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DOCKET NO. 50816



APPLICATION OF VINTON HILLS §
ALEGRE, LLC AND VILLAGE OF §
VINTON FOR SALE, TRANSFER, OR §
MERGER OF FACILITIES AND §
CERTIFICATE RIGHTS IN EL PASO §
COUNTY §

PUBLIC UTILITY COMMISSION
OF TEXAS

ORDER NO. 6
APPROVING SALE AND TRANSFER TO PROCEED

This Order addresses the application of Vinton Hills Alegre, LLC and Village of Vinton for sale, transfer, or merger of facilities and certificate rights in El Paso County. The applicants seek to sell and transfer all of the assets and facilities currently held under Vinton Hills' certificate of convenience and necessity (CCN) number 12563 to Village of Vinton's CCN number 13269 and to amend the CCN to include 310 acres and 299 current customers. The administrative law judge (ALJ) grants the transaction proposed in this application may proceed and be consummated.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Vinton Hills is a domestic limited liability company registered with the Texas secretary of state under file number 800704510.
2. Vinton Hills operates, maintains, and controls facilities for providing retail water service in El Paso county under CCN number 12563.
3. Vinton Hills owns three public water systems registered with the Texas Commission on Environmental Quality (TCEQ) under identification numbers 0710151, 0710169, and 0710172.
4. Village of Vinton is a municipally-owned water utility in El Paso County.
5. Village of Vinton operates, maintains, and controls facilities for providing water service in El Paso County under CCN number 13269.

6. Village of Vinton owns a public water system registered with the TCEQ under identification number 0710050.

Application

7. On May 5, 2020, the applicants filed an application for approval to transfer all facilities and service area held under Vinton Hills' CCN number 12563 to Village of Vinton and to subsequently cancel Vinton Hills' CCN number 12563. The application originally requested that Village of Vinton be granted a new CCN as a result of the transfer.
8. On June 11, 2020, the applicants filed an amendment to the application, clarifying that the requested area should be transferred into Village of Vinton's existing CCN number 13269.
9. The requested area subject to this transaction is located in downtown Village of Vinton, and is generally bounded on the north by Valley Chile Road; on the east by Lovena Road; on the south by Cap Carter Road; and on the west by State Highway 20.
10. The total requested area being transferred includes approximately 310 acres and 299 current customers in the Villa Alegre Estates, Vinton Hills subdivision, and Vinton Village Estates in El Paso County.
11. In Order No. 3 filed on July 6, 2020, the ALJ deemed the application administratively complete.

Notice

12. On July 17, 2020, the applicants filed the affidavit of Christina Thompson, paralegal of Lloyd Gosselink Rochelle & Townsend, P.C., attorneys for Village of Vinton, attesting that notice was mailed to all current customers, neighboring utilities, and affected parties on July 13, 2020.
13. In Order No. 4 filed on August 18, 2020, the ALJ deemed the notice sufficient.

Evidentiary Record

14. On October 20, 2020, Village of Vinton filed an agreed motion to admit evidence on behalf of all of the parties.
15. In Order No. 5 filed on October 22, 2020, the ALJ admitted the following evidence into the record of this proceeding: (a) applicants' application and confidential attachments filed on May 5, 2020; (b) applicants' amendment to the application filed on June 11, 2020;

(c) Commission Staff's recommendation on administrative completeness and proposed procedural schedule filed on July 2, 2020; (d) applicants' proof of notice filed on July 17, 2020; (d) Commission Staff's recommendation on sufficiency of notice and proposed procedural schedule filed on August 17, 2020; and (e) Commission Staff's recommendation on approval of the sale filed on September 16, 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)(I)

16. Applicants have not been the subject of any enforcement actions by the Commission, TCEQ, Texas Department of State Health Services, the Office of the Attorney General, or United States Environmental Protection Agency in the past five years.
17. Applicants have no outstanding violations listed in the TCEQ database.
18. Applicants have demonstrated a compliance status that is adequate for approval of the transaction to proceed.

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

19. Vinton Hills is currently providing water service to 299 customers in the requested area through its three public water systems and such service has been continuous and adequate.
20. Construction is not necessary to provide adequate service to the requested area at this time, but Village of Vinton is planning for future upgrades to the water system.

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

21. There is a need for the 299 current customers to continue receiving water service in the requested area.
22. Village of Vinton has received no new requests for service and does not seek to include additional uncertificated area beyond the area requested in this application.
23. The application transfers only existing facilities, customers, and service area.

Effect of Approving the Transaction—TWC § 13.245(c)(3); 16 TAC §§ 24.227(e)(3); 24.239(h)(5)(C)

24. Vinton Hills is already operating and maintaining the three public water systems subject to this transaction; therefore, there will be no effect on any other retail public utility serving the proximate area.

25. The requested area is already certificated; therefore, there will be no effect on existing landowners.
26. Approving the transaction and granting the CCN amendment will enable Village of Vinton to serve the approximately 299 current customers and obligate Village of Vinton to provide service to any future customers in the requested area.

Ability to Serve: Managerial and Technical—TWC §§ 13.241(a), (c), 13.301(6), (e)(2); 16 TAC §§ 24.227(a), (e)(4), and 24.239(e), (h)(5)(D)

27. Vinton Hills' three public water systems, which currently serve the 299 customers and have adequate capacity to meet the demands in the requested area.
28. Village of Vinton employs a sufficient number of TCEQ-licensed operators who will operate the three additional water systems.
29. Village of Vinton has access to an adequate supply of water and is capable of providing drinking 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.
30. Village of Vinton has the managerial and technical capability to provide continuous and adequate retail water service to the requested area.

Feasibility of Obtaining Service from Additional Retail Public Utility—TWC § 13.246(c)(5); 16 TAC §§ 24.227(e)(5); 24.239(h)(5)(E)

31. The requested area is currently being served by Vinton Hills with existing facilities.
32. Notice was provided to utilities within a two-mile radius and no protests or requests to opt out were received regarding the proposed transaction.
33. It is not feasible for an adjacent utility or retail public utility to provide 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)(D)

34. Village of Vinton has a debt-to-equity ratio of less than one.
35. Village of Vinton has sufficient cash available to cover any projected operations and maintenance shortages during the first five years after completion of the proposed transaction, satisfying the operations test.

36. Village of Vinton has acquired a USDA loan for future improvements to the water system and any additional improvements will be paid for through its budgeting process using project funds included in the budget.
37. Village of Vinton has demonstrated the financial capability and stability to provide continuous and adequate retail water service the requested area.

Financial Assurance—TWC §§ 13.246(d), 13.301(c); 16 TAC §§ 24.227(1), 24.239(f)

38. There is no need to require Village of Vinton to provide a bond or other financial assurance to ensure continuous and adequate service.

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

39. There will be no effect on environmental integrity on the land because the requested area is already receiving service.
40. Village of Vinton plans future upgrades to the water system; however, the effect on the land will be minimal during the upgrades and Village of Vinton has pledged to restore the disturbances to the land to substantially the same condition that existed before the upgrades.

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

41. The transaction will improve the current level of service by allowing for the installation of a looped water system, connecting customers to a more reliable water supply provided by El Paso Water Utilities under a wholesale purchase agreement.
42. Customers will continue to receive the same level of service as there will be no change in daily customer service and operations as a result of the proposed transaction.

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

43. Construction of a physically separate water system is not necessary to continue providing water service in the requested area.
44. As a result of the transaction, Village of Vinton will be able to reduce its reliance on groundwater wells and instead obtain a more reliable water supply for public drinking water from El Paso Water Utilities through a wholesale purchase agreement.

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) and 16 TAC §§ 24.227(e) and 24.239(h)(5), Village of Vinton demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous retail water service to the requested area as required by TWC § 13.301(b) and 16 TAC § 24.239(e).
3. Vinton Hills and Village of Vinton have demonstrated that the transfer of public water supply numbers 0710151, 0710169, and 0710172 and service area held under CCN number 12563 from Vinton Hills to Village of Vinton will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public under TWC § 13.301(d) and (e).

III. Ordering Paragraphs

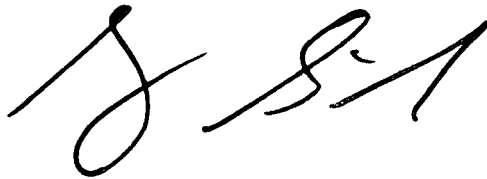
In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The sale is approved and the transaction between the Vinton Hills and Village of Vinton 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(m), 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 12563 will be held by Vinton Hills until the sale and transfer 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 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 23rd day of October 2020.

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