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2021 JUL 1

APPLICATION OF C.V.W.S., INC. AND §
JAMES F. BIBB FOR SALE, §
TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN HARRISON COUNTY §
§

2021 JUL -1 AM 19:00
PUBLIC UTILITY COMMISSION
OF TEXAS

**ORDER NO. 16
APPROVING SALE AND TRANSFER TO PROCEED**

This Order addresses the application of C.V.W.S., Inc. and James F. Bibb for the sale, transfer, or merger of facilities and certificate rights in Harrison County. The applicants seek approval to transfer facilities and service area consisting of 147 acres of uncertificated area of C.V.W.S.'s water certificate of convenience and necessity (CCN) number 11763 to James F. Bibb. In addition, Caddo Lake Water Supply Corporation seeks to transfer 11 acres of its water service area held under CCN number 10367 to James F. Bibb to be amended to CCN number 11763. The administrative law judge (ALJ) grants that the sale and transfer is approved and the transactions proposed in this application may proceed and be consummated.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. C.V.W.S. is a Texas corporation registered with the Texas secretary of state under filing number 800949522.
2. C.V.W.S. owns and operates facilities for providing retail water service in Harrison County under CCN number 11763.
3. Mr. Bibb is an individual whose address is 14617 Highway 43 North, Karnack, Texas 75661.
4. Caddo Lake WSC is a Texas corporation registered with the Texas secretary of state under filing number 24010101.
5. Caddo Lake WSC provides water service under CCN number 10367 in Harrison County.

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Application

6. On December 2, 2019, C.V.W.S. and Mr. Bibb filed an application for approval of the following transaction: (a) Mr. Bibb will acquire all of C.V.W.S.'s water facilities and service area under CCN number 11763; (b) Mr. Bibb will retain CCN number 11763; and (c) Mr. Bibb will amend CCN number 11763 with 147 acres of uncertificated area.
7. On December 11, 2020, the applicants filed a revised application that included a request from Caddo Lake WSC to transfer 11 acres of water service area held under CCN number 10367 to Mr. Bibb under CCN number 11763.
8. The applicants seek approval of the following transaction: (a) Mr. Bibb will acquire all of C.V.W.S.'s water facilities and service area under CCN number 11417; (b) C.V.W.S.'s CCN number 11417 will be cancelled; and (c) Mr. Bibb's CCN number 11661 will be amended to include the area previously included in C.V.W.S.'s CCN number 11417.
9. The requested service area to be transferred from Caddo Lake WSC includes zero existing connections, is located approximately 1.65 miles City of Uncertain, Texas, and is generally bounded on the north by 1400 feet north of the intersection of Mound Pond Road and Cypress Village Road; on the east by 900 feet east of the intersection of Mound Pond Road and Dorrough Road; on the south by 250 of the intersection of Mound Pond Road and Dorrough Road; and on the west by Mound Pond Road.
10. The requested uncertificated area and the requested service area to be transferred from C.V.W.S. includes 134 existing connections, is located approximately 1.9 miles north of downtown City of Uncertain, Texas, and is generally bounded on the north by Big Cypress Bayou; on the east by Big Cypress Bayou and Caddo Lake; on the south by Caddo Lake; and on the west by the intersection of Mound Pond Road and Dorrough Road.
11. The requested area includes approximately 231 acres and 134 current customers.
12. In Order No. 13 filed on March 8, 2021, the ALJ found the application, as supplemented, administratively complete.

Notice

13. On April 1, 2021, the applicants filed the affidavit of Mr. Bibb, transferee, attesting that notice was provided to current customers, neighboring utilities, and affected parties on March 3, 2021.
14. On April 1, 2021, the applicants filed a publisher's affidavit attesting to publication of notice in the *Marshall News Messenger*, a newspaper of general circulation in Harrison and Marshall counties, on March 14 and 21, 2021.
15. On April 13, 2021, the applicants filed a list of additional individuals and entities that were given notice, but inadvertently omitted from the initial list of recipients of notice.
16. In Order No. 14 filed on April 15, 2021, the ALJ deemed the notice sufficient.

Evidentiary Record

17. On June 16, 2021, the parties filed a joint motion to admit evidence.
18. In Order No. 15 filed on June 29, 2021, the ALJ admitted the following evidence into the record: (a) application for sale, transfer or merger of facilities, filed on December 2, 2019; (b) mapping information, filed on December 9, 2019; (c) Caddo Lake WSC's request to transfer CCN area to James Bibb, along with updated mapping materials, filed on July 6, 2020; (d) updated question 14 and page 18 on STM form, filed on September 28, 2020; (e) confidential 2019 income tax return bate stamp: 1 to 20, filed on September 28, 2020; (f) confidential 2018 income tax return bate stamp: 1 to 20, filed on September 28, 2020; (g) confidential bank statements and stock account bate stamp: 1 to 2, filed on October 19, 2020; (h) STM application revision, filed on October 27, 2020; (i) depreciation schedule, filed on October 27, 2020; (j) supplemental STM application of C.V.W.S., Inc, and James F Bibb, filed on December 11, 2020; (k) map of area to be transferred to James F Bibb, filed on December 11, 2020; (l) C.V.W.S. CCN number 11763 / Caddo Lake WSC – CCN number 10367 - map data, filed on January 19, 2021; (m) Commission Staff's supplemental recommendation on administrative completeness, filed on February 19, 2021; (n) notice for publication, filed on April 1, 2021; (o) additional names left off the proof of notice, filed on April 13, 2021; (p) Commission Staff's recommendation on sufficiency of notice, filed on April 15, 2021; and (q) Commission Staff's recommendation and confidential attachment, filed on May 20, 2021.

System Compliance

19. C.V.W.S. serves the area to be transferred through a public water system registered with the Texas Commission on Environmental Quality's (TCEQ) as Cypress Village Water System, identification number 1020047.
20. The TCEQ's Central Registry database shows that the last TCEQ compliance investigation of C.V.W.S. was on March 9, 2021. No violations or concerns were noted as a result of that investigation.
21. The Commission's complaint records show no complaints against C.V.W.S.

Adequacy of Existing Service

22. C.V.W.S. is currently providing service to 134 existing customers using public water system number 1020047, and such service has been continuous and adequate.
23. Mr. Bibb will make improvements to the water system.

Need for Service

24. There are currently 134 existing customer connections in the requested area; therefore, there is a need for service.
25. No additional service is needed at this time.

Effect of Approving the Transaction

26. C.V.W.S., Caddo Lake WSC, and Mr. Bibb are the only entities affected by the sale and transfer.
27. Mr. Bibb will become the certificated entity for the requested area and will be required to provide adequate and continuous service to the requested area.
28. There will be no effect on landowners in the area to be transferred from C.V.W.S. because it will remain certificated. Landowners in the uncertificated portion of the requested area will have the ability to request water service from Mr. Bibb.
29. There will be no effect on any retail public utility servicing the proximate area. All retail public utilities in the proximate area were provided notice of the transaction and CCN amendment proposed in this application and did not request to intervene.

Ability to Serve: Managerial and Technical

30. Mr. Bibb has worked with the owner of C.V.W.S. since 2019 to learn all aspects of the water business.
31. Mr. Bibb applied to the TCEQ for a Class D operator certification and completed the required classes.
32. Mr. Bibb's Class D operator license was issued on October 8, 2020.
33. Mr. Bibb does not have any violations listed in the TCEQ database.
34. Mr. Bibb has access to an adequate supply of water and is capable of providing 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.
35. Mr. Bibb has the managerial and technical ability to provide continuous and adequate service to the requested area.

Ability to Serve: Financial Ability and Stability

36. Mr. Bibb has a debt-to-equity ratio that is less than one, satisfying the leverage test.
37. Mr. Bibb submitted projected financial statements with the application and reported sufficient operating income and cash on hand to cover any operations and maintenance shortages in the next five years of operations and to pay for any future improvements needed to provide continuous and adequate service to the requested area. Therefore, Mr. Bibb meets the operations test.
38. Mr. Bibb demonstrated the necessary financial capability and stability to provide continuous and adequate service to the requested area.

Financial Assurance

39. There is no need to require Mr. Bibb to provide a bond or other financial assurance to ensure continuous and adequate service to the requested area.

Environmental Integrity and Effect on the Land

40. The 231-acre requested area will continue to be served with existing infrastructure and will not adversely impact the environmental integrity of the land.

41. Because the requested area will be served with existing infrastructure, the proposed transaction and CCN amendment will have minimal effect on the land.

Improvement in Service or Lowering of Cost

42. Mr. Bibb will continue providing service to existing customers and there will be no change in the quality of service.
43. All customers will be charged the same rates they were charged before the transaction.

Feasibility of Obtaining Service from Adjacent Retail Public Utility

44. Utilities within a two-mile radius were noticed and no protests or requests to opt out were received regarding the proposed transaction.
45. It is not feasible for an adjacent retail public utility to provide service to the requested because existing facilities already provide sufficient capacity for continuous and adequate water service.
46. Obtaining service from an adjacent retail public utility would likely increase costs to customers because new facilities will need to be constructed.

Regionalization or Consolidation

47. Concerns of regionalization or consolidation do not apply because construction of a physically separate water system is not needed to serve the requested area.

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 §§ 24.235 and 24.239(a) through (c).
2. After consideration of the factors in TWC § 13.246(c), Mr. Bibb demonstrated that it is capable of rendering continuous and adequate service to every customer within the requested area, as required by TWC § 13.251.
3. The applicants demonstrated adequate financial, managerial, and technical capability to provide adequate and continuous service to the requested area, as required by TWC §§ 13.241(a) and 13.301(b).

4. The applicants have demonstrated that the sale and transfer of the facilities and service under CCN number 11763 from C.V.W.S. to Mr. Bibb, who will retain CCN number 11763, and the transfer of 11 acres of service area held by Caddo Lake WSC under CCN number 10367 to Mr. Bibb under CCN number 11763 are necessary for the service, accommodation, convenience, and safety of the public, as required by TWC §§ 13.246(b) and 13.301(d) and (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 transactions between C.V.W.S. and James F. Bibb, and Caddo Lake WSC and James F. Bibb, 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. C.V.W.S. and Mr. Bibb have 180 days to complete the transaction.
4. Under 16 TAC § 29.239(m), if the transaction is not consummated within this period, or an extension has not been granted, this approval is void and C.V.W.S. and Mr. Bibb must reapply for approval.
5. The applicants are advised that the requested area will remain under CCN number 11763 and be held by C.V.W.S. and the service area under CCN number 10367 will be held by, and remain certificated to, Caddo Lake WSC until the sale and transfer transaction is completed in accordance with the Commission's rules.
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 customer deposits, if any, 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 1st day of July 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read 'G. R. Siemankowski', written in a cursive style.

GREGORY R. SIEMANKOWSKI
ADMINISTRATIVE LAW JUDGE

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