



Control Number: 50122



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**DOCKET NO. 50122**

**APPLICATION OF MADERA  
VALLEY WATER SUPPLY  
CORPORATION AND THE TOWN  
OF PECOS CITY FOR SALE,  
TRANSFER, OR MERGER OF  
WATER FACILITIES AND  
CERTIFICATE RIGHTS IN REEVES  
COUNTY**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

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FILED

**COMMISSION STAFF'S RECOMMENDATION ON APPROVAL OF SALE**

**COMES NOW** the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and, in response to Order No. 4, files this Recommendation on Approval of Sale. In support, Staff shows the following:

**I. BACKGROUND**

On October 23, 2019, Madera Valley Water Supply Corporation (Madera Valley WSC) and Town of Pecos City (Pecos City) (collectively, Applicants) filed an application for the sale, transfer, or merger of facilities and certificate rights in Reeves County. Specifically, Madera Valley WSC seeks to sell a portion of its facilities and transfer a portion of its water service area held under certificate of convenience and necessity (CCN) No. 10240 to Pecos City. Pecos City's water CCN No. 10945 will be amended. The requested area includes approximately 11,112.79 acres and 66 connections. Applicants filed supplemental information on November 8, 2019.

On October 28, 2019, Order No. 1 was issued, establishing a deadline of November 22, 2019, for Staff to file a recommendation on the administrative completeness of the application and proposed notice and propose a procedural schedule for further processing of the application. Following Staff's recommendation that the application be found administratively complete, the administrative law judge (ALJ) issued Order No. 2, which found the application to be complete and established a deadline of December 30, 2019 for the Applicants to file proof of notice. The Applicants filed such proof on January 10, 2020. The procedural schedule established in Order No. 2 required Staff to provide a recommendation on the sufficiency of the Applicants' notice within 10 days of that proof being filed. On January 15, 2020, Staff recommended that notice be found sufficient, and on January 21, 2020, the ALJ issued Order No. 3, which found

notice sufficient and required Staff to file a proposed procedural schedule by January 24, 2020. On January 24, 2020, the ALJ issued Order No. 4, which established a deadline of February 19, 2020, for Staff to file a recommendation on the approval of the sale. Therefore, this pleading is timely filed.

## **II. RECOMMENDATION ON APPROVAL OF SALE**

As supported by the attached memorandum of Nabaraj Pokharel of the Commission's Infrastructure Division and Spencer English of the Commission's Rate Regulation Division, Staff recommends that the Applicants be allowed to proceed with the proposed transaction.

Staff further recommends that a hearing is not necessary.

## **III. CONCLUSION**

Staff respectfully requests that the ALJ issue an order approving the sale and allowing the transaction to proceed.

Dated: February 19, 2020

Respectfully submitted,

### **PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION**

Thomas S. Hunter  
Division Director

Rachelle Nicolette Robles  
Managing Attorney

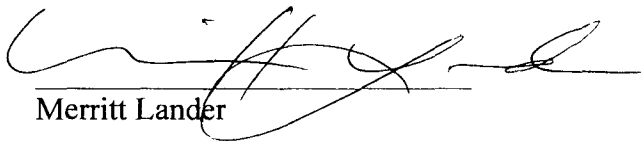
A handwritten signature in black ink, appearing to read 'Merritt Lander', is written over a horizontal line.

Merritt Lander  
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**DOCKET NO. 50122**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on February 19, 2020 in accordance with 16 TAC § 22.74.

  
Merritt Lander

## **PUC Interoffice Memorandum**

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**To:** Merritt Lander, Attorney  
Legal Division

**From:** Nabaraj Pokharel, Engineering Specialist  
Infrastructure Division

Spencer English, Financial Analyst  
Rate Regulation Division

**Date:** February 18, 2020

**Subject:** **Docket No. 50122:** *Application of Madera Valley Water Supply Corporation and the Town of Pecos City for Sale, Transfer, or Merger of Facilities and Certificate Rights in Reeves County*

### **Background**

On October 23, 2019, Madera Valley Water Supply Corporation (Madera Valley WSC) and the Town of Pecos City (Pecos City) (collectively, Applicants) filed an application for a sale, transfer, or merger (STM) of facilities and certificate of convenience and necessity (CCN) rights in Reeves County, Texas. This application was filed pursuant to Texas Water Code (TWC) § 13.301 and 16 Tex. Admin. Code (TAC) § 24.239. Specifically, Madera Valley WSC seeks to sell a portion of its facilities and transfer a portion of its water service area held under CCN number 10240 to Pecos City. Pecos City's water CCN No.10945 will be amended. The water CCN service area to be transferred includes approximately 11,113 acres and 66 existing customers.

### **Notice**

The comment period ended December 30, 2019, 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.**

Madera Valley WSC is currently providing water service to the requested area through Madera Valley WSC. Madera Valley WSC is registered with the Texas Commission on Environmental Quality (TCEQ) under PWS No. 1950006. The public water system has no TCEQ violations.

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

The application seeks to transfer 66 existing customers in Madera Valley WSC's CCN service area, which demonstrates a need for service.

**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 servicing the proximate area.**

Pecos City's CCN will be amended to include Madera Valley WSC's CCN service area. No other retail public utilities are affected by this application.

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

The Town of Pecos City is the largest municipal utility in Reeves County and has been in continuous operation for decades. It has excess capacity to serve residential and commercial growth in these areas. Madera Valley WSC's public water system has no TCEQ violations.

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

Madera Valley WSC and Pecos City have an agreement for the transaction; therefore, this requirement was not considered. Additionally, there are no other water providers in the area.

### **Financial Test**

**TWC § 13.246(c)(6) requires the Commission to consider the financial ability of an applicant to pay for facilities necessary to provide continuous and adequate service.**

The 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 includes a leverage test and operations test.

This analysis is based on financial statements contained an unqualified auditor's opinion from Park Fowler & Co. which stated that the that the financial statements present fairly, in all material respects, the financial position of Pecos City as of September 30, 2017. The audit and the related opinion indicate the transparency of Pecos City and indicate sound management capabilities.

There are five leverage tests. The applicant must demonstrate that it meets one of the five tests. Pecos City meets the first test with a debt to equity ratio less than one, as it has a debt to equity ratio calculated as follows: long term debt of \$6,736,552 divided by net position of \$29,281,499 equals 0.23 which is less than one.<sup>1</sup> Pecos City also meets the second test with a debt service coverage ratio of 4.90 which is greater than 1.25. The debt service coverage ratio is calculated as follows: net operating income of \$6,852,635 divided by annual debt service of \$1,399,857 equals 4.90, which is greater than 1.25.<sup>2</sup>

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<sup>1</sup> Application at 36.

<sup>2</sup> *Id.* at 41.

The operations test requires that the owner or operator must demonstrate that sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations. Pecos City did not submit projected financial statements in its application, however, based on the financial statements, it had \$6,852,635 in operating income. No improvements are needed to provide continuous and adequate service to the requested area. Therefore, Pecos City meets the operations test.

**TWC §§ 13.246(c)(7) and (9) require the Commission to consider the environmental integrity and the effect on the land to be included in the certificate.**

There will be no effect on the environmental integrity of the land since no additional construction is needed to provide service to the requested area.

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

Pecos City will continue to provide the same level of water service to the existing customers in the requested area.

Staff recommends that Pecos City meets all of the statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules and regulations and is capable of providing continuous and adequate service. Approving the transaction requested in this application for Madera Valley WSC to sell a portion of its facilities, transfer a portion of its water service area held under CCN number 10240 to Pecos City, and amend Pecos City's water CCN No.10945 is necessary for the service, accommodation, convenience and safety of the public.

**Recommendation on approval of sale**

Staff recommends the Commission find that the transaction will serve the public interest and allow the Applicants to proceed with the proposed transaction. Staff notes that there are no deposits held by Madera Valley WSC for the customers being served by Madera Valley WSC.

Staff further recommends that a public hearing is not necessary. Staff also recommends that Pecos City be ordered to file documentation as evidence that all assets have been transferred from Madera Valley WSC.

Additionally, the approval of the sale expires six months from the date of the Commission's written approval of the sale. If the sale is not effectuated within that period, and unless the Applicants request and receive an extension from the Commission, the approval is void and the Applicants must re-apply for the approval of the sale. Lastly, the CCN will remain in the name of Madera Valley WSC until the transfer is complete and approved in accordance with the Commission's rules and regulations.