



Control Number: 50319



Item Number: 26

Addendum StartPage: 0



DOCKET NO. 50319

**APPLICATION OF SWWC §
UTILITIES, INC. DBA WATER §
SERVICES, INC. AND MONARCH §
UTILITIES I L.P. FOR SALE, §
TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN BANDERA, BEXAR, §
COMAL, GILLESPIE, GUADALUPE, §
HAYS, KENDALL, KERR, AND §
MEDINA COUNTIES §**

PUBLIC UTILITY COMMISSION

OF TEXAS

**JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED ORDER APPROVING
SALE AND TRANSFER TO PROCEED**

COME NOW SWWC Utilities, Inc. d/b/a Water Services, Inc. (Water Services) and Monarch Utilities I L.P. (Monarch) (collectively, applicants), together with the Staff (Commission Staff) of the Public Utility Commission of Texas (Commission) (collectively, the parties), and file this Joint Motion to Admit Evidence and Proposed Order Approving Sale and Transfer to Proceed. In support thereof, the Parties would show the following:

I. BACKGROUND

On December 5, 2019, the applicants filed an application for approval of the sale, transfer, or merger of facilities and certificate rights in in Bandera, Bexar, Comal, Gillespie, Guadalupe, Hays, Kendall, Kerr, and Medina counties under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239. Specifically, the applicants seek to transfer all water service area and associated facilities currently held under SWWC's water Certificate of Convenience and Necessity (CCN) No. 11106 to Monarch's CCN No. 12983 and to subsequently cancel CCN No. 11106. The requested sale and transfer includes approximately 8,258 acres and 3,905 customers.

On August 25, 2020, Order No. 7 was issued, requiring the parties to file a joint motion to admit evidence and proposed order approving the sale and allowing the transaction to proceed by October 9, 2020. Therefore, this pleading is timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

The parties move to admit the following into the record evidence of this proceeding:

1. The application of SWWC Utilities, Inc. d/b/a Water Services, Inc. and Monarch Utilities I L.P., filed on December 5, 2019 (Interchange Item Nos. 1 and 2);
2. The applicants' errata filed on January 8, 2020 and supplemental information filed on January 22, 2020, and March 24, 2020 (Interchange Item Nos. 4, 7, and 10);
3. The applicants' proof of notice and supporting documentation, filed on June 4, 2020, June 8, 2020, July 9, 2020, and July 13, 2020 (Interchange Item Nos. 13, 14, 17, and 18);
4. The applicants' confidential response to Commission Staff's first request for information (RFI), filed on September 3, 2020 (Interchange Item No. 24); and
5. Commission Staff's recommendation on approval of sale, filed on September 18, 2020 (Interchange Item No. 25).

III. JOINT PROPOSED FINAL ORDER

The attached Joint Proposed Order Approving Sale and Transfer to Proceed would grant Applicants' application for sale, transfer, or merger of facilities and certificate rights in Bandera, Bexar, Comal, Gillespie, Guadalupe, Hays, Kendall, Kerr, and Medina counties.

IV. CONCLUSION

The parties respectfully request that the Commission grant the Motion to Admit Evidence and adopt the attached Joint Proposed Order Approving Sale and Transfer to Proceed.

Dated: October 9, 2020

Respectfully submitted,

**ATTORNEYS FOR SWWC UTILITIES, INC.
D/B/A WATER SERVICES, INC. AND
MONARCH UTILITIES I L.P.**

/s/ William A. Faulk, III

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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on October 9, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ William A. Faulk, III

William A. Faulk, III

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APPLICATION OF SWWC	§	PUBLIC UTILITY COMMISSION
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SERVICES, INC. AND MONARCH	§	
UTILITIES I L.P. FOR SALE,	§	OF TEXAS
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COMAL, GILLESPIE, GUADALUPE,	§	
HAYS, KENDALL, KERR, AND	§	
MEDINA COUNTIES	§	

JOINT PROPOSED ORDER APPROVING SALE AND TRANSFER TO PROCEED

This Order addresses the December 5, 2019, application of SWWC Utilities, Inc. d/b/a Water Services, Inc. (Water Services) and Monarch Utilities I, L.P. (Monarch) (collectively, applicants) for the sale, transfer, or merger of facilities and certificate rights in in Bandera, Bexar, Comal, Gillespie, Guadalupe, Hays, Kendall, Kerr, and Medina counties. In the transaction, all of the facilities and water service area currently held under Water Services’ water certificate of convenience and necessity (CCN) number 11106 will be transferred to Monarch's water CCN number 12983 and Water Services’ CCN number 11106 will be subsequently cancelled. The area being transferred includes approximately 8,258 acres and 3,905 customers. 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. Monarch is a limited partnership registered with the Texas secretary of state under file number 800034797.
2. Monarch is a retail public utility that provides water service in Texas under CCN number 12983.

3. Water Services is a wholly-owned, direct subsidiary of SouthWest Water Company (SWWC), a for-profit corporation registered with the Texas secretary of state under filing number 0800099536.
4. Water Services is a retail public utility that provides water service in Texas under CCN number 11106 in Bandera, Bexar, Comal, Gillespie, Guadalupe, Hays, Kendall, Kerr, and Medina counties.
5. Water Services owns and operates two public water systems (PWS) in Bandera County registered with the Texas Commission on Environmental Quality (TCEQ) under PWS identification numbers 0100039 and 0100042.
6. Water Services owns and operates five public water systems in Bexar County registered with the TCEQ under PWS identification numbers 0150235, 0150046, 0150096, 0150135, and 0150421.
7. Water Services owns and operates three public water systems in Comal County registered with the TCEQ under PWS identification numbers 0460037, 0460211, and 0460221.
8. Water Services owns and operates one public water system in Gillespie County registered with the TCEQ under PWS identification number 0860107.
9. Water Services owns and operates one public water system in Guadalupe County registered with the TCEQ under PWS identification number 0940030.
10. Water Services owns and operates one public water system in Hays County registered with the TCEQ under PWS identification number 1050124.
11. Water Services owns and operates two public water systems in Kendall County registered with the TCEQ under PWS identification numbers 1300005 and 1300035.
12. Water Services owns and operates eleven public water systems in Kerr County registered with the TCEQ under PWS identification numbers 1330019, 1330007, 1330080, 1330030, 1330134, 1330128, 1330027, 1330169, 1330015, 1330141, and 1330024.
13. Water Services owns and operates one public water system in Medina County registered with the TCEQ under PWS identification number 1630038.

14. Monarch and Water Services are both owned by the same parent company—SWWC.

Procedural History and Application

14. On December 5, 2019, the applicants filed an application for approval to transfer all facilities and water service area held under Water Services' CCN number 11106 to Monarch's CCN number 12983 and to subsequently cancel Water Services' CCN number 11106.
15. On January 8, 2020, the applicants filed an errata to correct Commission Staff's noted issues.
16. On January 22, 2020 and March 24, 2020, the applicants supplemented the application.
17. The requested area includes approximately 8,258 acres and 3,905 current customers.
18. The requested area consists of 32 subdivisions and 27 systems; the requested service areas subject to this transaction are detailed in Attachment A.
19. In Order No. 4 filed on May 18, 2020, the ALJ found the application administratively complete.

Notice

20. On June 4, 2020, the applicants filed the affidavit of George Freitag, the Texas Regulatory Manager for SWWC, attesting that notice was provided to all current customers, neighboring utilities, and affected parties on June 1, 2020.
21. On July 9, 2020 and July 13, 2020, the applicants filed supplemental notice documents and affidavits attesting that notice was provided to the required river authorities and groundwater districts on June 26, 2020.
22. In Order No. 6 filed on July 20, 2020, the ALJ found notice sufficient.

Evidentiary Record

23. On October 9, 2020, the parties filed a joint motion to admit evidence and proposed order approving the sale and transfer to proceed.

24. In Order No. ___ issued on October __, 2020, the ALJ admitted the following evidence into the record: (a) the application of SWWC Utilities, Inc. d/b/a Water Services, Inc. and Monarch Utilities I L.P., filed on December 5, 2019 (Interchange Item Nos. 1 and 2); (b) the applicants' errata filed on January 8, 2020 and supplemental information filed on January 22, 2020, and March 24, 2020 (Interchange Item Nos. 4, 7, and 10); (c) the applicants' proof of notice and supporting documentation, filed on June 4, 2020, June 8, 2020, July 9, 2020, and July 13, 2020 (Interchange Item Nos. 13, 14, 17, and 18); (d) the applicants' response to Commission Staff's first request for information (RFI), filed on September 3, 2020 (Interchange Item No. 24); and (e) Commission Staff's recommendation on approval of sale, filed on September 18, 2020 (Interchange Item No. 25).

System Compliance – Texas Water Code (TWC) § 13.301(e)(3)(A); 16 Texas Administrative Code (TAC) §§ 24.227(a), 24.239(h)(3)(A), (h)(5)(I)

25. Water Services has not been subject to any enforcement action by the Commission, TCEQ, the Texas Health and Human Services Commission, the Office of Attorney General, or the United States Environmental Protection Agency.
26. Monarch has been subject to enforcement actions by the Commission, TCEQ, Texas Department of Health, the Office of the Attorney General, or the Environmental Protection Agency in the past five (5) years for non-compliance with rules, orders, or state statutes.
27. Monarch has either resolved the non-compliance issues or has entered into compliance agreements that are leading to resolution of the violations.

Adequacy of Existing Service – TWC § 13.246(c)(1); 16 TAC §§ 24.227(e)(1), 24.239(h)(5)(A)

28. Water Services and Monarch are both wholly-owned subsidiaries of SWWC. The existing water facilities and water customers are being transferred to Monarch.
29. As the existing facilities and service are adequate, there is no further construction necessary to provide service to the requested area.

Need for Additional Service – TWC § 13.246(c)(2); 16 TAC §§ 24.227(e)(2), 24.239(h)(5)(B)

30. There are approximately 3,905 current connections in the requested area, who will continue to need service.

Effect of Approving the Transaction and Granting the Amendment – TWC § 13.246(c)(3); 16 TAC §§ 24.227(e)(3), 24.239(h)(5)(C)

31. Water Services and Monarch are the only utilities affected by this sale and transfer.
32. Because no construction or changes in service are anticipated, the transaction will not affect landowners in the vicinity of the requested area or adjacent utilities.

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), 24.239(e), (h)(5)(D)

33. The operations, maintenance, management, and customer services will continue to be provided by SWWC through its subsidiary Monarch. SWWC employs experienced operators that are knowledgeable about operations as well as the requirements for continuous and adequate service and will continue to employ such operators for this purpose.
34. The service currently being provided is not expected to change as a result of the transaction.
35. Monarch owns and operates 106 other PWS. Some of Monarch's other PWS have minor unresolved TCEQ violations that are unrelated to capacity and will not affect Monarch's ability to provide adequate service to the requested area.
36. Monarch has the technical and managerial capability 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), (d)(6), 24.239(e), (h)(5)(D)

37. Monarch has a debt-to-equity ratio of less than one and a debt-service ratio of greater than 1.25, satisfying the leverage test.

38. Monarch has sufficient cash available to cover any projected operations and maintenance shortages during the first five years after the completion of the proposed sale and transfer, satisfying the operations test.
39. Monarch has demonstrated the financial capability and stability to provide continuous and adequate water service.

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

40. There is no need to require Monarch 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(h)(5)(E)

41. It is not feasible for an adjacent utility to provide service to the requested area because SWWC's existing facilities possess sufficient capacity to provide continuous and adequate service.
42. Utilities within a two-mile radius were noticed and no protests were received.

Environmental Integrity – TWC § 13.246(c)(7); 16 TAC §§ 24.227(d)(7), 24.239(j)(5)(H)

43. The proposed transaction will not adversely impact the environmental integrity of the land because the requested area is currently receiving service.

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

44. The effect on the land should be minimal as the requested area will be served by existing systems and facilities and no additional construction is needed.

Improvement of Service or Lowering Cost to Consumers – TWC § 13.246(c)(8); 16 TAC §§ 24.227(e)(8), 24.239(h)(5)(H)

45. The proposed transaction will maintain current levels of customer service to existing customers because the water system will continue to be operated and maintained by a sufficient number of licensed operators.
46. The rates charged to customers will not change as a result of the transaction.

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

47. Because Monarch 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), Monarch has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area as required by TWC § 13.301(b).
3. The applicants have demonstrated that the sale of Water Services' water facilities and the transfer of all of the service area under water CCN number 11106 to Monarch will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public. TWC §§ 13.246(b) and 13.301(d), (e).

III. Ordering Paragraphs

In accordance with the preceding findings of fact and conclusions of law, the Commission issues the following orders.

1. The sale is approved and the transaction between Water Services and Monarch 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 shall file proof that the transaction has been consummated and customer deposits, if any, have been addressed.
3. The applicants have 180 days to complete the transaction.
4. Under 16 TAC § 24.239(m), if the transaction is not consummated within this 180-day 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 corresponding service area will remain under water CCN number 11106 and held by Water Services until the sale and transfer transaction is complete in accordance with Commission rules.
6. In an effort to finalize this case 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 the applicants' proof that the transaction has been consummated and customer deposits, if any, have been addressed, Commission Staff shall file a recommendation regarding the sufficiency of the documents and propose a schedule for continued processing of this docket.

Signed at Austin, Texas this ___ day of _____, 2020.

PUBLIC UTILITY COMMISSION OF TEXAS

**GREGORY R. SIEMANKOWSKI
ADMINISTRATIVE LAW JUDGE**

ATTACHMENT A

DESCRIPTIONS OF SERVICE AREAS TO BE TRANSFERRED TO:

Monarch Utilities I, L.P. CCN Number 12983 from Water Services, Inc. Certificate No. 11106

BANDERA COUNTY:

Enchanted River Estates: Total area is approximately 164 acres and there are 143 customers in the area to be transferred. It is located approximately 2 miles east of downtown Bandera, Texas and is generally bounded on the north by State Highway 16 and Bandera Creek; on the east by Tobin Ranch Rd., on the south by Bottle Springs Road, and west by the Medina River John's Road.

River Bend Estates is located approximately 2 miles west of downtown Bandera, Texas and is generally bounded on the north by State Highway 16; on the east, south, and west by the Medina River. Total area is approximately 155 acres and there are 152 customer connections within the area.

BEXAR COUNTY:

Bavarian Hills: Total area is approximately 115 acres and there are 68 customers in the requested area. It is located approximately 21 miles north of downtown San Antonio Texas. The service area is bounded generally on the north by Muesbach Creek, on the east by Timberline Drive, on the south by W. Borgfield Road, and on the west by Bordelon Way and George O'Brien Drive.

Coolcrest Subdivision (PWS #0150046): The total area is approximately 304 acres and there are 312 customers in the requested area. It is located approximately 15 miles west of downtown San Antonio. The service area is generally bounded on the north by Farm to Market Road 1957, on the east by Farm to Market Road 1604, on the south by Grosenbacher Road and American Lotus Road, and on the west by Grosenbacher Road.

Oaks North Mobile Home Estates Subdivision (PWS #0150135): Total area is approximately 304 acres and there are 342 customers in the requested area. It is located approximately 20 miles north of downtown San Antonio, Texas. The service area is generally bounded on the north and east by East Borgfield Road and on the south by East Gate Drive and on the west by Lasso Bend. The total area is approximately 230 acres.

Stage Coach Hills Subdivision (PWS #0150096): Total area is approximately 50 acres 162 customer connections in the area to be transferred. It is located approximately 20 miles northwest of downtown San Antonio, Texas. The service area is generally bounded on the north and east by Boerne Stage Coach Road, on the south by Up Mountain Trail, and on the west by Scenic Loop Road.

Country Springs System (PWS #0150421) (Country Bend Subdivision): Total area is approximately 380 acres and there are 254 connections in the area to be transferred. It is located approximately 8.5 miles southeast of Boerne, Texas. It is generally bounded by Boerne Stage Coach Road on the west, Dos Cerros Loop E on the north, Ranch Creek Road on the east, and Boerne Stage Coach Road on the south.

COMAL COUNTY

Oak Village North Subdivision (PWS #0460037): Total area is approximately 2,200 acres and 635 customers connections are in the area to be transferred. It is located approximately 17 miles west of downtown New Braunfels. The service is generally bounded on the north by Lewis Creek, on the east by Longhorn Trail, on the south by Farm to Market Road 1863, and on the west by Stahl Lane.

Windmill Ranch System: Serves Windmill Ranch and Kestrel Airpark subdivisions. Total area is approximately 571 acres and there are 239 connections in the area. It is located approximately 2 miles

north of Bulverde, Texas and is generally bounded on the north by Flying R Ranch Road.; on the east by U. S. Highway 281; on the south by State Highway 46; and on the west by Farhills Drive.

Rim Rock Ranch: Total area is approximately 1,200 acres and there are 339 connections in the area to be transferred. It is located east of and adjacent to the town of Bulverde, Texas and is generally bounded on the north by Smithson Valley Road, on the east by Rustling ridge, on the south by Farm to Market Road 1863, and on the west by Circle Oak Drive.

GILLESPIE COUNTY:

Oakview Water System: Total area is approximately 170 acres and there are 64 customers in the area to be transferred. It is located approximately 7 miles south southeast of downtown Fredericksburg, Texas and is generally bounded on the north by S. 290; on the east by Cain City Rd.; on the south by Cain City — Luckenbach Rd.; and on the west by Old San Antonio Rd.

GUADALUPE COUNTY:

Garden Oaks (PWS #0940030): The requested area is located approximately 3.5 miles southeast of downtown New Braunfels, Texas, and is generally bounded on the north by Guadalupe River; on the east by Shumans Beach Road and Guadalupe River; on the south by Farm to Market Road 725; and on the west by Potthast Drive and East Zipp Road. The requested area includes approximately 158 total acres and 102 current customers.

HAYS COUNTY:

Huntington Estates: Total area is approximately 115 acres and there are .126 customer connections in the area. It is located in northern Hays County approximately 13.7 miles southwest from downtown Austin, TX and is generally bounded by FM 1626 on the east, Jerry's Lane to the north, Maybrook Drive to the south, and Montvale Lane to the west.

KENDALL COUNTY:

Cascade Mobile Home Park Subdivision (PWS #111300005): Total area is approximately 51 acres and there are 102 customer connections within the area to be transferred. It is located approximately 3 miles southeast of downtown Boerne, Texas. The service area is generally bounded on the south and west by Interstate Highway 10, on the east by Balcones Creek and Cascade Cavern Road, on the north by Cascade Cavern Road.

Platten Creek Water: Located approximately 6.4 miles north of Sisterdale and is bounded on the north by Langley Road, on the east by Platten Creek Road, on the south by Platten Creek, and on the west by FM 1376. Total area is approximately 242.8 acres and there are 37 connections in the area to be transferred.

KERR COUNTY:

Cedar Springs Mobile Home Village: Located approximately 2 miles west of Ingram and is generally bounded by State Highway 39 on the south, Lakeshore Trail on the west, Chestnut Oak Street West on the north, and White Oak Street West on the east. Total area is approximately 22.2 acres and there are .48 customers in the area to be transferred.

Center Point: Located approximately 0.5 miles north of downtown Center Point and is generally bounded by the Guadalupe River on the south, Bowlin Drive East and Depot Alley on the west, Highway 27 on the north, and Steele Creek on the east. Total area is approximately 93 acres 56 customer connections in the area to be transferred.

Heritage Park: Located approximately 2 miles east of Center Point and is generally bounded by Burney Road North on the west, an unnamed County Road on the north, Bluff Creek N Road on the east and Total area is approximately 212 acres and there are 29 customers in the area.

Hills and Dales: Located approximately 5 miles north of Ingram and is bounded on the south by State Highway 39, on the west by Spring Lakes Parkway W, Johnson Creek on the east, and Cypress Parkway West on the north. Total area is approximately 188 acres and there are 74 customer connections .in the area to be transferred.

Oak Ridge Estates: Located approximately 0.25 miles east of Center Point and is bounded by Stoneleigh Road on the south. Total area is approximately 21.6 acres and there are 43 connections in the area.

Southern Hills: Located approximately 4 miles south of Kerrville and is generally bounded by Highway 16 (Medina Highway) on the south, West Creek and Madrona Drive on the west, and Calcote Road and Nixon Lane on the north and east. Total area is approximately 1,349 acres and there are 296 connections in the area to be transferred.

Verde Park Estates: Located approximately 1 mile south of Center Point, and is generally bounded on the west by Farm to market Road 480, on the north by Verde Creek Drive and Austin Lane E, on the east by Elm Park Road, and on the south by Bledsoe Ranch Road E. Total area is approximately 490 acres and there are 70 customer connections in the area to be transferred.

Vista Hills: Located approximately 5 miles north of Kerrville and is bounded by Scenic Hills road on the west and south and bounded by Scenic Valley Road on the east and Mica Lane on the north. Total area is approximately 92.3 acres and there are 12 customers in the area.

Westwood: Located approximately 0.5 miles west of Comfort and is generally bounded by Schradoer Road on the west, Sherwood Drive on the north, Marilyn Drive North on the east, and on the south by State Highway 27. Total area is approximately 220 acres and there are 108 customers in the area to be transferred.

Windwood Oaks Subdivision: Located approximately 8.5 miles southwest of Kerrville and is generally bounded by Turtle Creek on the west, south, and east, and by Oak Wood Road East on the north. Total area is approximately 48 acres and there are 20 customers in the area.

Woodhaven Mobile Home Park: Located approximately 1 mile east of Ingram and generally bounded by Riverview Road on the west, Rowland Lane on the south, Nichols Cemetery LP on the east, and State Highway 27 on the north. Total area is approximately 17.3 acres and there are 32 customers in the area to be transferred.

MEDINA COUNTY:

Rocky Creek Subdivision: Located approximately 32 miles northwest of San Antonio and is generally bounded by County Road 265 on the north, County road 266 on the west, Quihi Creek on the south, and County Road 271 on the east. Total area is approximately 310 acres and there are 40 connections in the area.