



Control Number: 50424



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APPLICATION OF MONARCH UTILITIES I L.P. AND GOINS UTILITY SERVICE LLC FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND UNCERTIFICATED AREA IN POLK COUNTY § PUBLIC UTILITY COMMISSION OF TEXAS §

COMMISSION STAFF’S AMENDED RECOMMENDATION ON FINAL DISPOSITION

On January 8, 2020, Monarch Utilities I L.P. (Monarch) and Goins Utility Service LLC (Goins) (collectively, Applicants) filed an application for approval of the sale, transfer, or merger of facilities and uncertificated area in Polk County. Monarch seeks to purchase all the water and wastewater assets of Goins. The requested sale and transfer includes 36 connections and approximately 17 total acres for the requested water service area and approximately 24 total acres for the requested sewer service area. The Applicants filed supplemental information to their application on March 10, 2020, April 7, 2020, and on April 27, 2020.

On April 4, 2021, the administrative law judge (ALJ) filed Order No. 14, Granting Extension and Amending Procedural Schedule, setting a deadline for parties to file a joint motion to admit evidence and proposed order approving sale and allowing transaction to proceed, and a deadline of May 3, 2021 for Commission to approve the sale or require a hearing. Therefore, this pleading is timely filed.

I. RECOMMENDATION

Staff has reviewed Monarch’s application as supplemented.¹ As supported by the attached memoranda of Heidi Graham, Infrastructure Division, and Fred Bednarski, Rate Regulation Division², Staff recommends the of the application be approved.

¹ Under Texas Water Code § 13.145(b) Monarch would be exempt from the substantial similarity requirement based on the utility having provided service in only 25 counties as of January 1, 2003. While Monarch as an entity is entitled to consolidated rates, it has committed in this proceeding plans to maintain Goins’ customer rates at the existing levels until Monarch’s next full rate change application (e.g., general rate case).

² Mr. Bednarski’s memorandum was previously filed as an attachment to Staff’s Final Recommendation filed on November 5, 2020.

II. CONCLUSION

Staff respectfully requests the entry of an order approving the application and allowing the proposed transaction to proceed.

Dated: April 26, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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/s/ Kevin R. Bartz _____
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DOCKET NO. 50424

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 April 26, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Kevin R. Bartz
Kevin R. Bartz

Public Utility Commission of Texas

Memorandum

TO: Kevin Bartz, Attorney
Legal Division

FROM: Heidi Graham, Lead Engineering Specialist
Infrastructure Division

DATE: April 26, 2021

SUBJECT: **Docket No. 50424** – Application of Monarch Utilities I, L.P. and Goins Utility Service LLC for Sale, Transfer, or Merger of Facilities and Uncertificated Area in Polk County

1. Application

Monarch Utilities I, L.P. (Monarch) holds water Certificate of Convenience and Necessity (CCN) No. 12983 and sewer CCN No. 20899. Monarch seeks approval to acquire facilities and to add to its CCNs all of the uncertificated water and sewer service areas of Goins Utility Service LLC (Goins). In addition, Monarch requests to amend CCN No. 12983 to add a portion of the water service area of Lake Livingston Water Supply & Sewer Service Corporation (Lake Livingston), CCN No. 10147. Lake Livingston has agreed to decertify that portion of its water service area.

The Goins water service area includes approximately 17 acres and 36 current customers. The Goins sewer service area includes approximately 24 acres and 36 current customers. The water service area of Lake Livingston to be decertified and simultaneously certified to Monarch is approximately 5 acres and has no customers.

2. Notice

Monarch provided notice consistent with 16 Texas Administrative Code (TAC) § 24.239(c). The deadline for intervention stated in the notice was September 1, 2020. No protests, intervention, or opt-out requests were received.

3. Factors Considered

Texas Water Code (TWC) Chapter 13, and 16 TAC Chapter 24, require the Public Utility Commission (PUCT) to consider certain factors when granting or amending a water or sewer CCN. Those factors are addressed below as subsections:

3.1. *Consideration of the adequacy of service currently provided to the requested area (TWC § 13.246(c)(1) and 16 TAC § 24.227(e)(1))*

The water service currently provided to the requested area by Goins is adequate. Goins has a public water system (PWS) registered with the Texas Commission on Environmental Quality (TCEQ) under Beacon Bay Marina and RV Park, PWS No. 1870016. Monarch submitted a TCEQ investigation report with the application that indicated Goins has an active violation

with the TCEQ for record keeping for its well.¹

The sewer service currently provided to the requested area by Goins is adequate. Goins has a sewer system registered with the TCEQ under Beacon Bay Marina Wastewater Treatment Facility, Wastewater Discharge Permit No. WQ0013637001.² According to the TCEQ investigation report submitted with the application, Goins's previous violations with the TCEQ have been resolved. The TCEQ investigator commented in the report that the wastewater treatment plant appeared to be well-maintained.³

The PUCT's Customer Protection Division has not received any complaints from Goins' water or sewer customers.

3.2. *Consideration of the need for additional service in the requested area (TWC § 13.246(c)(2) and 16 TAC § 24.227(e)(2))*

Although Goins does not have a CCN, there are 36 customers currently receiving water service and sewer service from Goins' water and sewer systems. Therefore, there is a need for continuation of those services. There is no information in the docket indicating a need for additional service in the Goins water and sewer service areas.

3.3. *Consideration of the effect of granting an amendment on the recipient of the certificate or amendment, on the landowners in the area, and on any other retail public utility of the same kind already serving the proximate area (TWC § 13.246(c)(3) and 16 TAC § 24.227(e)(3))*

The number of customers in the water and sewer service areas of Goins is small relative to the total number of customers served by Monarch, resulting in a negligible effect on Monarch. The effect of application approval on landowners and other retail public utilities in the area would be the transfer of service areas from Goins and Lake Livingston to Monarch and Monarch's planned construction projects, which I discuss below in subsection 3.10.

3.4. *Consideration of the ability of the applicant to provide adequate service (TWC §§ 13.241(b), 13.246(c)(4), and 16 TAC § 24.227(e)(4))*

Monarch is generally capable of providing adequate service given the large number of customers that it has served for a number of years. Monarch has a public water system registered with the TCEQ under Oak Terrace Estates, PWS No. 1870055 that is adjacent to the Goins water service area. According to the TCEQ's online records, Monarch has active violations from 2019 for this public water system for failure to maintain all equipment in good working condition and failure to provide the required well production capacity of 0.6 gallons per minute per connection. The violation for maintaining all equipment in good working condition is related to a bulging 5,000-gallon pressure tank that failed. Monarch requested approval from the TCEQ to replace the pressure tank on February 4, 2021. The new pressure tank has been installed. Monarch also constructed a new well at the Oak Terrace Estates water system which was approved for use by the TCEQ in a letter dated June 16, 2020. The new well enables Monarch to provide the required well production capacity of 0.6 gallons per minute per connection.

¹ In the report, the TCEQ investigator required Goins to begin keeping well records and to submit those records to the regional office. Staff notes that a violation related to lack of record keeping does not affect the adequacy of water service provided by Goins. Application, TCEQ Compliance Correspondence Part F: Question 22.

² See, e.g., Application at page 9 of 20.

³ See, e.g., Application, TCEQ Compliance Correspondence Part F: Question 22.

Monarch does not have a sewer CCN in the vicinity of the requested area. In order to operate the Goins wastewater treatment plant after the CCN and facilities are transferred, Monarch would have to obtain approval for the transfer of the existing wastewater discharge permit from Goins by application to the TCEQ or apply to the TCEQ to obtain its own permit. Given that Monarch has held a number of wastewater discharge permits from the TCEQ, Monarch will likely be able to obtain such a permit to serve Goins' sewer service area. In addition, notice of the proposed sale and transfer was provided to all neighboring utilities and entities including those mentioned by the Commission Staff, and no objections or comments were received.

3.5. *The applicants' demonstration to the Commission that regionalization or consolidation with another retail public utility is not economically feasible when construction of a physically separate water or sewer system is required to provide service to the requested area. (TWC § 13.241(d) and 16 TAC § 24.227(b))*

Monarch plans to replace major components of Goins' existing water and wastewater systems, as discussed below in subsection 3.10. As a result, regionalization or consolidation was considered as an alternative. Lake Livingston's service area is adjacent to the Goins water service area. David L. Sheffield d/b/a Texas Landing Utilities, sewer CCN No. 20569 is nearby to the north of the Goins sewer service area. Aqua Texas, water CCN No. 13203, is nearby to the northwest of the Goins water service area. Notice of the proposed sale and transfer was provided to these utilities. No objections or comments were received.

3.6. *Consideration of the feasibility of obtaining service from an adjacent retail public utility (TWC § 13.246(c)(5) and 16 TAC § 24.227(e)(5))*

As discussed above, there are retail public utilities in close proximity to Goins' service areas. Lake Livingston service area is adjacent to the Goins water service area. David L. Sheffield d/b/a Texas Landing Utilities, sewer CCN No. 20569, is nearby to the north of the Goins sewer service area. Aqua Texas, water CCN No. 13203, is nearby to the northwest of the Goins water service area. Notice of the proposed sale and transfer was provided to all neighboring utilities and entities. No objections or comments were received.

3.7. *Consideration of the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service (TWC § 13.246(c)(6) and 16 TAC § 24.227(e)(6))*

Fred Bednarski, Rate Regulation Division, is addressing this factor.

3.8. *Requirement of an applicant to provide a bond or other financial assurance in a form and amount specified by the Commission to ensure that continuous and adequate utility service is provided (TWC § 13.246(d) and 16 TAC § 24.227(f))*

Fred Bednarski, Rate Regulation Division, is addressing this factor.

3.9. *Consideration of environmental integrity and the effect on the land to be included in the certificated area (TWC §§ 13.246(c)(7) and (9); 16 TAC § 24.227(e)(7) and (9))*

Monarch's plans for major construction to provide service in the Goins service areas may affect the environmental integrity of the land. Monarch's construction plans include replacement of the existing wastewater treatment plant. To replace the existing wastewater treatment plant, Monarch plans to construct a new wastewater treatment plant adjacent to the existing plant, on the property owned by Goins. The sludge from the existing wastewater treatment plant will be transferred to the new treatment plant to seed the process. The existing plant will be cleaned, dismantled, and transported to a local scrap metal yard for disposal in accordance with all applicable TCEQ standards. Sod grass will be planted over the old treatment plant's footprint. Throughout the planning and implementation phases of the project, Monarch will

ensure that environmental integrity is maintained. Additionally, the environmental effects of said projects will be addressed, reviewed, and regulated by the TCEQ. Making the upgrades and improvements to both the water and wastewater systems and operating them with professional operators may be viewed as a general improvement to the environmental integrity of the systems.

3.10. *Consideration of the probable improvement in service or lowering of cost to consumers (TWC § 13.246(c)(8) and 16 TAC § 24.227(e)(8))*

The applicants have demonstrated that there would be an improvement in service if the application is approved. As explained above in subsection 3.4, Monarch's violations related to the adjacent Oak Terrace Estates water system appear to have been resolved by the submission of a construction request to TCEQ for a replacement pressure tank and the construction of a new well. In addition, Monarch plans to interconnect the Goins's water system to Monarch's Oak Terrace Estates water system. This interconnection will improve the reliability of water service to the customers by providing an additional water supply.

Monarch plans to maintain Goins' customer rates at the existing levels until Monarch's next full rate change application (e.g., general rate case). All other Monarch tariffed fees and terms of service will apply to the customers connected to the water and wastewater facilities being acquired.

3.11. *Other factor considered – Nonfunctioning system or utility status of Goins*

Goins is a very small utility, with only 36 water and sewer customers, and does not appear to be affiliated with other water and sewer utilities. In addition, it is out of compliance with the requirement to have a Commission-approved tariff. As a result, Goins is a nonfunctioning system or utility as that term is defined in 16 TAC § 24.3(23)(A). As a class A utility, Monarch has the resources to bring Goins into compliance with the Commission's regulatory requirements.

4. Recommendation

Monarch has provided reasonable assurances that it will provide quality service to the customers of Goins. In addition, Monarch plans to maintain Goins' customer rates at the existing levels until Monarch's next full rate change application (e.g., general rate case). All other Monarch tariffed fees and terms of service will apply to the customers connected to the water and wastewater facilities being acquired. Therefore, I recommend approval of the transaction. There are no deposits held by Goins for its existing customers. I am not expressing an opinion on the prudence of Monarch's plan to replace the existing Goins' wastewater treatment plant.