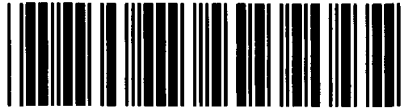


Control Number: 49615



Item Number: 12

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RECEIVED

APPLICATION OF MSEC §
ENTERPRISES, INC. AND MSEC §
WASTE WATER, INC. FOR SALE, §
TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN MONTGOMERY COUNTY §

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PUBLIC UTILITY COMMISSION
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OF TEXAS

JOINT MOTION TO ADMIT EVIDENCE

COMES NOW, MSEC Enterprises, Inc. (MSEC Enterprises) and MSEC Waste Water, Inc. (MSEC Waste Water) (collectively, applicants) together with the Staff of the Public Utility Commission of Texas (Staff) (collectively, the Parties), and file this Joint Motion to Admit Evidence. In support thereof, the Parties show the following:

I. BACKGROUND

On June 7, 2019, MSEC Enterprises and MSEC Waste Water filed an application for Sale, Transfer, or Merger of a Public Utility System (Application). Order No. 3, issued by the Commission administrative law judge (ALJ) on July 16, 2019, found the application administratively complete and required notice. Order No. 3 also set a deadline of October 21, 2019 for parties to file a joint motion to admit evidence and proposed order approving the sale and allowing the transaction to proceed. Therefore, this pleading is timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

The Parties move to admit the following into the record evidence of this proceeding:

- a) The Application, filed on June 7, 2019;
- b) Applicant’s affidavit and proof of notice, filed on July 18, 2019; and
- c) Commission Staff’s Recommendation on Final Disposition, filed on September 19, 2019.

III. JOINT PROPOSED ORDER APPROVING SALE

The attached Joint Proposed Order Approving Sale/Transfer to Proceed would approve the sale and authorize the transaction proposed in the Application to proceed.

12

IV. CONCLUSION

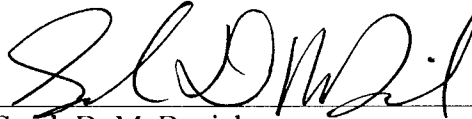
The Parties respectfully request that the Commission grant the Motion to Admit Evidence, and adopt the attached Joint Proposed Order Approving Sale.

Dated: October 21, 2019

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on October 21, 2019, in accordance with 16 TAC § 22.74.



Sarah D. McDaniel

DOCKET NO. 49615

APPLICATION OF MSEC	§	
ENTERPRISES, INC. AND MSEC	§	PUBLIC UTILITY COMMISSION
WASTE WATER, INC. FOR SALE,	§	
TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	OF TEXAS
RIGHTS IN MONTGOMERY COUNTY	§	

JOINT PROPOSED ORDER APPROVING SALE/TRANSFER TO PROCEED

This Order addresses the June 7, 2019 application of MSEC Enterprises, Inc. (MSEC Enterprises) and MSEC Waste Water, Inc. (MSEC Waste Water) (collectively, applicants) for the sale, transfer or merger of facilities and certificate rights in Montgomery County. Specifically, MSEC Waste Water seeks approval to acquire all of the wastewater system assets owned by MSEC Enterprises and the associated service area held under certificate of convenience and necessity (CCN) number 20984.

On September 19, 2019, Commission Staff recommended that the transaction proceed in this docket. This Order issues an approval of the sale and authorizes the transaction proposed in this application to proceed.

1. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. MSEC Enterprises is an active domestic for-profit corporation registered with the Texas secretary of state under file number 145205000.
2. MSEC Enterprises is a retail public utility that provides wastewater service in Texas under CCN number 20984 in Montgomery County.
3. MSEC Enterprises owns two wastewater systems in Montgomery County permitted by the Texas Commission on Environmental Quality (TCEQ) under TCEQ Water Quality (WQ) Discharge Permit Numbers WQ 14638-001 and WQ 15341-001.
4. MSEC Waste Water is an active domestic for-profit corporation registered with the Texas secretary of state under file number 803298779.
5. MSEC Waste Water is a new wastewater utility that currently does not own any facilities.

Application

6. On June 7, 2019, applicants filed an application for the approval of the sale of all of the wastewater facilities currently owned and operated by MSEC Enterprises and transfer of the corresponding service area held under CCN number 20984 in Montgomery County from MSEC Enterprises to MSEC Waste Water.
7. MSEC Enterprises' CCN 20984 serves the Lone Star Elementary School, Keenan Elementary School, Lake Creek High School, Oak Hill Junior High School (Montgomery Independent School District), and MSEC Enterprises' offices, all in Montgomery County.
8. The requested area subject to this transaction is located approximately five miles southeast of Montgomery, Texas, and is composed of four separate parcels located along FM 2854 and Keenan Cut-Off.
9. The total area affected by the transfer comprises approximately 373 acres and three current customers in Montgomery County.
10. In Order No. 3 issued July 16, 2019, the administrative law judge (ALJ) deemed the application administratively complete.

Notice

11. On July 18, 2019, MSEC Enterprises, Inc. filed an affidavit of Troy Morris, First Vice President of MSEC Enterprises, Inc., attesting that notice was provided to all current wastewater customers of MSEC Enterprises, neighboring utilities, counties, cities, and affected parties on July 18, 2019.
12. In Order No. 4 issued July 30, 2019, the ALJ deemed the notice sufficient.

Evidentiary Record

13. On _____, the parties jointly moved to admit evidence.
14. In Order No. ___ issued on _____, 2019, the ALJ admitted the following evidence into the record: (a) the application, filed on June 7, 2019; (b) Troy Morris' affidavit and proof of notice, filed on July 18, 2019; and (c) Commission Staff's Recommendation on Final Disposition, filed on September 19, 2019.

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

15. MSEC Enterprises' facilities operating under WQ Discharge Permit Numbers WQ 14638-001 and WQ 15341-001 are currently in compliance with the TCEQ design criteria and operation requirements.
16. There are no reported violations of the TCEQ's rules.
17. MSEC Enterprises has not been subject to any enforcement action by the Commission, TCEQ, the Texas Health and Human Services Commission, 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)

18. MSEC Enterprises and MSEC Waste Water are wholly-owned subsidiaries of Mid-South Synergy. The existing sewer facilities and sewer customers are being transferred to MSEC Waste Water.
19. There is no further construction necessary to provide adequate service to the requested area.

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

20. The application seeks to transfer all of MSEC Enterprises' sewer CCN to MSEC Waste Water. MSEC Waste Water currently does not have a sewer CCN as it is a new market entrant.

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)

21. MSEC Enterprises and MSEC Waste Water are the only utilities affected by this sale and 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)

22. The operations, maintenance, management, and customer services will continue to be provided by Mid-South Synergy via an operating agreement transferred from MSEC

Enterprises to MSEC Waste Water. TCEQ certified operators are currently employed to operate the sewer treatment plants in accordance with TCEQ licensing requirements.

23. Customers will continue to receive the same level of service as there will be no change in daily customer service and operations as a result of the proposed transaction.
24. The application did not contemplate any increase in customer density or any planned developments, therefore the adequate service currently being provided is not expected to change as a result of the transaction.

Ability to Serve: Financial Ability and Stability—TWC §§ 13.241(a), 13.246(c)(6), 13.301(b); 16 TAC §§ 24.11(e), 24.227(a), (d)(6), 24.239(g), (i)(5)(G)

25. MSEC Waste Water has a debt to equity ratio of less than one and meets the first leverage test.
26. MSEC Waste Water meets the second and third leverage tests by projecting a positive cash flow in the first year of operations and unrestricted cash reserves that suffice to cover two years of debt service, equal to zero.
27. MSEC Waste Water has demonstrated the financial capability and stability to provide continuous and adequate water service.

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

28. MSEC Waste Water's projected operating revenues are sufficient to cover the projected operations and maintenance expense for the first five years after the completion of the proposed sale and transfer.
29. There is no need to require MSEC Waste Water 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)

30. MSEC Enterprises is transferring all its wastewater utility assets to MSEC Waste Water, a new entity created by Mid-South Synergy. Both MSEC Enterprises and MSEC Waste Water are wholly-owned subsidiaries of Mid-South Synergy, a member-owned electric cooperative.
31. There will be no changes to land uses or existing CCN boundaries.

32. It is not feasible to obtain service from another utility other than MSEC Waste Water.

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

33. The environmental integrity of the land will not be affected as the requested area will be managed and operated by the same highly-qualified personnel.

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

34. The environmental integrity of the land will not be affected as the requested area will be managed and operated by the same highly-qualified personnel.

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

35. The customers' rates will remain the same upon approval of the application.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. After consideration of the factors in TWC § 13.246(c), MSEC Waste Water has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area. TWC § 13.301(b).
2. MSEC Enterprises and MSEC Waste Water have demonstrated that transferring the wastewater service area held under CCN number 20984 from MSEC Enterprises to MSEC Waste Water will serve the public interest and is necessary for the service, accommodation, convenience, or safety of the public. TWC § 13.301(d), (e).

III. Ordering Paragraphs

In accordance with the preceding findings of fact and conclusions of law, the Commission issues the following orders.

1. The sale is approved and the transaction between applicants may proceed and be consummated.

2. As soon as possible after the effective date of the transaction, but not later than 30 days after the effective date, the applicants shall file proof that the transaction has been consummated and customer deposits have been addressed.
3. The applicants have 180 days to complete the transaction.
4. Under 16 Texas Administrative Code § 24.109(o), if the transaction is not consummated within this period, or an extension is not granted, this approval is void and the applicants will have to reapply for approval.
5. The applicants are advised that the service area will remain under certificate of convenience and necessity number 20984 and held by MSEC Enterprises until the sale and transfer transaction is complete in accordance with Commission rules.
6. The applicants shall submit documents evidencing that the transaction was consummated.
7. Within 15 days following the filing of the applicants' proof that the transaction has been consummated and customer deposits, if any, have been addressed, Commission Staff shall file a recommendation regarding the sufficiency of the documents and propose a schedule for continued processing of this docket.

Signed at Austin, Texas the ___ day of _____, 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE