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

**ORDER NO. 9  
APPROVING SALE AND TRANFER TO PROCEED**

This Order addresses the 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. The applicants seek to transfer all of Water Services’ water facilities and service area to Monarch, and to cancel Water Services’ water certificate of convenience and necessity (CCN). The administrative law judge (ALJ) grants that the transaction proposed in this application to proceed and be consummated.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicants**

1. Monarch is a domestic limited partnership registered with the Texas secretary of state under file number 800034797.
2. Monarch operates, maintains, and controls facilities for providing water service in Texas under CCN number 12983.
3. Water Services is a wholly-owned, direct subsidiary of SouthWest Water Company (SWWC), a Delaware for-profit corporation registered with the Texas secretary of state under filing number 0800099536.

4. Water Services operates, maintains, and controls facilities for providing 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.

**Application**

15. 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.

16. On January 8, 2020, the applicants filed an errata to correct Commission Staff's noted issues.
17. On January 22, 2020 and March 24, 2020, the applicants supplemented the application.
18. The requested area includes approximately 8,258 acres and 3,905 current customers.
19. The requested area consists of 32 subdivisions and 27 systems; the requested service areas subject to this transaction are detailed in Attachment A.
20. In Order No. 4 filed on May 18, 2020, the ALJ found the application administratively complete.

**Notice**

21. 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.
22. 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.
23. In Order No. 6 filed on July 20, 2020, the ALJ found notice sufficient.

**Evidentiary Record**

24. On October 9, 2020, the parties filed a joint motion to admit evidence and proposed order approving the sale and transfer to proceed.
25. In Order No. 8 issued on October 13, 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; (b) the applicants' errata filed on January 8, 2020 and supplemental information filed on January 22, 2020, and March 24, 2020; (c) the applicants' proof of notice and supporting documentation, filed on June 4, 2020, June 8, 2020, July 9, 2020, and July 13, 2020; (d) the applicants' response to Commission Staff's first request for information (RFI), filed on September 3, 2020; and (e) Commission Staff's recommendation on approval of sale, filed on September 18, 2020.

**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)(A)**

26. 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.
27. 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.
28. 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)**

29. Water Services and Monarch are both wholly-owned subsidiaries of SWWC. The existing water facilities and water customers are being transferred to Monarch.
30. 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)**

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

**Effect of Approving the Transaction—TWC § 13.246(c)(3); 16 TAC §§ 24.227(e)(3), 24.239(h)(5)(C)**

32. Water Services and Monarch are the only utilities affected by this sale and transfer.
33. 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(h)(2),(h)(5)(D)**

34. 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.
35. The service currently being provided is not expected to change as a result of the transaction.

36. 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.
37. 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), (e)(6), 24.239(f), (h)(5)(F)**

38. 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.
39. 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.
40. 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(f), 24.239(f)**

41. 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)**

42. 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.
43. Utilities within a two-mile radius were noticed and no protests were received.

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

44. The proposed transaction will not adversely impact the environmental integrity of the land because the requested area is currently receiving service.
45. 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 in Service or Lowering Cost to Consumers—TWC § 13.246(c)(8); 16 TAC §§ 24.227(e)(8), 24.239(h)(5)(H)*

46. 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.
47. 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)*

48. Because Monarch does not anticipate building any new facilities to continue serving the requested area, concerns of regionalization or consolidation were not considered.

## **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 these 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 must 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(o), 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 advised that water CCN number 11106 will be held by Water Services until the sale and transfer transaction is complete in accordance with the Commission's rules.
6. Monarch's water CCN number 12983 will not be amended with the requested area in Water Services' existing water CCN until final Commission approval of the application.
7. Following final Commission approval of the application, Water Services' water CCN number 11106 will be cancelled.
8. 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.
9. Within 15 days following the filing of the applicants' proof that the transaction has been consummated and customers 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 4th day of November 2020.**

**PUBLIC UTILITY COMMISSION OF TEXAS**



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**GREGORY R. SIEMANKOWSKI  
CHIEF ADMINISTRATIVE LAW JUDGE**