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DOCKET NO. 50480

**APPLICATION OF CRYSTAL CLEAR
SPECIAL UTILITY DISTRICT AND
CITY OF SAN MARCOS FOR SALE,
TRANSFER, OR MERGER OF
FACILITIES AND CERTIFICATE
RIGHTS IN HAYS COUNTY**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

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

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), Crystal Clear Special Utility District (Crystal Clear SUD), and the City of San Marcos (San Marcos) (collectively, Parties). Staff contacted Guadalupe Carbajal to join this motion, but did not receive a response. The Parties hereby submit this Joint Motion to Admit Evidence and Proposed Order Approving Sale and Allowing Transaction to Proceed. In support thereof, the Parties show the following:

I. BACKGROUND

On January 23, 2020, Crystal Clear SUD and San Marcos (collectively, Applicants) filed an application for sale, transfer, or merger of facilities and certificate of convenience and necessity (CCN) rights in Hays County. Crystal Clear SUD seeks to transfer a portion of its water service area held under CCN No. 10297 to San Marcos. The requested sale and transfer includes approximately 575 acres and 489 connections. Applicants filed supplemental information on March 20, 2020, June 3, 2020, and June 30, 2020.

On July 14, 2020, Order No. 7 was issued establishing a deadline of September 25, 2020, for the Parties to file a joint motion to admit evidence and proposed order approving the sale and allowing the transaction to proceed. Therefore, this pleading is timely filed.

II. MOTION TO ADMIT EVIDENCE

The Parties request the entry of the following items into the record of this proceeding:

- (a) Application of Crystal Clear SUD and San Marcos for Sale, Transfer, or Merger of Facilities and Certificate Rights in Hays County including all attachments, filed on January 23, 2020 (Interchange Item No. 1);
- (b) Commission Staff's Recommendation on Administrative Completeness filed on

- February 24, 2020 (Interchange Item No. 4);
- (c) San Marcos' Supplemental Application Information, filed on March 20, 2020 (Interchange Item No. 6);
 - (d) Commission Staff's Supplemental Recommendation on Administrative Completeness, filed on April 24, 2020 (Interchange Item No. 7);
 - (e) Guadalupe Carbajal's Motion to Intervene, filed on May 21, 2020 (Interchange Item No. 10);
 - (f) San Marcos' Additional Application Information, filed on June 3, 2020 (Interchange Item No. 12);
 - (g) Commission Staff's Corrected Notice Form and Request for Extension, filed on June 11, 2020 (Interchange Item No. 13);
 - (h) San Marcos' Supplemental Information, filed on June 30, 2020 (Interchange Item No. 16);
 - (i) Commission Staff's Recommendation on Sufficiency of Notice, filed on July 13, 2020 (Interchange Item No. 17);
 - (j) Commission Staff's Recommendation on Approval of the Sale, filed on August 28, 2020 (Interchange Item No. 19).

III. PROPOSED JOINT NOTICE OF APPROVAL ALLOWING THE PROPOSED TRANSACTION TO PROCEED

The attached Joint Proposed Notice of Approval Allowing the Transaction to Proceed would authorize the transfer a portion of Crystal Clear SUD's facilities and water service area held under CCN number 10297 to San Marcos under CCN number 10298. The Parties request that the Commission approve the proposed Joint Proposed Notice of Approval.

IV. CONCLUSION

The Parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the Commission adopt the attached Proposed Notice of Approval.

Dated: September 25, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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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 September 25, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Robert Dakota Parish
Robert Dakota Parish

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APPLICATION OF CRYSTAL CLEAR	§	PUBLIC UTILITY COMMISSION
SPECIAL UTILITY DISTRICT AND	§	
CITY OF SAN MARCOS FOR SALE,	§	OF TEXAS
TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS IN HAYS COUNTY	§	

**JOINT PROPOSED NOTICE OF APPROVAL ALLOWING
THE TRANSACTION TO PROCEED**

This Order addresses the January 23, 2020 application of Crystal Clear Special Utility District (Crystal Clear SUD) and the City of San Marcos (San Marcos) (collectively, Applicants) for sale, transfer, or merger of certificate rights in Hays County. Specifically, in the transaction: (1) San Marcos will acquire a portion of Crystal Clear SUD's facilities and water service area from Crystal Clear SUD's water certificate of convenience and necessity (CCN) number 10297; and (2) that portion of facilities and water service area will be transferred to San Marcos' CCN number 10298. The area being transferred includes 575 acres and 489 connections. 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 finding of fact.

Applicants

1. Crystal Clear SUD is a Special Utility District.
2. Crystal Clear SUD owns a public water system (PWS) with the Texas Commission on Environmental Quality (TCEQ) under PWS number 0940015.
3. Crystal Clear SUD operates, maintains, and controls facilities that provide water service in Hays County under CCN number 10297.
4. San Marcos is a municipality in the State of Texas.
5. San Marcos owns a PWS with the TCEQ under PWS number 1050001.
6. San Marcos operates maintains, and controls facilities that provide water service in Hays County under CCN number 10298.

Application

7. On January 23, 2020, Crystal Clear SUD and San Marcos filed the application at issue in this proceeding.
8. Applicant's filed supplemental information on March 20, 2020, June 3, 2020, and June 30, 2020.
9. In the application, the applicants seek approval of the following transactions: (a) San Marcos will acquire a portion of Crystal Clear SUD's facilities and water service area from Crystal Clear SUD's CCN number 10297; and (b) that portion of facilities and water service area will be transferred to San Marcos' CCN number 10298.
10. The requested area is located approximately two miles south of San Marcos, Texas, and is generally bounded on the north by Purgatory Creek Natural Area and San Marcos' city limits, on the east by Hunter's Hill subdivision and Hunter Road, on the south by Hunter Road and West McCarthy Land, and on the west by West McCarthy Lane.
11. The requested area comprises approximately 575 acres and 489 current customers.
12. In Order No. 3 issued on April 28, 2020, the ALJ found the application administratively complete.

Notice

13. On June 30, 2020, San Marcos filed Affidavits of Notice to Current Customers, Neighboring Utilities and Affected Parties indicating that notice of the application was mailed to the entities listed on the affidavits on May 29, 2020.
14. On June 30, 2020, San Marcos filed a publisher's affidavit attesting to publication of notice in the *San Marcos Daily Record*, a newspaper of general circulation in Hays County, on June 19, 2020 and June 26, 2020.
15. In Order No. 7, issued on July 14, 2020, the ALJ deemed the notice sufficient.

Evidentiary Record

16. On September 25, 2020, the parties filed an agreed motion to admit evidence.
17. In Order No. 8, issued on September ___, 2020, the ALJ admitted the following evidence into the record: (a) Application of Crystal Clear SUD and San Marcos for Sale, Transfer, or Merger of Facilities and Certificate Rights in Hays County including all attachments, filed on January 23, 2020 (Interchange Item No. 1); (b)

Commission Staff's Recommendation on Administrative Completeness filed on February 24, 2020 (Interchange Item No. 4); (c) San Marcos' Supplemental Application Information, filed on March 20, 2020 (Interchange Item No. 6); (d) Commission Staff's Supplemental Recommendation on Administrative Completeness, filed on April 24, 2020 (Interchange Item No. 7); (e) Guadalupe Carbajal's Motion to Intervene, filed on May 21, 2020 (Interchange Item No. 10); (f) San Marcos' Additional Application Information, filed on June 3, 2020 (Interchange Item No. 12); (g) Commission Staff's Corrected Notice Form and Request for Extension, filed on June 11, 2020 (Interchange Item No. 13); (h) San Marcos' Supplemental Information, filed on June 30, 2020 (Interchange Item No. 16); (i) Commission Staff's Recommendation on Sufficiency of Notice, filed on July 13, 2020 (Interchange Item No. 17); (j) Commission Staff's Recommendation on Approval of the Sale, filed on August 28, 2020 (Interchange Item No. 19).

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

18. San Marcos has not been subject to any enforcement action by the Commission, TCEQ, the Texas Department of State Health Service, the Office of the Attorney General of Texas, or the Environmental Protection Agency in the past five years for non-compliance with rules, orders, or state statutes.
19. There is no evidence that San Marcos has a history of continuing mismanagement or misuses of revenues as utility service provider.
20. 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(e)(1), (j)(5)(B)

21. Crystal Clear SUD has a public water system registered with TCEQ under PWS number 0940015.
22. Crystal Clear SUD does not have any unresolved violations listed in the TCEQ database.

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

23. There are 489 existing connections in the requested area that are receiving water from Crystal Clear SUD's PWS number 0940015.
24. The application is to transfer only existing facilities, customers, and service area.

25. There is no evidence in the record indicating a need for additional service.

Effect of Approving the Transaction and Granting the Amendment—TWC § 13.246(c)(3); 16 TAC §§ 24.227(e)(3), 24.239(j)(5)(D)

26. Crystal Clear SUD and San Marcos are the only utilities affected by this transfer.

27. There will be no effect on the landowners as the area is currently certificated.

Ability to Serve: Managerial and Technical—TWC §§ 13.241(a), 13.301(b), (e)(2); 16 TAC §§ 24.227(a), (d)(4), 24.239(g), (j)(5)(E)

28. San Marcos has a public water system registered with TCEQ under PWS identification number 1050001.

29. San Marcos has no violations listed in the TCEQ database.

30. San Marcos has a TCEQ-licensed operator who will be responsible for the operating of the water utility being transferred.

31. Applicants have sufficient capability to serve the customers and no additional construction is necessary.

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(2), (j)(5)(G)

32. San Marcos meets one of the five leverage tests; (a) San Marcos has a service coverage ratio which is greater than 1.25.

33. There are no projected operations and maintenance shortages in the first five years of operations in which San Marcos would need to cover

34. San Marcos has demonstrated the financial capability and stability to provide continuous and adequate service to the area being transferred.

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

35. There is no need to require San Marcos to provide a bond or other financial assurance to ensure continuous and adequate service.

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

36. San Marcos does not need to construct a physically separate system to serve the area; therefore, concerns of regionalization or consolidation are not applicable.

Feasibility of Obtaining Service from Adjacent Retail Public Utility—TWC § 13.246(c)(5); 16 TAC §§ 24.227(e)(5), 24.239(j)(5)(F)26.

37. The area being transferred is currently being served by Crystal Clear SUD and therefore the feasibility of obtaining service from another adjacent retail public utility was not considered.

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

38. The environmental integrity of the land will not be affected as no additional construction is needed to provide service to the requested area.

Improvement of Service or Lowering Cost to Consumers—TWC § 13.246(c)(8); 16 TAC §§ 24.227(e)(8), 24.239(j)(5)(I)

39. San Marcos will continue to provide water service to the existing customers in the requested area.

Informal Disposition

- 40. More than 15 days have passed since the completion of notice provided in this docket.
- 41. One person, Guadalupe Carbajal, filed a motion to intervene.
- 42. Crystal Clear SUD, San Marcos, Guadalupe Carbajal, and Commission Staff are the only parties to this proceeding.
- 43. No party requested a hearing and no hearing is needed.
- 44. Commission Staff recommended approval of the application.
- 45. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

- 1. Notice 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), San Marcos has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area. TWC § 13.301(b).

3. Crystal Clear SUD and San Marcos have demonstrated that the sale of a portion of Crystal Clear SUD's water facilities and the transfer of a portion of the water service area held under CCN number 10297 from Crystal Clear SUD to San Marcos will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public. TWC §§ 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 transaction between applicants 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 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 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 CCN numbers 10297 and 10298 will not be amended until the transaction is complete 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 shall file a recommendation regarding the sufficiency of the documents and propose a schedule for continued processing of this docket.

Signed at Austin, Texas the ____ day of September 2020.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE