



Control Number: 50659



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DOCKET NO. 50659

**APPLICATION OF MONTGOMERY
COUNTY MUNICIPAL UTILITY
DISTRICT NO. 126 AND CITY OF
CONROE FOR SALE, TRANSFER,
OR MERGER OF FACILITIES AND
CERTIFICATE RIGHTS IN
MONTGOMERY COUNTY**

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PUBLIC UTILITY COMMISSION

OF TEXAS

2021 APR 16 01:47

**JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED
NOTICE OF APPROVAL**

COMES NOW Montgomery County Municipal Utility District No. 126 (MUD 126) and City of Conroe, Texas, (Conroe) and the Staff (Staff) of the Public Utility Commission of Texas (Commission) (collectively, Parties), and hereby submit this Joint Motion to Admit Evidence and Proposed Notice of Approval. In support thereof, the Parties show the following:

I. BACKGROUND

On February 16, 2021, the Applicants filed closing documents reflecting the consummation of Conroe's acquisition of MUD 126's facilities and certificated service areas. Commission Staff filed its recommendations on March 3, 2021 recommending that the Applicant's closing documentation be found sufficient. On March 4, 2021 the Administrative Law Judge ("ALJ") filed Order No. 9 finding the closing documents to be sufficient and requiring the parties to jointly file a Proposed Notice of Approval by April 16, 2021. Therefore, this pleading is timely filed.

II. JOINT SUPPLEMENTAL MOTION TO ADMIT EVIDENCE

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

1. Applicants' Bill of Sale filed on February 16, 2021 (Interchange Item No. 20);
2. Commission Staff's recommendation on the sufficiency of closing documents filed March 3, 2021 (Interchange Item No. 22);
3. Conroe's consent forms filed on March 30, 2021 (Interchange Item No. 24);
4. MUD 126's consent forms filed on April 5, 2021 (Interchange Item No. 25); and
5. The attached map and certificates.

III. JOINT PROPOSED NOTICE OF APPROVAL

The Parties request that the Commission approve the attached 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 attached Proposed Notice of Approval be adopted.

Dated: April 16, 2021

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 April 16, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50659.

/s/ Rustin Tawater
Rustin Tawater

DOCKET NO. 50659

APPLICATION OF MONTGOMERY	§	PUBLIC UTILITY COMMISSION
COUNTY MUNICIPAL UTILITY	§	
DISTRICT NO. 126 AND CITY OF	§	OF TEXAS
CONROE FOR SALE, TRANSFER,	§	
OR MERGER OF FACILITIES AND	§	
CERTIFICATE RIGHTS IN	§	
MONTGOMERY COUNTY	§	

NOTICE OF APPROVAL

This Notice of Approval addresses the application of Montgomery County Municipal Utility District No. 126 (MUD 126) and City of Conroe, Texas (Conroe) (collectively, Applicants) for an amendment for sale, transfer, or merger of certificate rights in Montgomery County, Texas. The Commission approves the sale and transfer of all of the MUD 126 water and sewer facilities and service area held under water Certificate of Convenience and Necessity (CCN) number 13258 and sewer CCN number 21104 to Conroe's water CCN number 10339 and sewer CCN number 20135, the cancellation of MUD 126 water CCN number 13258 and sewer CCN number 21104, and the amendment of Conroe's water CCN number 10339 to include the facilities and service area previously included in the MUD 126 water CCN 13258 and the amendment of Conroe's sewer CCN 20135 to include the facilities and service area previously included in the MUD 126 sewer CCN 21104.

I. FINDINGS OF FACT

The Commission adopts the following findings of fact and conclusions of law:

Applicant

1. Montgomery County Municipal Utility District No. 126 (Seller) is a municipal utility district organized under the terms and provisions of Article XVI, Section 59 of the Constitution of Texas and Chapters 49 and 54 of the Texas Water Code.
2. Seller owns a water and sewer utility that provides water and sewer service in Texas under CCN numbers 13258 and 21104.

3. The City of Conroe, Texas (Purchaser) is a home rule municipality and unit of local government organized and operating under the Constitution and laws of the State of Texas.
4. Purchaser owns a public water system (PWS) registered with the Texas Commission on Environmental Quality (TCEQ) under PWS identification number 1700001.

Application

5. On March 13, 2020, the Applicants filed the application at issue in this proceeding.
6. The Applicants filed supplemental information on May 5, 2020 and May 11, 2020.
7. The requested area includes 174 acres, 568 water connections, and 549 sewer connections in Montgomery County.
8. The City of Conroe, Texas, is located southeast of the requested area. The requested area is generally bounded on the north by League Line Road, on the east by Longmire Road, on the south by Longmire Way Road and on the west by Lake Conroe.
9. In Order No. 4 filed June 30, 2020, the administrative law judge (ALJ) found the application administratively complete.

Notice

10. On July 27, 2020, Purchaser filed Affidavits of Notice to Current Customers, Neighboring Utilities and Affected Parties indicating that notice of application was mailed to entities listed on the affidavits on July 24, 2020.
11. In Order No. 5, issued on August 11, 2020, the ALJ deemed the notice sufficient.

Evidentiary Record

12. On October 8, 2020, the parties jointly moved to admit evidence.
13. In Order No. 6, issued on November 2, 2020 the ALJ admitted the following evidence into the record: (a) the Application filed on March 13, 2020, (Interchange Item No. 1); (b) Purchaser's supplemental mapping and audit information filed on May 5, 2020 and May 11, 2020, respectively (Interchange Item Nos. 8 and 9); (c) Applicant's proof of notice filed on July 27, 2020, (Interchange Item No. 12); (d) Commission Staff's

recommendation on the transaction to proceed filed September 23, 2020, (Interchange Item No. 15).

Sale

14. In Order No. 7 filed on November 3, 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.
15. On February 16, 2021, the applicants filed notice that the sale had closed on January 15, 2021.
16. In Order No. 9 filed on March 4, 2021, the ALJ found the closing documents sufficient.

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)

17. Neither Conroe nor MUD 126 have been subject to any unresolved enforcement action by the Commission, TCEQ, the Texas Department of State Health Services, the Office of Attorney General, or the United States Environmental Protection Agency.
18. The applicants have demonstrated a compliance status that is adequate for approval of the sale to proceed.

Adequacy of Existing Service-TWC § 13.246(c)(1); 16 TAC §§ 24.227(e)(2), 24.239(h)(5)(A)

19. The Seller has a public water system (PWS) registered with the Texas Commission on Environmental Quality (TCEQ), PWS No. 1700833.
20. The Seller currently purchases wholesale water and sewer service from the City of Conroe (Purchaser).

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

21. There are currently 568 existing water customers and 549 existing sewer customers in the requested area, therefore, there is a need for service.
22. No additional service is needed at this time.
23. This application does not seek to certify any currently uncertificated area.

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)

24. There will be no effect on any retail public utility servicing the proximate area as there are no other water providers in the requested area. There will be no effect on landowners as the requested area is currently certificated.

Ability to Serve: Managerial and Technical-TWC §§ 13.241(a), 13.246(c)(4), 13.301(b), (e)(2); 16 TAC §§ 24.227(a), (e)(4), and 24.239(e), (h)(5)(D)

25. The Purchaser currently provides wholesale water and sewer service to the Seller.
26. The Purchaser has a public water supply system registered with the TCEQ under PWS No. 1700001.
27. The Purchaser does not have any violations listed in the TCEQ database. An operator with a Class B water license and a Class III wastewater license will be responsible for the operations and maintenance of the water and sewer systems.
28. No additional construction is necessary for the Purchaser to serve the requested area.
29. The Seller is currently serving customers and has sufficient capacity to serve the requested area.
30. Purchaser has the managerial and technical 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), and 24.239(e), (h)(5)(F)

31. Purchaser has submitted a financial statement for the period ending September 30, 2018 which includes an unqualified auditor's opinion from Weaver and Tidwell, L.L.P. which states the financial statements present fairly, in all material respects, the financial position of the Purchaser as of September 30, 2018.
32. The Purchaser meets the second test with a debt service coverage ratio of 1.38 which is greater than 1.25.
33. Purchaser has demonstrated the financial capability and stability to provide continuous and adequate service to the requested area.

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

34. There is no need to require the City 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)

35. Utilities within a two-mile radius were noticed and no protests were received regarding the proposed transaction.

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)

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

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

37. The Purchaser will continue to provide water and sewer service to the existing and future customers in the requested area.

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

38. No construction is required to provide service to the requested area; therefore, this criterion is not applicable.

Tariff, Map and Certificates

39. On March 29, 2021, Commission Staff emailed to the applicants the final proposed map and certificates related to this docket.
40. On March 30, 2021 Conroe filed its consent form concurring with the proposed final map and certificates.
41. On April 5, 2021 MUD 126 filed its consent form concurring with the proposed final map and certificates.
42. On April 15, 2021, the final map and certificates were included as attachments to the joint supplemental motion to admit evidence and proposed notice of approval.

Informal Disposition

43. More than 15 days have passed since the completion of notice provided in this docket.
44. No person filed a protest or motion to intervene.
45. MUD 126, Conroe and Commission Staff are the only parties to this proceeding.
46. There are no requests for hearing, and no hearing is needed.
47. Commission Staff recommended approval of the application.
48. 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 of this proceeding under TWC §§ 13.041, 13.241, 13.244, 13.246, 13.251, and 13.301.
2. MUD 126 and Conroe are retail public utilities as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
3. MUD 126 and Conroe provided notice of the application that complies with TWC § 13.301(a) and 16 TAC § 24.239(a)-(c).
4. The Commission processed the application as required by the TWC, the Administrative Procedure Act, and Commission Rules.
5. MUD 126 and Conroe completed the sale within the time required by 16 TAC § 24.239(m).
6. MUD 126 and Conroe complied with the requirements of 16 TAC § 24.239(k) with respect to customer deposits.
7. After consideration of the factors in TWC § 13.246(c) and 16 TAC §§ 24.227(e) and 24.239(h)(5), Conroe demonstrated adequate financial, managerial, and technical capability to provide adequate and continuous service to the territory as required by TWC § 13.301(b) and 16 TAC § 24.239(e).
8. It is not necessary for Conroe to provide a bond or other financial assurance under TWC §§ 13.246(d) and 13.301(c).
9. MUD 126 and Conroe have demonstrated that the sale of MUD 126's water and sewer facilities and the transfer of the water and sewer service areas held under water CCN

13258 and sewer CCN 21104 to Conroe will serve the public interest and are necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.301(d) and (e).

10. Conroe 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 Montgomery County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording as required by TWC § 13.257(r) and (s).
11. 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 order:

1. The Commission approves the sale and transfer of all of the MUD 126 facilities and water service area under water CCN number 13258 to Conroe, the cancellation of MUD 126 water CCN number 13258, and the amendment of Conroe water CCN number 10339 to include the facilities and service area previously included in MUD 126 water CCN number 13258. The Commission further approves the sale and transfer of all of the MUD 126 facilities and sewer service area under sewer CCN number 21104 to Conroe's sewer CCN number 20135, the cancellation of MUD 126 sewer CCN number 21104, and the amendment of Conroe's sewer CCN 20135 to include the facilities and service area previously included in the MUD 126 sewer CCN 21104.
2. The Commission approves the map attached to this Notice of Approval.
3. The Commission issues the certificate attached to this Notice of Approval.
4. Conroe must provide service to every customer and applicant for service within the approved area under water CCN 10339 that requests water service and meets the terms of Conroe's water service, and such service must be continuous and adequate.
5. Conroe must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Montgomery County affected by the application and must submit to the

Commission evidence of the recording no later than 45 days after receipt of this Notice of Approval.

6. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the ____ day of _____ 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE