



Control Number: 48538



Item Number: 23

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DOCKET NO. 48538

2019 MAY 30 PM 4:32

APPLICATION OF SOUTHWEST §
ENVIRONMENTAL RESOURCES §
AND THE CITY OF ROSENBERG FOR §
SALE, TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN FORT BEND COUNTY §

PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

NOTICE OF APPROVAL

This Notice of Approval approves the sale and transfer of approximately 41 acres of water service area rights under certificate of convenience and necessity (CCN) number 11648 held by Southwest Environmental Resources to the City of Rosenberg's CCN number 10713

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Southwest operates, maintains, and controls facilities for providing water service under CCN number 11648.
2. Rosenberg is a municipality that operates, maintains, and controls facilities for providing water service in Fort Bend County under CCN number 10713.

Application

3. On July 23, 2018, Southwest and Rosenberg applied for approval of the sale and transfer of an approximately 41-acre portion of Southwest's water system under CCN number 11648 to Rosenberg's CCN number 10713 in Fort Bend County.
4. Southwest and Rosenberg agreed to the sale and transfer of the Parkplace Southwest subdivision water service area, which serves 28 connections.
5. The requested service area is located approximately 3.5 miles southeast of downtown Rosenberg, and is generally bounded on the north by Bryan Road; on the east by the end of Libra Street; on the south by Aquarius Street; and on the west by the end of Aquarius Street.

6. In Order No. 2 issued August 30, 2018, the administrative law judge (ALJ) found the application administratively complete.
7. In Order No. 4 issued on November 28, 2018, the ALJ approved the transaction to proceed and required the applicants to file proof that the transaction had closed and that customer deposits had been addressed.
8. On January 25, 2019 and February 1, 2019, Southwest and Rosenberg filed closing documents of sale and acknowledgement letters that the transaction had closed and that all customer deposits have been transferred.
9. In Order No. 5 issued on February 20, 2019, the ALJ found the closing documents sufficient.
10. On March 25, 2019 and March 27, 2019, Southwest and Rosenberg filed consent forms concurring with the maps and the certificate prepared by Commission Staff.
11. On April 9, 2019, the parties filed a joint proposed Notice of Approval, requesting that the requested service area from CCN number 11648 be placed in Rosenberg's CCN number 10713 and attached maps and tariffs reflecting that this area would be served under Rosenberg's CCN.

Notice

12. Notice of the application appeared in the August 10, 2018, issue of the *Texas Register*.
13. In Order No. 2 issued on August 30, 2018, the ALJ required Southwest and Rosenberg to give notice of the transaction to all persons, political subdivisions, and other entities in the affected current customers, districts, neighboring systems, counties, cities, and affected parties, and to publish notice once each week for two consecutive weeks in a newspaper of general circulation in Fort Bend County with a deadline to file proof of such notice by September 24, 2018.
14. On September 26, 2018, applicants filed the affidavit Jeff Mahan, representative of Southwest, attesting that notice was provided to current customers, neighboring utilities, and affected parties on August 29, 2018; and the publishers affidavit of Lee Hartman attesting to publication of notice in *Fort Bend Herald* on September 16, 2018 and September 23, 2018 in Fort Bend County.

15. In Order No. 3 issued on October 11, 2018, the ALJ found notice of the application sufficient.

Sale

16. In Order No. 4 issued on November 28, 2018, the ALJ approved the transaction to proceed and required Southwest and Rosenberg to file proof that the transaction had closed and that customer deposits had been addressed.
17. On January 25, 2019, Southwest and Rosenberg filed notice that the sale had closed, along with the attached executed agreement for the sale and transfer of the requested area and indicated that there were no customer deposits to address.
18. On February 1, 2019, the applicants filed information indicating that customer deposits had been transferred to Rosenberg.
19. In Order No. 5 issued February 20, 2019, the ALJ found the closing documents sufficient.

Evidentiary Record

20. On April 9, 2019, the parties filed a joint motion to admit evidence into the record.
21. In Order No. 7 issued on May 15, 2019, the ALJ admitted the following evidence into the record: (a) the applicants application filed on July 23, 2018; (b) the *Texas Register* notice filed on July 26, 2018; (c) the applicants' proof of notice documentation filed on September 26, 2018; (d) Commission Staff's recommendation on final disposition filed on November 27, 2018; (e) the applicants' transaction closing documentation, filed January 25, 2019, and February 1, 2019; (f) Commission Staff's recommendation on the closing of the transaction, filed February 19, 2019; and (g) the applicants' consent forms filed on March 25 and March 27, 2019.

System Compliance—Texas Water Code (TWC) § 13.301(e)(3)(A); 16 TAC §§ 24.227(a), 24.239(j)(3)(A), (j)(5)(A)

22. Southwest and Rosenberg have not been subject to any enforcement action by the Commission, the Texas Commission on Environmental Quality (TCEQ), the Texas Department of Health, the Office of the Attorney General, or the United States Environmental Protection Agency.

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

23. Southwest currently operates and maintains the water system serving the subdivision.
24. Southwest has an approved TCEQ Public Water System, Number 0790144, with an adequate water supply. However, due to the need for system upgrades, Southwest has provided inconsistent water pressure to the subdivision.

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

25. The transaction will allow Rosenberg to provide service to 28 connections in the requested area.
26. The requested service area is within the corporate limits of Rosenberg.

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

27. The applicants and landowners in the area are not adversely affected because Rosenberg has agreed to upgrade the facilities serving the subdivision.
28. The proposed transaction will allow Rosenberg to provide more reliable water and fire suppression services to the requested area.
29. There are no other retail public utilities providing water service that would be affected by the proposed transaction.
30. The water rates in the requested service area will not change due to the transfer.

Ability to Serve: Managerial and Technical—TWC §§ 13.241(a), 13.246(c)(4), 13.301(b), (e)(2); 16 TAC §§ 24.227(a), (d)(4), 24.239(g), (j)(5)(E)

31. Rosenberg has the ability to provide water service to the subdivision, and plans to construct a new distribution system in the requested service area.
32. Rosenberg has access to an adequate supply of water and has the capacity to serve the requested service area.

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

33. Rosenberg meets the debt-to-equity ratio requirement of less than one and has demonstrated the financial capability to serve the requested service area.

34. Rosenberg has sufficient cash available and projected to cover any projected operations and maintenance shortages in the next five years of operations.
35. Rosenberg has demonstrated adequate financial and managerial capability to provide continuous and adequate service to the requested service area.
36. Rosenberg is capable of providing continuous and adequate service to the requested service area.

Financial Assurance–TWC §§ 13.246(d), 13.301(c); 16 TAC §§ 24.227(e), 24.239(h)

37. There is no need to require Rosenberg to provide a bond or other financial assurance to ensure continuous and adequate service.

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

38. The requested service area has existing facilities and is currently being served by Southwest.
39. Utilities within a two-mile radius were noticed and no protests or requests to opt out were received regarding the proposed transaction.

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

40. The proposed transaction will not adversely impact the environmental integrity of the land because the requested service area is currently receiving service.

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

41. The proposed transaction should have no effect on the land because the requested service area already has water service.

Improvement of Service or Lowering Cost to Consumers–TWC § 13.246(c)(8); 16 TAC §§ 24.227(d)(8), 24.239(j)(5)(I)

42. The proposed transaction will likely improve customer service to existing customers because the water system will be integrated in the system of Rosenberg and the rates will not change.

Map and Certificates

43. On March 20, 2019, Commission Staff emailed to Southwest and Rosenberg the proposed map and certificates related to this docket.

44. On March 25, 2019 and March 27, 2019, Southwest and Rosenberg filed consent forms concurring with the proposed map and certificates.
45. On April 9, 2019, Commission Staff and Rosenberg filed the certificates and map as an attachment to the joint motion for approval of a Notice of Approval.

Informal Disposition

46. More than 15 days have passed since the completion of notice provided in this docket.
47. No person filed a protest or motion to intervene.
48. Southwest, Rosenberg and Commission Staff are the only parties to this proceeding.
49. No party requested a hearing and no hearing is needed.
50. Commission Staff recommended approval of the application.
51. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over this proceeding under Texas Water Code (TWC) §§ 13.041, 13.241, 13.244, 13.246, 13.251, 13.254, and 13.301.
2. Southwest and Rosenberg are retail public utilities as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Rosenberg is a municipal utility system as defined by Texas Government Code Chapter 552.
4. Public notice of the application was provided as required by TWC § 13.301(a)(2) and 16 TAC § 24.239(a) through (c).
5. The Commission processed the application as required by the TWC, the Administrative Procedure Act¹, and Commission rules.
6. Southwest and Rosenberg completed the sale within the time required by 16 TAC § 24.239(o).

¹ Tex. Gov't Code §§ 2001.001–.902.

7. After consideration of the factors in TWC § 13.246(c), Rosenberg has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area. TWC § 13.301(b).
8. Southwest and Rosenberg have demonstrated that the sale of Southwest's water systems and the amendment of Rosenberg's CCN will serve the public interest and are necessary for the service, accommodation, convenience, or safety of the public. TWC § 13.301(d) and (e).
9. A sale not completed in accordance with TWC § 13.301 is void. TWC 13.301(h).
10. Rosenberg must record a certified copy of the certificate granted and map approved by this Notice of Approval, along with a boundary description of the service area, in the real property records of Fort Bend County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording. TWC § 13.257(r) and (s).
11. 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 Rosenberg's purchase of Southwest's water service area serving the subdivision identified in this Notice of Approval under water CCN number 11648.
2. The Commission amends Rosenberg's CCN number 10713 to include the service area described by this Notice of Approval and shown on the attached map.
3. The Commission grants the certificate attached to this Notice of Approval.
4. The Commission approves the map attached to the joint motion for adoption of Notice of Approval filed on April 9, 2019.
5. Rosenberg must serve every customer and applicant for service within the approved area under water CCN number 10713 that requests water service and meets the terms of Rosenberg's water service, and such service must be continuous and adequate.

6. Rosenberg must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Fort Bend County affected by the application and submit to the Commission evidence of the recording no later than 45 days after receipt of this Notice of Approval.
7. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 30th day of May 2019.

PUBLIC UTILITY COMMISSION OF TEXAS



MAYSON PEARSON
ADMINISTRATIVE LAW JUDGE

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Public Utility Commission Of Texas

By These Presents Be It Known To All That

City of Rosenberg

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, City of Rosenberg, is entitled to this

Certificate of Convenience and Necessity No. 10713

to provide continuous and adequate water utility service to that service area or those service areas in Fort Bend County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48538 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of Rosenberg, 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, this 30th day of May 2019.



Public Utility Commission Of Texas

By These Presents Be It Known To All That

Southwest Environmental Resources, Inc.

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, Southwest Environmental Resources, Inc., is entitled to this

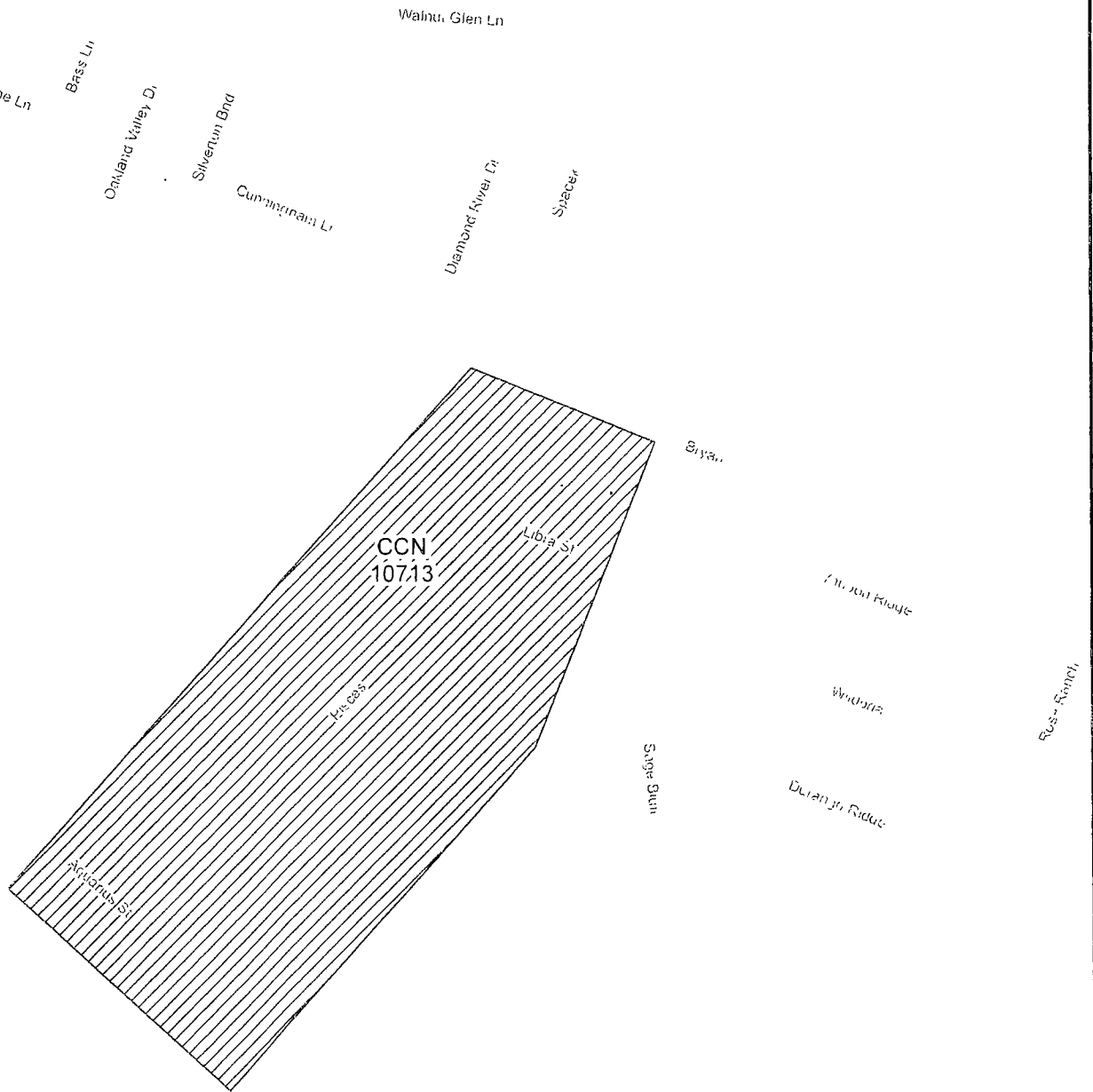
Certificate of Convenience and Necessity No. 11648

to provide continuous and adequate water utility service to that service area or those service areas in Fort Bend County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48538 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the Southwest Environmental Resources, Inc., 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, this 30th day of May 2019.

City of Rosenberg
Portion of Water CCN No. 10713
PUC Docket No. 48538

Transferred a Portion of Southwest Environmental Resources, CCN No. 11648 in Fort Bend County



Water CCN

 10713 - City of Rosenberg

0 250 500
Feet



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

Map by Komal Patel
Date created February 28, 2019
Project Path n:\finalmapping\
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