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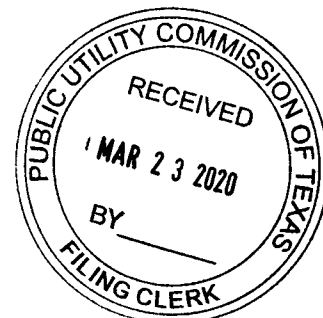
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**DOCKET NO. 50122**

**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**



**AGREED MOTION TO ADMIT EVIDENCE  
AND PROPOSED ORDER APPROVING SALE/TRANSFER TO PROCEED  
AND MOTION TO REQUIRE ELECTRONIC SERVICE**

**COMES NOW** the Staff (Staff) of the Public Utility Commission of Texas (Commission) and files this Motion to Admit Evidence and Proposed Order Approving Sale/Transfer to Proceed and Motion to Require Electronic Service with the agreement of Madera Valley Water Supply Corporation (Madera Valley WSC) and the Town of Pecos City (Pecos City) (collectively, the Parties). In support, the Parties show the following:

**I. BACKGROUND**

On October 23, 2019, Madera Valley WSC and 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.

On January 24, 2020, the application and notice having been found sufficient, the administrative law judge (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 or request a hearing. On February 19, 2020, Staff recommended that the transaction be allowed to proceed. Order No. 4 also established March 18, 2020 as the deadline for the Parties to file a motion to admit evidence and proposed order approving sale/transfer to proceed. Therefore, this pleading is timely filed.

## **II. AGREED MOTION TO ADMIT EVIDENCE**

The Parties move to have the following items admitted as evidence in this proceeding:

- a) The Applicants' application, filed October 23, 2019, as supplemented on November 8, 2019 (AIS Item Nos. 1 and 3);
- b) Commission Staff's recommendation on Administrative Completeness, filed on November 20, 2019 (AIS Item No. 4);
- c) The Applicants' proof of notice and supporting documentation, filed on January 10, 2020 (AIS Item No. 6); and
- d) Commission Staff's Recommendation on Approval of Sale, filed on February 19, 2020 (AIS Item No. 11).

## **III. AGREED PROPOSED ORDER APPROVING SALE/TRANSFER TO PROCEED**

The attached Agreed Proposed Order Approving Sale/Transfer to Proceed would authorize the sales and transfer of Madera Valley WSC's facilities and a portion of its water service area held under CCN No. 10240 to Pecos City and allow the transaction to proceed.

## **IV. MOTION TO REQUIRE ELECTRONIC SERVICE**

Pursuant to 16 Texas Administrative Code (TAC) § 22.74(c), the presiding officer may require service by email on motion of a party. On March 16, 2020, the Commission issued an Order Suspending Rules in Docket No. 50664, Issues Related to the State Disaster for the Coronavirus Disease 2019. The Order stated in relevant part that "all parties must file any pleading or document with the Commission solely through the Interchange on the Commission's website and provide notice, by email, to all other parties that the pleading or document has been filed with the Commission, unless otherwise ordered by the presiding officer." Accordingly, Staff requests that the ALJ issue an order requiring service by electronic mail in this docket. Staff further requests that the order direct any party to this proceeding who has not previously provided an email address to file a notice informing the parties of the email address to be used for service.

**V. CONCLUSION**

The Parties respectfully request that the Commission grant the Motion to Admit Evidence and the Motion to Require Electronic Service and adopt the attached Agreed Proposed Order Approving Sale/Transfer to Proceed.

Dated: March 23, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Rachelle Nicolette Robles  
Division Director

/s/ Merritt Lander  
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**CERTIFICATE OF SERVICE**

I hereby certify that, unless otherwise ordered by the presiding officer, a true and correct copy of the foregoing document was transmitted by electronic mail to the parties of record on March 23, 2020, in accordance with the Order Suspending Rules issued in Docket No. 50664.

/s/ Merritt Lander  
Merritt Lander

**DOCKET NO. 50122**

<b>APPLICATION OF MADERA</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>VALLEY WATER SUPPLY</b>	<b>§</b>	
<b>CORPORATION AND THE TOWN</b>	<b>§</b>	<b>OF TEXAS</b>
<b>OF PECOS CITY FOR SALE,</b>	<b>§</b>	
<b>TRANSFER, OR MERGER OF</b>	<b>§</b>	
<b>WATER FACILITIES AND</b>	<b>§</b>	
<b>CERTIFICATE RIGHTS IN REEVES</b>	<b>§</b>	
<b>COUNTY</b>	<b>§</b>	

**PROPOSED ORDER APPROVING SALE/TRANSFER TO PROCEED**

This Order addresses the October 23, 2019 application of Madera Valley Water Supply Corporation (Madera Valley WSC) and Town of Pecos City (Pecos City) for the sale, transfer, or merger of facilities and certificate rights in Reeves County. 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) number 10240 to Pecos City. Pecos City's water CCN number 10945 will be amended.

On February 19, 2020, Commission Staff recommended that the transaction proceed in this docket. 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. Madera Valley WSC is a non-profit water supply corporation organized under Texas Water Code (TWC) Chapter 67.
2. Madera Valley WSC operates, maintains, and controls facilities for providing water service in Jeff Davis and Reeves County under CCN number 10240.

3. Madera Valley WSC has a public water supply permit, public water system (PWS) Identification Number 1950006, registered with the Texas Commission on Environmental Quality (TCEQ).
4. Pecos City is a home rule municipality that owns and operates its own water utility
5. Pecos City provides retail water service in Reeves County under CCN number 10945.

#### **Application**

6. On October 23, 2019, applicants filed an application for approval of the sale, transfer, or merger of facilities in Reeves County.
7. Applicants seek to transfer a portion of Madera Valley WSC's facilities and transfer a portion of Madera Valley WSC's water service area held under CCN number 10240 to Pecos City and to amend Pecos City's water CCN number 10945.
8. The total area subject to the transaction is comprised of 11,112.79 acres and includes 66 customers.
9. The area subject to the transaction is located approximately five miles west of downtown Town of Pecos City, TX, and is generally bounded on the north by CR 424; on the east by FM 1216; on the south by CR 206; and on the west by FM 869.
10. In Order No. 2, issued on November 25, 2019, the ALJ found the application administratively complete.

#### **Notice**

11. On December 11, 2019, Madera Valley WSC filed the affidavit of Christina Bitolas, Advertising Manager, attesting that notice of the application was published in the *Pecos Enterprise* on December 12, 2019 and December 19, 2019.
12. On December 11, 2019, Meg Timmerman, President of Madera Valley WSC, filed an affidavit, attesting that notice was provided to all current customers, neighboring utilities, and affected parties on December 9, 2019.
13. In Order No. 3, issued on January 21, 2020, the ALJ deemed notice sufficient.

**Evidentiary Record**

14. On March 23, 2020, Commission Staff filed a motion to admit evidence on behalf of the parties.
15. In Order No. \_\_\_\_\_, issued on \_\_\_\_\_, 2020, the ALJ admitted the following evidence into the record:
  - a. The applicants' application, filed on October 23, 2019, as supplemented on November 8, 2019;
  - b. Commission Staff's recommendation on Administrative Completeness, filed on November 20, 2019;
  - c. The applicants' proof of notice and supporting documentation, filed on January 10, 2020; and
  - d. Commission Staff's Recommendation on Approval of Sale, filed on February 19, 2020.

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

16. Madera Valley WSC and Pecos City have not been subject to 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.
17. Madera Valley WSC and Pecos City have not been subject to 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.

**Adequacy of Existing Service — TWC § 13.301(c)(1); 16 TAC §§ 24.227(d)(1), (i)(5)(B)**

18. Madera Valley WSC is currently providing water service to the requested area through a water system registered with the TCEQ under PWS No. 1950006. The public water system has no TCEQ violations.

**Need for Additional Service—TWC § 13.246(c)(2); 16 TAC §§ 24.227(d)(2), 24.239(1)(5)(C)**

19. Madera Valley WSC currently serves 66 customers in the area subject to the transaction, which demonstrates a need for service.

20. The area surrounding Pecos City is experiencing an increase in the number of requests for new connections.
21. The transaction will transfer only existing customers, facilities, and service area.

**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)**

22. 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.
23. Landowners in the area subject to the transaction will benefit because Pecos City is better able to serve the growth happening in the area surrounding it.

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

24. 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.
25. Pecos City employs an individual who holds a Class C water operator's license issued by the TCEQ.
26. Pecos City has the managerial and technical capability to provide continuous and adequate service to the area that is the subject of the transaction.

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

27. 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 Ability and Stability—TWC §§ 13.241(a), 13.246(c)(6), and 13.301(b); 16 TAC §§ 24.11(e), 24.227(a), (d)(6), 24.239(g), (j)(5)(G)**

28. Pecos City has a debt to equity ratio of less than one calculated as follows: long term debt of \$6,736,552 divided by net position of \$29,281,499 equals 0.23.



29. Pecos City has a debt service coverage ratio of 4.90, which satisfies the leverage test of greater than 1.25.
30. Pecos City has demonstrated the financial capability and stability to provide continuous and adequate service to the requested area.

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

31. There is no need to require Pecos City to provide a bond or other financial assurance to ensure continuous and adequate service.

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

32. The proposed transaction will not adversely impact the environmental integrity of the land.
33. The requested area will continue to be served by existing systems and facilities, and no additional construction is needed; therefore, the effect on the land will be minimal.

**Improvement in Service or Lowering Cost to Consumers—TWC § 13.246(c)(8); 16 TAC §§ 24.227(d)(8), 24.239(1)(5)(I)**

34. The proposed transaction will improve customer service to existing customers because Pecos City will continue to provide the same level of water service to the existing customers.
35. Existing customers will be subject to the rates and tariff in effect for Pecos City once their meters are replaced by Pecos City, which will lower the average monthly bill for these customers.

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

36. Because Pecos City does not anticipate building any new facilities to continue serving the requested area, it is not necessary to consider regionalization or consolidation.

## **II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. Notice of the application was provided in compliance 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), Pecos City has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area. TWC § 13.301(b).
3. Madera Valley WSC and Pecos City have demonstrated that the transfer of the proposed portion of Madera Valley WSC's CCN No. 10240 to Pecos City 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 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 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 period, or an extension is not granted, this approval is void and the applicants will have to reapply for approval.
5. The applicants are notified that the facilities and corresponding service areas will remain under water CCN number 10240 and held by Madera Valley WSC until the sale and transfer transaction is complete in accordance with Commission rules.
6. In an effort to finalize this proceeding as soon as possible, the applicants must 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 applicants' proof that the transaction has been consummated and customer 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 \_\_\_\_\_ day of \_\_\_\_\_ 2020.

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**CHRISTOPHER OAKLEY**  
**ADMINISTRATIVE LAW JUDGE**