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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



**ORDER NO. 7
APPROVING SALE/TRANSFER TO PROCEED**

This Order addresses the October 23, 2019 application of Madera Valley Water Supply Corporation and the Town of 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 to include the requested area. 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 not-for-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 counties under CCN number 10240.
3. Madera Valley WSC has a public water system (PWS) registered with the Texas Commission on Environmental Quality (TCEQ) under PWS number 1950006.
4. Pecos City is a Texas 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, the applicants filed an application for approval of the sale, transfer, or merger of facilities in Reeves County.
7. The applicants seek to sell a portion of Madera Valley WSC's facilities and transfer the associated 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 to add the requested area.
8. The requested area is comprised of approximately 11,113 acres and 66 customers.
9. The requested area is located approximately five miles west of downtown of the Town of Pecos City, 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 filed on November 25, 2019, the ALJ found the application administratively complete.

Notice

11. On January 10, 2020, Madera Valley WSC filed the affidavit of Christina Bitolas, Advertising Manager of the *Pecos Enterprise*, attesting that notice of the application was published in the *Pecos Enterprise* on December 12, 2019 and December 19, 2019.
12. On January 10, 2020, 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 filed on January 21, 2020, the ALJ deemed notice sufficient.

Evidentiary Record

14. On March 23, 2020, Commission Staff filed an agreed motion to admit evidence.
15. In Order No. 6 filed on April 1, 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—Texas Water Code (TWC) § 13.301(e)(3); 16 Texas Administrative Code (TAC) §§ 24.227(a), 24.239(j)(3)(A), (j)(5)(A)

16. Neither Madera Valley WSC nor Pecos City have 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. The applicants have demonstrated a compliance status that is adequate for approval of the application.

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

18. The 66 customers in the requested area are currently receiving adequate and continuous water service from Madera Valley WSC, PWS number 1950006.

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

19. There are 66 existing customers in the requested area; therefore, there is 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 the requested area.
23. No other retail public utilities are affected by this application.
24. Landowners in the area subject to the transaction will benefit because Pecos City is better able to serve the growth expected in the requested area.

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)

25. Pecos City is the largest municipal utility in Reeves county, has been in continuous operation for decades, and has excess capacity to serve residential and commercial growth in the requested area.

26. Pecos City employs an individual who holds a Class C water operator's license issued by the TCEQ.
27. Pecos City has the managerial and technical capability to provide continuous and adequate service to the requested area.

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)

28. Madera Valley WSC is currently serving customers in the requested area and the portion of the PWS to be transferred has sufficient capacity to serve the requested area continuously and adequately.
29. There are no other water utilities within a two-mile radius of the requested area.
30. Madera Valley WSC and Pecos City have demonstrated that is not feasible to obtain service from another adjacent retail public utility.

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), (j)(5)(G)

31. Pecos City has a debt to equity ratio of less than one and a debt service coverage ratio of greater than 1.25, meeting the leverage test.
32. Pecos City'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, meeting the operations test.
33. 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)

34. 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)

35. The environmental integrity of the requested area will not be affected because the area will continue to be served by existing systems and facilities, and no additional construction is needed.

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

36. 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)

37. The proposed transaction will not affect service to existing customers because Pecos City will continue to provide the same level of water service to the requested area.
38. Existing customers in the requested area 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 cost for these customers.

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

39. Because Pecos City does not anticipate building any new facilities to continue serving the requested area, regionalization or consolidation is not applicable.

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 sale of the water facilities and transfer of the associated 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. Under 16 TAC § 24.109(o), if the transaction is not consummated within 180 days following the date of this Order, or an extension is not granted, this approval is void and the applicants will have to reapply for approval.
3. The applicants are advised that the water facilities and associated CCN will continue to be held by Madera Valley WSC until the sale and transfer is complete in accordance with Commission rules.
4. In an effort to finalize this case as soon as possible, the applicants must file, within 30 days of this Order and every 30 days thereafter, updates regarding the status of the transaction until the transaction is complete.
5. Not later than 30 days after the effective date of the transaction, the applicants must file proof that the transaction has been consummated and customer deposits have been addressed in satisfaction of 16 TAC § 24.239(m).
6. Within 15 days following the filing of the applicants' proof that the transaction has been consummated and customer deposits have been addressed, Commission Staff must file a recommendation regarding the sufficiency of the documents and propose a schedule for continued processing of this docket.

Signed at Austin, Texas the 14th day of April 2020.

PUBLIC UTILITY COMMISSION OF TEXAS



CHRISTOPHER OAKLEY
ADMINISTRATIVE LAW JUDGE