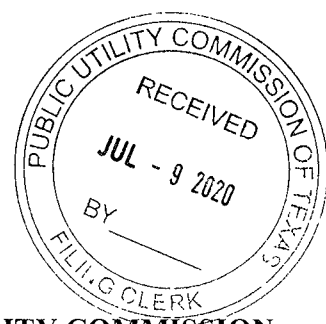


Control Number: 50038



Item Number: 25

Addendum StartPage: 0



**DOCKET NO. 50038**

**APPLICATION OF GUM ISLAND  
UTILITY AND EAST HOUSTON  
UTILITIES, INC. DBA KREBS  
UTILITIES FOR A SALE, TRANSFER,  
OR MERGER OF FACILITIES AND  
CERTIFICATE RIGHTS IN LIBERTY  
COUNTY** §  
§  
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§

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**ORDER NO. 8  
ORDER APPROVING SALE AND TRANFER TO PROCEED**

This Order addresses the application of Gum Island Utility and East Houston Utilities, Inc. dba Krebs Utilities, filed on September 20, 2019, for a sale, transfer, or merger of facilities and certificate of convenience and necessity (CCN) rights in Liberty County. The applicants seek to transfer all of Gum Island’s facilities and service area under water certificate of convenience and necessity (CCN) number 12042, along with the CCN, to East Houston. Commission Staff recommended that the transaction in this docket be allowed to proceed. The administrative law judge (ALJ) grants that the transaction proposed in this application may proceed and be consummated.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicants**

1. Gum Island is a wholly-owned subsidiary of Malley Corporation and obtained water CCN number 12042 in 1987.
2. Gum Island subsequently forfeited its corporate charter and water CCN number 12042 and the associated facilities and land reverted to Malley.
3. Through a series of conveyances starting in 1997 and ending in 2014, water CCN number 12042 and the associated land and facilities were conveyed to East Houston. None of these transactions received the required regulatory approval.<sup>1</sup>

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<sup>1</sup> See: *Commission Staff’s Third Supplemental Recommendation on Administrative Completeness, Proposed Notice, and Procedural Schedule*, Docket No. 50038 (March 10, 2020).

4. East Houston is a domestic for-profit corporation registered with the Texas secretary of state under file number 801457298.
5. East Houston has two assumed names of Krebs Utilities and TriKay Environmental Services registered with the Texas secretary of state in
6. East Houston is a retail public utility that provides water service under CCN number 11984 and sewer service under CCN number 20781 in Harris County.

#### Application

7. On September 20, 2019, the applicants filed an application for sale, transfer, or merger of facilities and certificate rights in Liberty County. Specifically, East Houston seeks approval to acquire the Texas Commission on Environmental Quality (TCEQ)-registered public water system, identification number 1460061, and transfer water service area and CCN number 12042 currently held by Gum Island.
8. The applicants supplemented the application on October 8 and November 19, 2019, and February 3 and 18, 2020.
9. The requested service area subject to this transaction is located approximately eight miles southwest of downtown Dayton, Texas, and is generally bounded on the north by a line approximately 1,000 feet north of County Road 4865, on the east by County Road 486, on the south by a line approximately 1,000 feet south of County Road 486, and on the west by a line approximately 3,000 feet west of County Road 48.
10. The total area affected by the transfer comprises approximately 86 acres and 28 current customers.
11. In Order No. 5 filed on March 13, 2020, the ALJ deemed the application administratively complete.

#### Notice

12. On April 1, 2020, the applicants filed a copy of the notice and map provided to current customers, neighboring utilities, and affected parties and a list of the customers and other entities who received notice.

13. On April 15, 2020, the applicants filed the affidavit of Stephen Krebs, owner of East Houston, attesting that notice was provided to current customers, neighboring utilities, and affected parties on March 26, 2020.
14. In Order No. 6 filed on April 28, 2020, the ALJ deemed the notice sufficient.

**Evidentiary Record**

15. On June 17, 2020, Commission Staff filed a motion to admit evidence on behalf of the parties.
16. In Order No. 7 filed on June 23, 2020, the ALJ admitted the following into evidence: (a) the application filed on September 20, 2019; (b) applicants' response to Order No. 1 filed on October 8, 2019; (c) applicants' supplemental information filed on November 19, 2019; (d) applicants' historical financial information filed on February 3, 2020; (e) applicants' additional financial information filed on February 18, 2020; (f) Commission Staff's third supplemental recommendation administrative completeness and proposed notice and procedural schedule filed on March 10, 2020; (g) applicants' proof of notice filed on April 1 and 15, 2020; (h) applicant's response to Commission Staff's first request for information filed on April 6, 2020; (i) Commission Staff's recommendation on sufficiency of notice filed on April 24, 2020; and (j) Commission Staff's recommendation on approval of the transaction filed on May 27, 2020.

**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)**

17. Gum Island and East Houston have not been subject to any enforcement action by the Commission, TCEQ, the Texas Department of Health and Human Services Commission, the Office of Attorney General, or the United States Environmental Protection Agency.
18. Gum Island and East Houston do not have any violations listed in the TCEQ database.
19. Gum Island and East Houston demonstrated a compliance status that is adequate for approval of the transaction.

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

20. East Houston is currently providing water service to 28 customers in the 86-acre requested area through public water system number 1460061, and such service has been continuous and adequate.

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

21. There is a need for service because East Houston is currently serving approximately 28 customers in the 86-acre requested area.
22. East Houston has received no new requests for service and is not requesting to add additional uncertificated area.
23. The application is to transfer only existing facilities, customers, and service area.

*Effect of Approving the Transaction—TWC § 13.246(c)(3); 16 TAC §§ 24.227(e)(3), 24.239(j)(5)(D)*

24. East Houston is already operating and maintaining the public water system; therefore, there will be no effect on any other retail public utility servicing the proximate area.
25. The 86-acre requested area is already certificated; therefore, there will be no effect on landowners.
26. Approving the transaction and granting the CCN amendment will allow East Houston to continue serving the approximately 28 customers and obligate East Houston to provide service to any future customers in the 86-acre area.

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

27. Public water system number 1460061, through which East Houston is currently providing service to approximately 28 customers in the 86-acre requested area, has adequate capacity to meet the demands in the requested area.
28. East Houston owns and operates multiple public water systems registered with the TCEQ and does not have any violations listed in the TCEQ database.
29. East Houston employs a sufficient number of TCEQ-licensed operators who will operate the public water system.
30. East Houston has access to an adequate supply of water and is capable of providing drinking water that meets the requirements of chapter 341 of the Texas Health and Safety Code, chapter 13 of the TWC, and the TCEQ's rules.
31. East Houston has the managerial and technical capability to provide continuous and adequate service to the 86-acre requested area.

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

32. The 86-acre requested area is currently being served by East Houston through existing facilities.
33. Notice was provided to utilities within a two-mile radius and no protests or requests to opt out were received regarding the proposed transaction.
34. It is not feasible for an adjacent utility to provide service to the 86-acre requested area.

**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), (e)(6), 24.239(g), (j)(5)(G)**

35. East Houston has pledged to cover any temporary cash shortages and demonstrated that it has sufficient cash available to cover any projected operations and maintenance shortages for the first five years of operations after completion of the proposed sale and transfer, satisfying the operations test.
36. East Houston has a debt-to-equity ratio of less than one, satisfying the leverage test.
37. Through its affiliation with East Houston Utilities, Inc., East Houston DBA Krebs Utilities has demonstrated the financial capability and stability to provide continuous and adequate sewer service.
38. East Houston has pledged to cover any losses in the first five years following the sale and transfer.

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

39. There is no need to require East Houston to provide a bond or other financial assurances to ensure continuous and adequate service.

**Environmental Integrity and Effect on the Land—TWC § 13.246(c)(7); 16 TAC §§ 24.227(e)(7)  
and (e)(9), 24.239(1)(5)(H)**

40. There will be no effect on environmental integrity and on the land because the 86-acre requested area is already receiving service and no additional construction is needed to continue providing service.

**Improvement in Service or Lowering Cost to Consumer—TWC § 13.246(c)(8); 16 TAC §§ 24.227(e)(8,) 24.239(j)(5)(I)**

41. East Houston is already operating and maintaining the public water system; therefore, following the proposed transaction, customers in the 86-acre requested area will continue to receive the same level of water service that is currently being provided.
42. The rates charged to customers will not change as a result of the proposed transaction.

**Regionalization or Consolidation—TWC § 13.241(d); 16 TAC § 24.227(b)**

43. East Houston already serves approximately 28 customers in the 86-acre requested area and East Houston does not need to construct a physically separate water system to continue serving the area. Accordingly, concerns of regionalization or consolidation do not apply.

## **II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. The applicants provided notice of the application that complies with TWC §§ 13.246 and 13.301(a)(2), and 16 TAC § 24.239.
2. After consideration of the factors in TWC § 13.246(c) and 16 TAC §§ 24.227(e) and 24.239(j)(5), East Houston demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the 86-acre requested area as required by TWC § 13.301(b) and 16 TAC § 24.239(g).
3. Gum Island and East Houston demonstrated that the sale of public water system number 1460061 and the transfer of the service area held under CCN number 12042 from Gum Island to East Houston will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public. TWC § 13.301(d), (e).

## **III. Ordering Paragraphs**

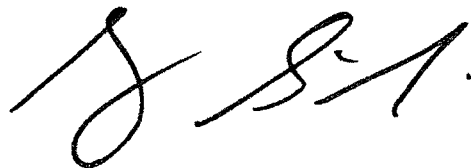
In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The sale is approved and the transaction between the 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 must file proof that the transaction has been consummated and customer deposits, if any, have been addressed.
3. The applicants have 180 days to complete the transaction.
4. Under 16 TAC § 24.239(o), if the transaction is not consummated within this 180-day period, or an extension is not granted, this approval is void and the applicants will have to reapply for approval.
5. Gum Island and East Houston area advised that CCN number 12042 will be held by Gum Island until the sale and transfer transaction is complete in accordance with the Commission's rule.
6. In an effort to finalize this case as soon as possible, the applicants must continue to file monthly updates regarding the status of the closing and 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 customers deposits, if any, have been addressed, Commission Staff must file a recommendation regarding the sufficiency of the documents and propose a procedural schedule for continued processing of this docket.

**Signed at Austin, Texas the 9th day of July 2020.**

**PUBLIC UTILITY COMMISSION OF TEXAS**



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**GREGORY R. SIEMANKOWSKI  
ADMINISTRATIVE LAW JUDGE**