

Control Number: 50057



Item Number: 27

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Palo Pinto

DOCKET NO. 50057

APPLICATION OF MOUNTAIN RIVER §
WATER COMPANY AND RJR WATER §
COMPANY, INC. FOR SALE, §
TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN PARKER AND PALO §
PINTO COUNTIES §

PUBLIC UTILITY COMMISSION
OF TEXAS

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FILING CLERK

NOTICE OF APPROVAL

This Notice of Approval addresses the September 27, 2019 application of Mountain River Water Company and RJR Water Company for approval of a sale, transfer, or merger of facilities and certificate rights in Parker and Palo Pinto counties. The Commission approves the sale and transfer to RJR Water of: (1) all of Mountain River’s facilities and service area under certificate of convenience and necessity (CCN) number 12139; and (2) CCN number 12139.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Mountain River is a domestic for-profit corporation registered with the Texas secretary of state under filing number 40359600.
2. Mountain River operates, maintains, and controls facilities that provides water service under CCN number 12139.
3. Mountain River owns a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under identification number 1840077.
4. RJR Water is a domestic for-profit corporation registered with the Texas secretary of state under filing number 803371238.

Application

5. On September 27, 2019, Mountain River and RJR Water filed an application for approval to sell all of Mountain River’s facilities and transfer all customers and service area held under CCN number 12139 to RJR Water.

6. The requested area consists of a 345-acre tract and 132 current customers.
7. The requested area subject to this transaction is located four miles southwest of downtown Millsap, Texas and is generally bounded on the north, west, and east by the Brazos River, and on the south by Soda Springs Road.
8. In Order No. 2 filed on October 31, 2019, the administrative law judge (ALJ) found the application administratively complete.

Notice of the Application

9. On November 21, 2019, RJR Water filed the affidavit of Robbie D. Evans, partner for RJR Water, who attested that notice was mailed on November 14 and 15, 2019, to all current customers, neighboring utilities, and affected parties.
10. In Order No. 4 filed on December 4, 2019, the ALJ found the notice sufficient.

Evidentiary Record

11. On February 14, 2020, the parties filed a joint motion to admit evidence and proposed order approving the sale to proceed.
12. In Order No. 5 filed on March 10, 2020, the ALJ admitted the following evidence into the record: (a) the application filed on September 27, 2019; (b) RJR Water's supplemental mapping information filed on October 14, 2019; (c) the applicants' proof of notice filed on November 21, 2019; (d) Commission Staff's recommendation on the transaction to proceed filed January 17, 2020.
13. On July 20, 2020, the parties filed another joint motion to admit evidence.
14. In Order No. 8 filed on July 24, 2020, the ALJ admitted the following evidence into the record: (a) the applicants' bill of sale filed on May 5, 2020; (b) Commission Staff's closing documents sufficiency recommendation filed on May 20, 2020; (c) the applicants' consent form filed on July 10, 2020; and (d) the map and certificate attached to the parties' joint proposed order filed on July 20, 2020.
15. On July 31, 2020, the parties filed another joint motion to admit evidence.
16. In Order No. 9 filed on August 3, 2020, the ALJ admitted as evidence in the record the tariff attached to the motion to admit additional evidence filed on July 31, 2020.

Sale

17. In Order No. 6 filed on March 13, 2020, 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.
18. On May 5, 2020, the applicants filed a notice that the sale had closed on April 29, 2020, along with an attached bill of sale and warranty deed. The applicants stated that there were no customer deposits to be addressed.
19. In Order No. 7 filed on May 27, 2020, the ALJ found the closing documents sufficient.

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)

20. Mountain River is in violation of TCEQ rules that require a minimum production capacity of 0.6 gallon per minute for each connection in the public water system.
21. Due to the high percentage of seasonal-only residents in the requested area, Mountain River has applied to the TCEQ for an alternative capacity requirement exception to bring public water system registration number 1840077 into compliance.
22. RJR Water is not the subject of any unresolved enforcement action by the Commission, TCEQ, the Texas Department of Health, the Office of Attorney General, or the United States Environmental Protection Agency.
23. RJR Water does not have any violations listed in the TCEQ database.
24. RJR Water will continue to work with the TCEQ for an alternative capacity requirement exception for public water system identification number 1840077.
25. RJR Water 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)

26. Mountain River has been providing service to the requested area, albeit while in violation of TCEQ minimum production capacity requirements.
27. RJR Water has applied to the TCEQ for an alternative capacity requirement exception to bring the system into compliance.

28. If the TCEQ does not grant an exception for capacity, RJR Water has an additional well that can be placed into service to meet capacity requirements.

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

29. There are 132 existing connections in the areas to be transferred and there is no need for additional service.
30. RJR Water received no new requests for service and is not requesting to add additional uncertificated area.
31. The application seeks permission to transfer only existing facilities, customers, and service area.

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

32. The proposed transaction will allow RJR Water to serve the customers in the requested area.
33. RJR Water will work with the TCEQ to ensure it has sufficient capability to serve the customers of the requested area.

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

34. RJR Water has a sufficient number of licensed operators and the managerial and technical capability to provide adequate and continuous service to the requested service area.
35. The applicants have sufficient capability to serve the customers and no additional construction is necessary.
36. RJR Water has the managerial and technical capability necessary to provide continuous and adequate service to the 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), and 24.239(g), (j)(5)(G)

37. RJR Water has a debt-to-equity ratio of less than one, satisfying the leverage test.
38. RJR Water has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations, meeting the operations test.

39. RJR Water has the financial ability and financial stability necessary to provide continuous and adequate service to the requested area.

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

40. There is no need to require RJR 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(e)(5), 24.239(g)(5)(F)

41. RJR Water will continue to serve the requested area with existing facilities; therefore, it is not feasible to obtain service from an adjacent utility.

42. Utilities within a two-mile radius were noticed and no protests or adverse comments were received from any utility regarding the proposed transaction.

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

43. No new physically separate water system will be constructed as a result of the transaction; therefore, consideration of regionalization or consolidation is not required.

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

44. Environmental integrity and the land will not be adversely affected because no additional construction is needed to provide service to the requested area.

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

45. The proposed transaction will improve service to the requested area.

46. Existing customers of Mountain River will be charged the same rates after the proposed transaction is complete, but RJR Water intends to request a rate increase with the Commission within 12 months after a Notice of Approval is issued in this docket.

Tariff, Map and Certificate

47. On June 18, 2020, Commission Staff emailed the final proposed map, certificate, and tariff related to this docket.

48. On July 10, 2020, RJR Water filed its consent forms concurring with the proposed map, certificate, and tariff.

49. The final map and certificate were included as attachments to Commission Staff's motion to admit evidence filed on July 20, 2020.
50. The final tariff was included as an attachment to Commission Staff's motion to admit evidence filed on July 31, 2020.

Informal Disposition

51. More than 15 days have passed since the completion of notice provided in this docket.
52. No person filed a protest or motion to intervene.
53. Mountain River, RJR Water, and Commission Staff are the only parties to this proceeding.
54. No party requested a hearing and no hearing is needed.
55. Commission Staff recommended approval of the application.
56. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this proceeding under TWC §§ 13.041, 13.241, 13.244, 13.246, 13.251, and 13.301.
2. Mountain River and RJR Water are retail public utilities as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
3. The applicants provided notice of the application that complies with TWC § 13.301(a)(2) and 16 TAC § 24.239(a) through (c).
4. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,¹ the TWC, and Commission rules.
5. Mountain River and RJR Water complied with the requirements of 16 TAC § 24.239(m) with respect to customer deposits.
6. Mountain River and RJR Water completed the sale within the time required by 16 TAC § 24.239(o).

¹ Tex. Gov't Code §§ 2001.001–.903.

7. After consideration of the factors in TWC § 13.246(c) and 16 TAC §§ 24.227(e) and 24.239(j)(5), RJR Water demonstrated adequate financial, managerial, and technical capability to provide continuous and adequate service to the requested service area as required by TWC § 13.301(b) and 16 TAC § 24.239(g).
8. It is not necessary for RJR Water to provide a bond or other financial assurance under TWC §§ 13.246(d) and 13.301(c).
9. Mountain River and RJR Water demonstrated that the sale of Mountain River's facilities and service area under water CCN number 12139 to RJR Water, will serve the public interest and is necessary for the service, accommodation, convenience, or safety of the public, as required by TWC §§ 13.246(b) and 13.301(d).
10. RJR Water 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 Parker and Palo Pinto counties within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording, as required by 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 the sale and transfer to RJR Water of: (1) all of Mountain River's facilities and service area under CCN number 12139; and (2) CCN number 12139, to the extent provided in this Notice of Approval.
2. The Commission approves the map and certificate attached to this Notice of Approval.
3. The Commission approves the tariff attached Commission Staff's motion to admit additional evidence filed on July 31, 2020.

4. RJR Water must serve every customer and applicant for service within the approved area under water CCN number 12139 who requests water service and meets the terms of RJR Water's water service, and such service must be continuous and adequate.
5. Within ten days of the date of this Notice of Approval, Commission Staff must provide a clean copy of the tariff approved by this Notice of Approval to central records to be marked *Approved* and filed in the Commission's tariff books.
6. RJR Water must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Parker and Palo Pinto counties affected by the application and submit to the Commission evidence of the recording no later than 45 days after receipt of the 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 5th day of August 2020.

PUBLIC UTILITY COMMISSION OF TEXAS



HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE



AFFIDAVIT

This affidavit is a certification of the Convenience and Necessity No. 12139.

This is a true official certified copy.

Robbie D. Evans

8-18-20

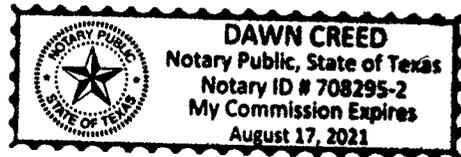
Robbie D Evans

Date

Secretary of RJR Water Company, Inc

Robbie D. Evans Appeared and signed before me on the 18th day of August, 2020.

Notary Dawn Creed
Name Dawn Creed

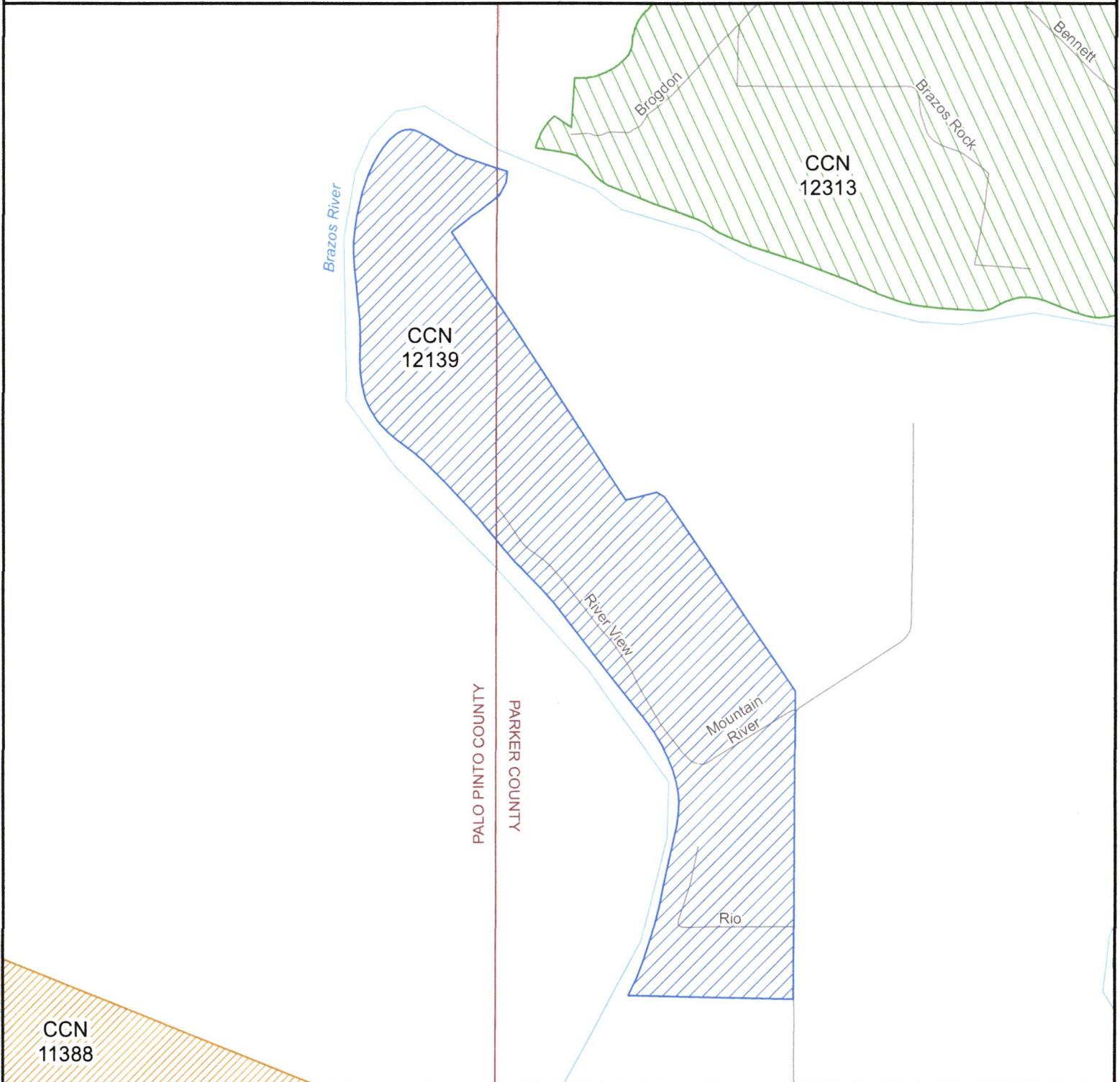


My Commission expires 8-17-2021

Seal

RJR Water Company, Inc.
Water CCN No. 12139
PUC Docket No. 50057

Transferred all of Mountain River Water Company in Palo Pinto and Parker Counties



Water CCN

-  12139 - RJR Water Company Inc
-  12313 - Parker County SUD
-  11388 - Santo WSC

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CERTIFIED FILED AND RECORDED
OFFICIAL PUBLIC RECORDS



Janette K. Green

Janette K. Green Palo Pinto County Clerk
Palo Pinto County, TX
08/18/2020 02:52 PM
Fee: \$34.00
2020-00004537 AF

B: OR V: 2331 P: 98



Public Utility Commission of Texas

By These Presents Be It Known To All That

RJR Water Company, 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, RJR Water Company, Inc. is entitled to this

Certificate of Convenience and Necessity No. 12139

to provide continuous and adequate water utility service to that service area or those service areas in Parker and Palo Pinto Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 50057 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 RJR Water Company, 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 5th day of August 2020.



Public Utility Commission of Texas

By These Presents Be It Known To All That

RJR Water Company, 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, RJR Water Company, Inc. is entitled to this

Certificate of Convenience and Necessity No. 12139

to provide continuous and adequate water utility service to that service area or those service areas in Parker and Palo Pinto Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 50057 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 RJR Water Company, 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 5th day of August 2020.

**CERTIFIED FILED AND RECORDED
OFFICIAL PUBLIC RECORDS**



A handwritten signature in cursive script, appearing to read "Janette K. Green".

Janette K. Green Palo Pinto County Clerk
Palo Pinto County, TX
08/18/2020 02:52 PM
Fee: \$34.00

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