application of Dal-High Water, LLC and Monarch Utilities I, L.P. (applicants) for the sale of a water system, the amendment of Monarch Utilities' certificate of convenience and necessity (CCN) number 12983, and the cancellation of Dal-High's CCN number 12830 in Henderson County. The Commission approves the sale of Dal-High's water system, amends Monarch Utilities' CCN number 12983 to include the service area included under Dal-High's CCN number 12830 and cancels Dal-High's CCN number 12830.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Dal-High is a domestic limited liability company registered with the Texas secretary of state on April 29, 2016 under file number 802447797.
2. Dal-High operates, maintains, and controls facilities for providing water service in Texas under certificate of convenience and necessity (CCN) number 12830 in Henderson County.
3. Dal-High holds Texas Commission on Environmental Quality (TCEQ) public-water system number 1070159.
4. Monarch Utilities I, L.P. is a domestic limited partnership registered with the Texas secretary of state under file number 800034797.
5. Monarch Utilities operates, maintains, and controls facilities for providing water service in Texas under CCN number 12983.

Application

6. On January 3, 2018, Dal-High and Monarch Utilities filed an application for the sale of the sale of water systems, the amendment of Monarch Utilities' certificate of convenience and necessity (CCN) number 12983, and the cancellation of Dal-High's CCN number 12830 in Henderson County.
7. The service area to be transferred to Monarch Utilities consists of an area of 32 acres currently serving 46 customers.
8. The requested area is located two miles northwest of Athens and is bounded on the north by Caney Creek, on the east by One-Mile Creek, on the south by the City of Athens, and on the west by United States Highway 175.
9. Under an asset purchase agreement between the parties, Dal-High agreed to sell its water-system assets and all of its water-service area under CCN number 12830 to Monarch Utilities. All acquired water-system assets and certified-service area will transfer to Monarch Utilities' CCN number 12983.
10. No contributions in aid of construction were identified by Dal-High in the application.
11. In Order No. 4 issued on April 6, 2018, the administrative law judge (ALJ) found the application administratively complete.
12. In Order No. 5 issued on June 15, 2018, the ALJ approved the transaction to proceed.
13. On August 8, 2018, Monarch Utilities filed an executed copy of the bill of sale and the affidavit of Pam Monroe confirming that all affected customers were refunded their customer deposits.
14. On August 18, 2018, Monarch Utilities filed a second copy of the executed bill of sale with the signature of the purchasers' authorized representative.
15. In Order No. 6 issued on August 24, 2018, the ALJ found the closing documents sufficient.
16. On September 27, 2018, Monarch Utilities filed a consent form concurring with the maps, certificate, and tariff prepared by Commission Staff.
17. On October 10, 2018, Dal-High filed a consent form concurring with the maps, certificate, and tariff prepared by Commission Staff.

Notice

18. Notice of the application appeared in the January 26, 2018 issue of the Texas Register.
19. On April 13, 2018, applicants mailed notice of the application to current customers, neighboring utilities, and affected parties.
20. On April 17, 2018, Monarch Utilities filed the affidavit of George Freitag, regulatory manager of Monarch Utilities, attesting to mailed and published notice.
21. In Order No. 4 issued May 1, 2018, the ALJ found the applicants' notice sufficient.

Sale

22. In Order No. 5 issued on June 15, 2018, the ALJ authorized the sale to proceed and ordered the applicants to file proof that the sale had been completed and customer deposits had been addressed.
23. On August 8, 2018, Monarch Utilities filed notice that the sale had closed on August 2, 2018 and attached a bill of sale and the affidavit of Pam Monroe, who attested that all customer deposits had been refunded.
24. On August 9, 2018, Monarch Utilities filed a copy of the bill of sale that included the signature of the purchasers' authorized representative.
25. In Order No. 6 issued on August 24, 2018, the ALJ found the closing documents were sufficient and that the outstanding customer deposits were addressed.

Evidentiary Record

26. On October 9, 2018, the parties filed a joint proposed notice of approval and motion to admit evidence.
27. In Order No. 8 issued November 2, 2018, the ALJ admitted the following evidence into the record: (a) the application filed by Dal-High and Monarch Utilities I. L.P. and all attachments filed on January 3, 2018; (b) notice of the application published in the Texas Register on January 26, 2018; (c) supplements to the application and all attachments filed on March 12, 2018, and March 26, 2018; (d) Commission Staff's supplemental recommendation on administrative completeness filed on March 28, 2018; (e) the affidavit and proof of notice filed on April 17, 2018; (f) Commission Staff's recommendation

finding notice sufficient filed on April 26, 2018; (g) Commission Staff's recommendation regarding approval of sale to proceed filed on June 13, 2018; (h) applicants' notice of completed transaction and filing of closing documents filed on August 8, 2018; (i) the amended bill of sale filed on August 14, 2018; (j) Monarch Utilities' signed consent form filed September 27, 2018; and (k) Dal-High's signed consent form filed October 8, 2018.

Compliance—TWC § 13.301(d), 16 TAC § 24.239(j)(5)(A)

28. Dal-High has not been subject to any enforcement action by the Commission, TCEQ, the Texas Department of Health, the Office of the Attorney General, or the United States Environmental Protection Agency.
29. Dal-High's public-water system has no outstanding TCEQ violations.
30. Monarch Utilities has been the subject of TCEQ enforcement proceedings, but has achieved compliance by working with TCEQ to execute compliance agreements that allow Monarch Utilities to make necessary improvements within a reasonable time frame.

Adequacy of Existing Service—TWC § 13.301(d), 16 TAC § 24.239(j)(5)(B); TWC § 13.246(c)(1), 16 TAC § 24.227(d)(1)

31. Dal-High has a TCEQ-approved public-water system and has access to an adequate supply of water.

Need for Additional Service—TWC § 13.301(d), 16 TAC § 24.239(j)(5)(C); TWC § 13.246(c)(2), 16 TAC § 24.227(d)(2)

32. No new requests for service have been received within the requested service area and Monarch Utilities did not request to add any uncertificated areas. Therefore, the need for additional service in the requested area was not evaluated.

Effect of Approving the Transaction and Granting the Amendment—TWC § 13.301(d), 16 TAC § 24.239(j)(5)(D); TWC § 13.246(c)(3), 16 TAC § 24.227(d)(3)

33. There are no other retail public utilities providing water service that would be affected by the proposed transactions.
34. The water rates in the service areas affected by the transactions will not change due to the transfers.

Ability to Serve: Managerial and Technical–TWC §§ 13.301(b), 16 TAC § 24.239(g), (j)(5)(E); TWC §§ 13.246(c)(4), 13.241(a), 16 TAC §§ 24.227(a), 24.227(d)(4)

35. Monarch Utilities employs TCEQ certified water operators and is in compliance with TCEQ rules.
36. Monarch Utilities has management capable of running the water systems and providing service.

Ability to Serve: Financial Ability and Stability–TWC §§ 13.301(b), 16 TAC § 24.239(g), (j)(5)(G); TWC §§ 13.246(c)(6), 13.241(a), 16 TAC §§ 24.227(a), 24.227(d)(6)

37. Monarch Utilities' debt-to-equity ratio is less than one.
38. Monarch Utilities' debt-service coverage ratio is greater than 1.25.
39. Monarch Utilities has demonstrated that sufficient cash is available to cover any projected operations and maintenance shortage in the first five years of operation.
40. Monarch Utilities has financial stability and the financial resources to operate and manage the utility and to provide continuous and adequate service to the transferred area.
41. Monarch Utilities has demonstrated adequate financial, managerial, and technical capabilities to provide service to the transferred area.

Financial Assurance–TWC § 13.246(d); 16 TAC § 24.227(e)

42. There is no need to require Monarch Utilities to provide a bond or other financial assurance to ensure continuous and adequate service.

Service from Adjacent Retail Public Utility–TWC § 13.301(d), 16 TAC § 24.239(j)(5)(F); TWC § 13.246(c)(5), 16 TAC § 24.227(d)(3)

43. There will be no effect on any retail public utility servicing the proximate area as there are no other water providers in the area.
44. Dal-High's public-water system is currently serving the existing customer and has sufficient capacity; therefore, the feasibility of obtaining service from an adjacent retail public utility was not considered.

Regionalization or Consolidation–TWC §§ 13.241(d), 16 TAC § 24.227(b)

45. Monarch Utilities does not anticipate building any new facilities to continue serving the area.

Environmental Integrity–TWC § 13.301(d), 16 TAC § 24.239(j)(5)(H); TWC § 13.246(c)(7), 16 TAC § 24.227(d)(7)

46. Approval of the application will not adversely impact the environmental integrity of the land included in the requested area since the area is currently receiving service.

Effect on Land–TWC § 13.246(c)(9), 16 TAC § 24.227(d)(9)

47. The requested area is already being served; therefore, the effect on the land in the requested area was not evaluated.

Improvement of Service–TWC § 13.301(d), 16 TAC § 24.239(j)(5)(I); TWC § 13.246(c)(8), 16 TAC § 24.227(d)(8)

48. Service to customers should improve by changing operation and management over to Monarch Utilities.
49. Monarch Utilities is capable of providing continuous and adequate service to the transferred area and the transaction will serve the public interest.

Lowering of Costs–TWC § 13.301(d), 16 TAC § 24.239(j)(5)(I); TWC § 13.246(c)(8), 16 TAC § 24.227(d)(8)

50. Monarch Utilities will continue to provide water service to the existing customers in the area served by Dal-High at the same rates as are currently charged.

Tariff and Map

51. On September 14, 2018, Commission Staff emailed its proposed tariff, map, and certificate to Dal-High and Monarch Utilities.
52. On September 27, 2018, Monarch Utilities filed its consent to the proposed tariff, map, and certificate.
53. On October 8, 2018, Dal-High filed its consent to the proposed tariff, map, and certificate.
54. On October 9, 2018, Commission Staff filed the proposed tariff, map, and certificate as an attachment to its recommendation.

Informal Disposition

55. More than 15 days have passed since the completion of notice in this docket.
56. Dal-High, Monarch Utilities, and Commission Staff are the only parties to this proceeding, and the decision is not adverse to any other party.

57. No issues of fact or law are disputed by the parties.
58. Commission Staff recommended approval of the application.
59. No party requested a hearing, and a hearing is not necessary.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over this application under Texas Water Code (TWC) §§ 13.041, 13.241, 13.244, 13.254, 13.246, 13.251, and 13.301.
2. Dal-High and Monarch Utilities are retail public utilities as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Public notice of the application was provided in compliance with TWC § 13.301(a)(2) and 16 TAC §§ 24.239(a) through (c).
4. The Commission processed the application in accordance with the TWC, the Administrative Procedure Act,¹ and Commission rules.
5. The application meets the requirements of 16 TAC § 24.239.
6. Dal-high and Monarch Utilities completed the sale of assets within the time required by 16 TAC § 24.239(o).
7. After consideration of the factors in TWC § 13.246(c), Monarch Utilities has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area. TWC §§ 13.246, 13.251.
8. Dal-High and Monarch Utilities have demonstrated that the sale of Dal-High's water system and amendments to CCN number 12983 and subsequent cancellation of CCN number 12830 will serve the public interest and are necessary for the service, accommodation, convenience, or safety of the public. TWC §§ 13.301(d), 13.246(b).
9. After investigating the sale, the Commission concludes that the transaction will serve the public interest under TWC § 13.301(d) and 24.239(i).

¹ Administrative Procedure Act, Tex. Gov't Code §§ 2001.001–.902.

10. Monarch Utilities is capable of providing water that meets the requirements of chapter 341 of the Health and Safety Code and has access to an adequate supply of water as required under TWC § 13.241(b).
11. Dal-High and Monarch Utilities have demonstrated that the sale of Dal-High's water systems and the amendment of Monarch Utilities' CCN will serve the public interest and are necessary for the service, accommodation, convenience, or safety of the public. TWC §§ 13.301(d), 13.246(b).
12. Monarch Utilities must record a certified copy of the certificate granted and maps approved by this Notice, along with a boundary description of the service area, in the real property records of Henderson County within 31 days of receiving this Notice and submit to the Commission evidence of the recording. TWC § 13.257(r), (s).
13. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

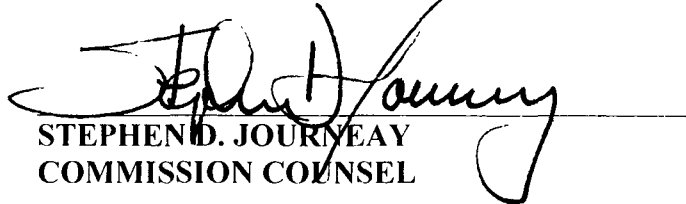
In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission approves the sale of Dal-High's water system assets identified in this Notice and operated under CCN number 12830.
2. The Commission amends Monarch Utilities' CCN number 12983 to include the area described by this Notice and shown on the map attached to this Notice.
3. The Commission cancels Dal-High's CCN number 12830.
4. The Commission approves the tariffs attached to the joint motion to admit evidence and proposed notice of approval filed on October 9, 2018.
5. Within ten day after this Notice is issued, Commission Staff must file a clean copy of the tariff with Central Records to be marked *Approved* and kept in the Commission's tariff book.
6. The Commission's official service area boundary map for Monarch Utilities will reflect this change as provided in the attached map.

7. Monarch Utilities must serve every customer and applicant for water service within the approved area under water CCN number 12983 that requests water service and meets the terms of Monarch Utilities' regulations to receive water service, and such service will be continuous and adequate.
8. Monarch Utilities must comply with the recording requirements of TWC § 13.257(r) and (s) for the area in Henderson County affected by the application.
9. Monarch Utilities must submit to the Commission evidence of the recording no later than 30 days after the recording required by ordering paragraph 8.
10. All other motions and any other requests for general or specific relief, if not expressly granted herein, are denied.

Signed at Austin, Texas the 18th day of March 2019.

PUBLIC UTILITY COMMISSION OF TEXAS


STEPHEN D. JOURNEY
COMMISSION COUNSEL



Public Utility Commission of Texas

By These Presents Be It Known To All That

Monarch Utilities I L.P.

having obtained 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. Monarch Utilities I L.P. is entitled to this

Certificate of Convenience and Necessity No. 12983

to provide continuous and adequate water utility service to that service area or those service areas in Bandera, Brazoria, Chambers, Denton, Grayson, Harris, Hays, Henderson, Hood, Johnson, Liberty, Marion, Matagorda, Medina, Montgomery, Parker, Polk, San Jacinto, Smith, Tarrant, Trinity, Van Zandt, Wise, Wood Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 47922 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 Monarch Utilities I L.P. 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 18th day of March 2019.

Monarch Utilities I L.P.
Portion of Water CCN No. 12983
PUC Docket No. 47922
Transferred all of Dal-High Water, LLC, CCN No. 12830 in Henderson County



Public Utility Commission of Texas
1701 N. Congress Ave
Austin, TX 78701

Water CCN

-  12983 - Monarch Utilities I L.P.
-  10821 - Bethel-Ash WSC

0 300 600
Feet



Map by: Komal Patel
Date created: September 4, 2018
Project Path: n:\finalmapping\
47922MonarchUtilities.mxd