

Control Number: 48296



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APPLICATION OF CYNDIE PARK 2 §
WATER SUPPLY CORPORATION §
AND NUECES WATER SUPPLY §
CORPORATION FOR SALE, §
TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN NUECES COUNTY §

PUBLIC UTILITY COMMISSION
OF TEXAS

COMMISSION STAFF'S RECOMMENDATION ON APPROVAL OF TRANSACTION

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

I. BACKGROUND

On April 18, 2018, Cyndie Park 2 Water Supply Corporation (Cyndie Park 2) and Nueces Water Supply Corporation (Nueces WSC) (collectively, Applicants) filed an application for sale, transfer, or merger of facilities and certificate rights in Nueces County, Texas. Specifically, Cyndie Park 2 seeks to transfer its water service area and facilities under Certificate of Convenience and Necessity No. 12100 to Nueces WSC. The service area to be transferred includes 30.2 acres and 18 current customers.

Order No. 6, issued July 18, 2018, granted Staff's second request for an extension of time and adopted a modified procedural schedule setting October 22, 2018, as the deadline to request a hearing or file a recommendation on approval of the transaction. Therefore, this pleading is timely filed.

II. STAFF'S CONDITIONAL RECOMMENDATION

As detailed in the attached memorandum of Emily Sears of the Commission's Water Utility Regulation Division, Staff recommends approval of the proposed transaction. Staff's review indicates that the application satisfies Texas Water Code (TWC) §§ 13.241, 13.246, and 13.301 and 16 Texas Administrative Code (TAC) §§ 24.102 and 24.109 (renumbered to §§ 24.227 and 24.239 in Project No. 48526, effective October 17, 2018), and that a hearing is not necessary. However, Staff notes that Nueces WSC has an outstanding violation with the Texas Commission

on Environmental Quality (TCEQ), and is working to resolve the violation. Therefore, Staff recommends that Nueces WSC be required to submit documentation from TCEQ confirming that the violation has been resolved at least fourteen days before filing evidence that the sale has been completed in accordance with 16 TAC § 24.109(n) (now § 24.239(n)).

Pursuant to 16 TAC § 24.109(o) (now § 24.239(o)), approval of the sale expires 180 days from the date of the Commission's written approval allowing the sale to proceed. If the sale is not consummated within that period, the approval is void and the Applicants must re-apply for approval of the sale unless the Applicants request and receive an extension from the Commission.

III. CONCLUSION

Staff respectfully recommends the entry of an Order consistent with the above recommendations.


Dated: October 22, 2018

Respectfully Submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Margaret Uhlig Pemberton
Division Director

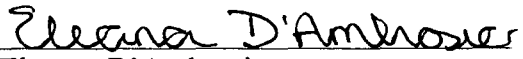
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DOCKET NO. 48296
CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on October 22, 2018, in accordance with 16 TAC § 22.74.


Eleanor D'Ambrosio

PUC Interoffice Memorandum

To: Eleanor D'Ambrosio, Attorney
Legal Division

Thru: Tammy Benter, Director
Heidi Graham, Manager
Water Utility Regulation Division

From: Emily Sears, Financial Analyst
Water Utility Regulation Division

Date: October 22, 2018

Subject: **Docket No. 48296**, *Application of Cyndie Park 2 Water Supply Corporation and Nueces Water Supply Corporation for Sale, Transfer, or Merger of Facilities and Certificate Rights in Nueces County*

On April 18, 2018, Cyndie Park 2 Water Supply Corporation (CP2 or Seller) and Nueces Water Supply Corporation (Nueces WSC or Purchaser) (collectively, Applicants) filed an application for Sale, Transfer, or Merger (STM) of facilities and certificate rights in Nueces County, Texas, pursuant to Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239 (formerly 16 TAC § 24.109). Specifically, the Purchaser seeks approval to acquire a portion of the facilities and to transfer all of the water service area from the Seller under water Certificate of Convenience and Necessity (CCN) No. 12100.

Background

The Purchaser is seeking to amend its water CCN No. 11948 for the service area containing approximately 30.2 acres and 18 current customers.

Notice

The comment period ended August 29, 2018, and no protests or opt-out requests were received.

Criteria Considered

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.

CP2 has a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under Identification (ID) No. 1780050. According to TCEQ's Central Registry database, CP2 also has outstanding enforcement orders at TCEQ that were issued in 2015. CP2 has been resolving the issues that were included in the enforcement orders. Nueces WSC will be required by TCEQ to resolve any issues remaining after the sale.

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

The purpose of the transaction is to transfer the service area and facilities to the Purchaser; therefore, the need for additional service in the requested area was not considered.

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

There will be no effect on any retail public utility servicing the proximate area as there are no other water providers in the area.

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

Nueces WSC has a public water system registered with TCEQ under ID No. 1780052. Nueces WSC has one outstanding violation that it is working to resolve with TCEQ. Staff recommends that Nueces WSC file copies of any documents from TCEQ stating that the violation has been resolved before filing proof that the sale has been completed.

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

There are no other retail public utilities in the proximate area; therefore, it is not feasible to obtain service from another adjacent retail public utility.

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.

16 TAC § 24.11 establishes criteria to demonstrate that an owner or operator of a retail public utility has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and requested utility service area. 16 TAC § 24.11(e) lists the financial tests. The Purchaser has no debt, and therefore, meets the leverage test with a debt to equity less than one.

16 TAC § 24.11(e)(3) refers to the operations test, which 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 Purchaser has sufficient cash to cover the projected losses in the first two years. Also, the construction of a new water line and improvements to the Banquete Pump Station will be funded by agencies such as the Texas Water Development Board and the Texas Department of Agriculture.

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 be affected by the installation of the water line.

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

The Purchaser has a larger staff than the Seller and will be able to provide customers with treated surface water. These changes in service will improve the water quality, the reliability of the system, and customer service.

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 a portion of the facilities and all of the service area under water CCN No. 12100 to the Purchaser, and amending water CCN No. 11948 of the Purchaser, is necessary for the service, accommodation, convenience and safety of the public.

Recommendation on approval of sale

Pursuant to 16 TAC § 24.239(i) (formerly 16 TAC § 24.109(i)), Staff recommends that the proposed transaction will serve the public interest and that the Applicants be allowed to proceed

with the sale. Staff notes there are no customer deposits held by the Seller.