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Received - 2021-08-13 02:26:28 PM
Control Number - 50480
ItemNumber - 39

DOCKET NO. 50480

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	§	

NOTICE OF APPROVAL

This Notice of Approval 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) approves the sale and transfer of facilities and service area, amends San Marcos' water CCN number 10298 to include the requested service area, and removes the requested area from Crystal Clear SUD's CCN number 10297.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Crystal Clear SUD is a special utility district created by the Texas Legislature pursuant to Texas Special District Local Laws Code Chapter 7206 pursuant to section 59, article XVI of the Texas Constitution.
2. Crystal Clear SUD operates, maintains, and controls facilities that provide water service in Hays County under CCN number 10297.
3. Crystal Clear SUD controls a facility that is registered with the Texas Commission on Environmental Quality (TCEQ) under public water system (PWS) identification number 0940015.

4. San Marcos is a municipality in the State of Texas.
5. San Marcos operates, maintains, and controls facilities that provide water service in Hays County under CCN number 10298.
6. San Marcos controls facilities that are registered with the TCEQ under PWS identification number 1050001.

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 adjacent to and partially within the corporate boundary 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 McCarty Land, and on the west by West McCarty 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 attesting that notice was mailed to current customers, neighboring utilities, and affected parties 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 filed on July 14, 2020, the ALJ deemed the notice sufficient.

Intervention

16. On May 21, 2020, Guadalupe Carbajal filed a motion to intervene.
17. In Order No. 5 filed on June 15, 2020 the ALJ granted the intervention.
18. Since being granted intervenor status, Mr. Carbajal has taken no further action.

Evidentiary Record

19. On September 25, 2020, the parties filed an agreed motion to admit evidence.
20. In Order No. 8, filed on October 6, 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; (b) Commission Staff's recommendation on administrative completeness filed on February 24, 2020; (c) San Marcos' supplemental application information, filed on March 20, 2020; (d) Commission Staff's supplemental recommendation on administrative completeness, filed on April 24, 2020; (e) Guadalupe Carbajal's motion to intervene, filed on May 21, 2020; (f) San Marcos' additional application information, filed on June 3, 2020; (g) Commission Staff's corrected notice form and request for extension, filed on June 11, 2020; (h) San Marcos' supplemental information, filed on June 30, 2020; (i) Commission Staff's recommendation on sufficiency of notice, filed on July 13, 2020; (j) Commission Staff's recommendation on approval of the sale, filed on August 28, 2020.
21. On August 6, 2021, the Parties filed a supplemental joint motion to admit evidence.
22. In Order No. 12 filed on August 13th, 2021, the ALJ admitted the following additional evidence into the record: (a) applicants' bill of sale and supplemental information filed on April 23, 2021 and May 21, 2021; (b) Commission Staff's supplemental recommendation on the sufficiency of closing documents filed on June 4, 2021; (c) Crystal Clear SUD's consent form filed on July 23, 2021; (d) San Marcos' consent form filed on August 5, 2021; and (e) the map and certificates attached to the joint supplemental motion to admit evidence and proposed notice of approval filed on August 6, 2021.

Sale

23. In Order No. 9 filed on October 27, 2020, the ALJ approved the sale and transaction to proceed and required the applicants to file proof that the transaction had closed, and that customer deposits had been addressed.
24. On April 23, 2021 and May 21, 2021, the applicants filed notice that the sale had closed with an effective date of April 15, 2021 and provided a list of the customer deposits that had been addressed.
25. In Order No. 11 filed on June 7, 2021, the ALJ found the closing documents sufficient.

System Compliance

26. 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.
27. There is no evidence that San Marcos has a history of continuing mismanagement or misuses of revenues as utility service provider.
28. The applicants have demonstrated a compliance status that is adequate for approval of the application.

Adequacy of Existing Service

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

Need for Additional Service

31. There are 489 existing connections in the requested area that are receiving water from Crystal Clear SUD's PWS number 0940015 and have an ongoing need for service.
32. The application is to transfer only existing facilities, customers, and service area.
33. There is no evidence in the record indicating a need for additional service.

Effect of Approving the Transaction and Granting the Amendment

34. Crystal Clear SUD and San Marcos are the only utilities affected by this transfer.
35. Approving the transaction and granting the CCN amendment will obligate San Marcos to provide service to current and future customers in the requested area. Any landowners in the requested area that do not currently receive service from Crystal Clear SUD will need to request service from San Marcos if they require service after the transaction has been completed.
36. There will be no effect on any other retail public utility servicing the proximate area because this transaction does not include any uncertificated area.
37. There will be no effect on the landowners as the area is currently certificated.

Ability to Serve: Managerial and Technical

38. San Marcos has a public water system registered with TCEQ under PWS identification number 1050001.
39. San Marcos has a demonstrated history of successfully providing continuous and adequate retail water service.
40. San Marcos contracts with TCEQ-licensed operators who are responsible for the operations of its public water system.
41. San Marcos 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.
42. San Marcos has the managerial and technical capability to provide continuous and adequate service to the requested area.

Ability to Serve: Financial Ability and Stability

43. San Marcos has a debt-service coverage ration that is greater than 1.25, which satisfies the leverage test.
44. San Marcos demonstrated that it has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations after completion of the transaction, which satisfies the operations test.

45. San Marcos demonstrated the financial capability and stability to provide continuous and adequate service to the requested area.

Financial Assurance

46. 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

47. Because San Marcos does not need to construct a physically separate system to serve the requested area, consideration of regionalization or consolidation is not required.

Feasibility of Obtaining Service from Adjacent Retail Public Utility

48. The area being transferred is currently being served by Crystal Clear SUD and the service area will now be served by San Marcos. Therefore, it is not feasible to obtain service from another utility.

Environmental Integrity and Effect on the Land

49. The environmental integrity of the land will not be affected as no additional construction is needed to provide service to the requested area.
50. The requested area will continue to be served by existing facilities and no additional construction is needed. Therefore, there will be no effect on the land.

Improvement of Service or Lowering Cost to Consumers

51. San Marcos will continue to provide water service to the existing customers in the requested area.
52. San Marcos will charge all of the customers in the requested area different rates than they were charged before the transaction which will result in lower monthly bills for most customers.

Informal Disposition

53. More than 15 days have passed since the completion of notice provided in this docket.
54. One person, Guadalupe Carbajal, filed a motion to intervene.
55. Crystal Clear SUD, San Marcos, Guadalupe Carbajal, and Commission Staff are the only parties to this proceeding.

- 56. No party requested a hearing and no hearing is needed.
- 57. Commission Staff recommended approval of the application.
- 58. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

- 1. The Commission has authority over this proceeding under TWC §§ 13.041, 13.241, 13.244, 13.246, 13.251, and 13.301.
- 2. Crystal Clear SUD and San Marcos are retail public utilities as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
- 3. Notice of the application was provided in compliance with TWC § 13.301(a) and 16 TAC § 24.239(a) through (c).
- 4. The Commission processed the application as required by the TWC, the Administrative Procedure Act,¹ and Commission Rules.
- 5. Crystal Clear SUD and San Marcos have complied with the requirements of 16 TAC § 24.239(k) with respect to customer deposits.
- 6. Crystal Clear SUD and San Marcos completed the sale within the time frame required by 16 TAC § 24.239(m).
- 7. Crystal Clear SUD and San Marcos provided notice of the application that complies with TWC §§ 13.246 and 13.301(a)(2) and 16 TAC § 24.239.
- 8. After consideration of the factors in TWC § 13.246(c), San Marcos has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area as required by TWC § 13.301(b).
- 9. Crystal Clear SUD and San Marcos have demonstrated that the sale of a portion of Crystal Clear SUD's water facilities and service area held under CCN number 10297 to San Marcos will serve the public interest and is necessary for the for the service,

¹ Tex. Gov't Code §§ 2001.001-903.

accommodation, convenience, and safety of the public as required by TWC § 13.301(d) and (e).

10. San Marcos meets the requirements of TWC §§ 13.24(b) and 13.301(b) to provide water utility service.
11. It is not necessary for San Marcos to provide bond or other financial assurance under TWC §§ 13.246(d) and 13.301(c).
12. San Marcos must record a certified copy of its certificate granted and map approved by this Notice of Approval, along with a boundary description of the service area, in the real property records of Hays County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording. TWC § 13.257(r), (s).
13. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs


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

1. The Commission approves the sale and transfer of facilities and requested area from Crystal Clear SUD under water CCN number 10297 to San Marcos to be held under water CCN number 10298, to the extent provided in this Notice of Approval.
2. The Commission amends San Marcos water CCN number 10298 to include the requested area.
3. The Commission amends Crystal Clear SUD's water CCN number 10297 to remove the requested area.
4. The Commission approves the map and certificates attached to the Notice of Approval.
5. The Commission issues the certificates attached to the Notice of Approval.
6. San Marcos must serve every customer and applicant for service within the approved area under water CCN number 12098 that requests service and meets the terms of San Marcos' water service, and such service must be continuous and adequate.

7. San Marcos must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Hays County affected by the application and must submit to the Commission evidence of the recording no later than 45 days after receipt of the Notice of Approval.
8. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

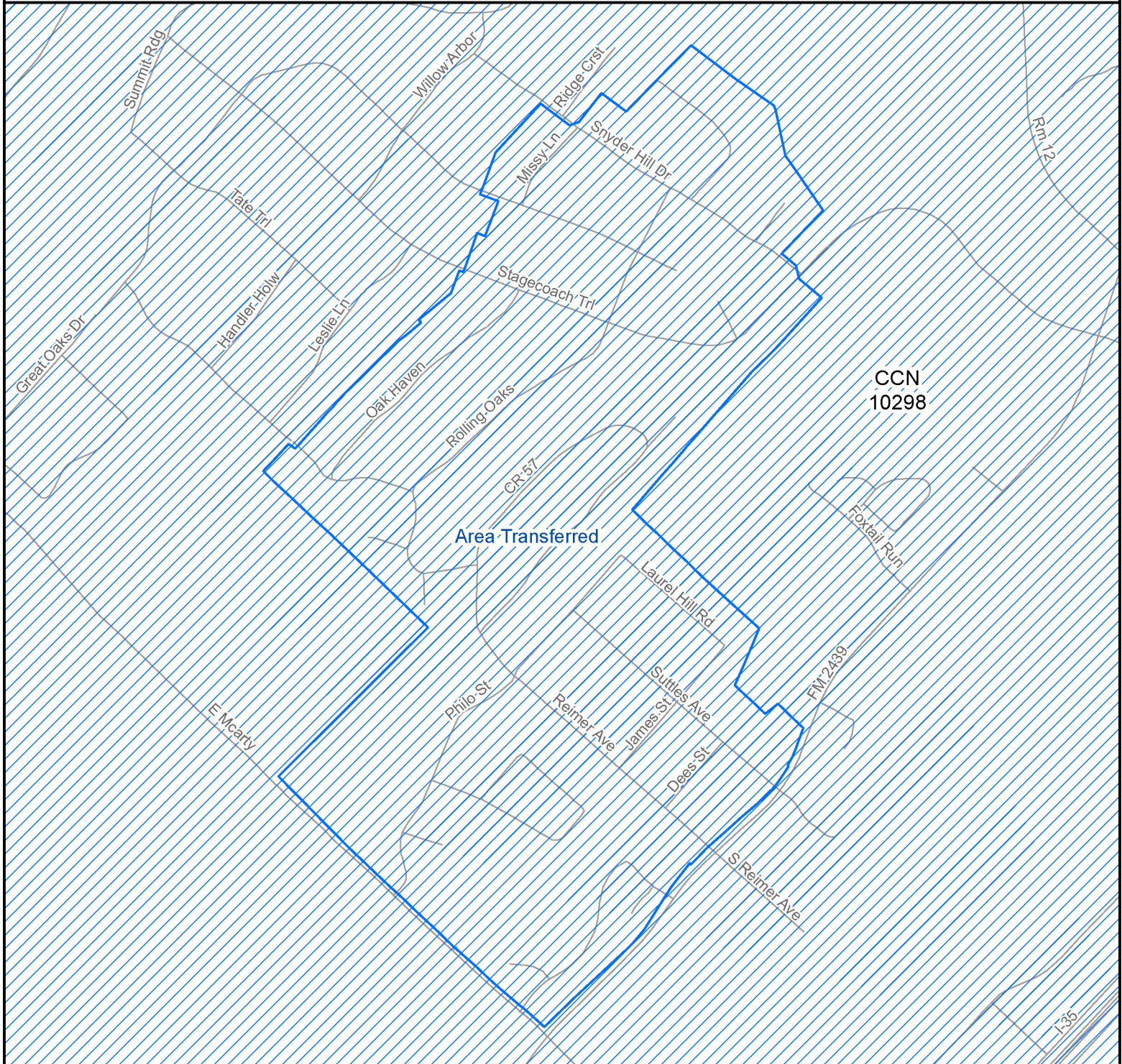
Signed at Austin, Texas the 13th day of August 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read 'G. R. Siemankowski', is written over a horizontal line.

**GREGORY R. SIEMANKOWSKI
ADMINISTRATIVE LAW JUDGE**

City of San Marcos
Portion of Water CCN No. 10298
PUC Docket No. 50480
Transferred a Portion of Crystal Clear Special Utility District, CCN No. 10297 in Hays County



Water CCN

 10298 - City of San Marcos

0 625 1,250
Feet





Public Utility Commission of Texas

By These Presents Be It Known To All That

Crystal Clear Special Utility District

having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Crystal Clear Special Utility District is entitled to this

Certificate of Convenience and Necessity No. 10297

to provide continuous and adequate water utility service to that service area or those service areas in Caldwell, Comal, Guadalupe and Hays Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 50480 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the Crystal Clear Special Utility District to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this _____ day of _____ 20__.



Public Utility Commission of Texas

By These Presents Be It Known To All That

City of San Marcos

having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of San Marcos is entitled to this

Certificate of Convenience and Necessity No. 10298

to provide continuous and adequate water utility service to that service area or those service areas in Caldwell, Comal, Guadalupe and Hays Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 50480 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of San Marcos to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this _____ day of _____ 20__.