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DOCKET NO. 51453

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APPLICATION OF AQUA UTILITIES, § PUBLIC UTILITY COMMISSION
INC. AND AQUA TEXAS, INC. FOR § OF TEXAS
SALE, TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN BANDERA COUNTY §

**JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED ORDER
APPROVING SALE/TRANSFER TO PROCEED**

COME NOW Aqua Utilities, Inc. and Aqua Texas, Inc. (the “Applicants”) together with the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, (collectively, the Parties), and file this Joint Motion to Admit Evidence and Proposed Order Approving Sale/Transfer to Proceed. In support thereof, the Parties show the following.

I. BACKGROUND

On October 22, 2020, Aqua Utilities, Inc. (Aqua Utilities) and Aqua Texas, Inc. (Aqua Texas) filed an application for approval of a sale, transfer, or merger of facilities from Aqua Utilities to Aqua Texas and for an amendment of Aqua Texas’ certificate rights to include the area served with those facilities in Bandera County. Specifically, the facilities to be transferred include all assets used and useful for Aqua Utilities’ Blue Medina Water public drinking water system (PWS ID No. 0100030). Aqua Utilities seeks approval to transfer to Aqua Texas nearly all of its Southwest Region assets that are used or useful in the provision of water service under certificate of convenience and necessity (CCN) number 11157. Further, Aqua Texas seeks this approval as part of its effort to consolidate all Applicants’ Southwest Region water assets and service areas under Aqua Texas’ Southwest Region water CCN No. 13254. The requested transfer includes approximately 474 acres and 75 current customer connections.

On January 21, 2021, the Commission issued Order No. 4 Finding Notice Sufficient and Establishing Procedural Schedule, which required that the Parties file a joint motion to admit evidence and proposed order approving the sale and allowing the transaction to proceed by April 7, 2021. This pleading is therefore timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

The Parties move to admit the following evidence into the record of this proceeding:

1. Application filed on October 22, 2020 (Interchange Item No. 1).
2. Publisher's Affidavit filed on December 30, 2020 (Interchange Item No. 10).
3. Applicants' Affidavit of Notice to Current Customers, Neighboring Utilities, and Affected Parties filed on January 4, 2021 (Interchange Item No. 11).
4. Aqua Utilities, Inc.'s Responses to Commission Staff's First Request for Information filed on February 22, 2021 (Interchange Item No 23).
5. Aqua Texas, Inc.'s Responses to Commission Staff's First Request for Information filed on February 22, 2021 (Interchange Item No. 24).
6. Commission Staff's Final Recommendation filed on February 26, 2021 (Interchange Item No. 25).

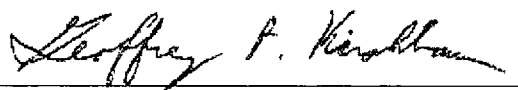
III. PROPOSED ORDER

The Parties move for adoption of the attached Proposed Order Approving Sale/Transfer to Proceed. The Parties propose that an ordering provision approving the requested amendment to CCN No. 13254 be included in the final order after the Parties close their transaction.

IV. CONCLUSION

The Parties respectfully request that the Commission grant the Motion to Admit Evidence and adopt the attached Proposed Order Approving Sale/Transfer to Proceed.

Respectfully submitted,

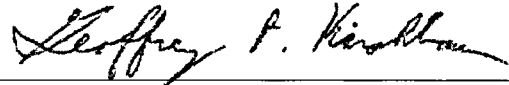
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**ATTORNEY FOR AQUA UTILITIES, INC.,
AND AQUA TEXAS, INC.**

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 7, 2021, in accordance with the Orders Suspending Rules filed in Project No. 50664.

A handwritten signature in black ink, reading "Geoffrey P. Kirshbaum". The signature is written in a cursive style with a horizontal line underneath it.

Geoffrey P. Kirshbaum

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APPLICATION OF AQUA UTILITIES,	§	PUBLIC UTILITY COMMISSION
INC. AND AQUA TEXAS, INC. FOR	§	
SALE, TRANSFER, OR MERGER OF	§	OF TEXAS
FACILITIES AND CERTIFICATE	§	
RIGHTS IN BANDERA COUNTY	§	

PROPOSED ORDER APPROVING SALE/TRANSFER TO PROCEED

This order addresses the application of Aqua Utilities, Inc. (Aqua Utilities) and Aqua Texas, Inc. (Aqua Texas) (collectively, the Applicants) for the sale, transfer, or merger of facilities and for an amendment Aqua Texas' certificate rights in Bandera county.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Aqua Utilities, Inc. is a domestic for-profit corporation registered with the Texas Secretary of State under file number 0147005600 (Texas Taxpayer No. 17605563919).
2. Aqua Texas, Inc. is a domestic for-profit corporation registered with the Texas Secretary of State under file number 0800304878 (Texas Taxpayer No. 32014405503).
3. Both Applicants are 100% owned by Essential Utilities, Inc., a Pennsylvania corporation.
4. Both Applicants own and operate various water and wastewater systems throughout the State of Texas.
5. Aqua Utilities holds water certificate of convenience and necessity (CCN) No. 11157.
6. Aqua Texas holds water CCN No. 13254 for its geographic Southwest water operating region (SW Region).

Application

7. On October 22, 2020, Aqua Utilities and Aqua Texas filed an application for the sale, transfer, or merger of a retail public utility and for an amendment of Aqua Texas' CCN No. 13254 with the Public Utility Commission of Texas pursuant to Texas Water Code (TWC) §§ 13.241 to 13.250 and 13.301 and 16 Texas Administrative Code (TAC), Subchapter G (the Application).

8. The Application was for transfer of Aqua Utilities' Blue Medina Water public drinking water system (PWS ID No. 0100030) in Bandera County to Aqua Texas and to include the service area for that system within Aqua Texas CCN No. 13254.
9. The purpose of the Application is to facilitate consolidation of all of Applicants' SW Region certificated rights and assets under Aqua Texas and its SW Region CCN as part of a series of applications.
10. Aqua Texas seeks to amend its water CCN No. 13254 to cover the water system and service area described in the Application.

Procedural History

11. On October 22, 2020, Applicants filed the Application.
12. In Order No. 2 issued on November 24, 2020, the presiding administrative law judge (ALJ) deemed the Application administratively complete and Applicants were ordered to provide public notice of the Application.
13. In Order No. 4 issued on January 21, 2021, the ALJ established that the deadline to intervene based on the public notice provided for the Application was January 27, 2021.
14. In Order No. 4, the ALJ also set the deadline for Commission Staff to request a hearing or file a recommendation on approval of the proposed sale and CCN amendment for January 13, 2021. Order Nos. 5 through 7 extended that deadline to February 26, 2021.
15. No person filed a motion to intervene, protest, hearing request, or opt-out request on or before January 27, 2021.
16. Commission Staff did not request a hearing and recommended application approval in Commission Staff's Final Recommendation on Approval of the Sale filed on February 26, 2021.

Notice

17. Mailed notice was provided to all affected and interested parties on December 10, 2020.
18. Notice was published in The Bandera Bulletin Newspaper on December 16, 2020 and December 23, 2020.
19. The Applicants filed a Publisher's Affidavit with the Commission providing proof of published notice on December 30, 2020.
20. The Applicants filed an affidavit of mailed notice with the Commission providing proof of mailed notice on January 4, 2021.

21. In Order No. 4 issued on January 21, 2021, the ALJ deemed the notice sufficient.

Evidentiary Record

22. On April ____, 2021, the parties jointly moved to admit evidence.

23. On April ____, 2021, the ALJ admitted the following evidence into the record: (a) the Application filed on October 22, 2020 (Interchange Item No. 1); (b) Publisher's Affidavit filed on December 30, 2020 (Interchange Item No. 10); (c) Applicants' Affidavit of Notice to Current Customers, Neighboring Utilities, and Affected Parties filed on January 4, 2021 (Interchange Item No.11); (d) Aqua Utilities, Inc.'s Responses to Commission Staff's First Request for Information filed on February 22, 2021 (Interchange Item No. 23); (e) Aqua Texas, Inc.'s Responses to Commission Staff's First Request for Information filed on February 22, 2021 (Interchange Item No. 24); and (f) Commission Staff's Final Recommendation filed on February 26, 2021 (Interchange Item No. 25).

Adequacy of Service Currently Provided to Requested Area and System Compliance – TWC §§13.246(c)(1), (c)(4), 13.301(e)(3)(A); 16 TAC §§ 24.227(a), (e)(1), (e)(4), 24.239(h)(3)(A), (h)(5)(A), (h)(5)(D)

24. The system requested for transfer is Blue Medina Water, an approved TCEQ Public Water System (PWS) registered under PWS ID No. 0100030 in Bandera County that meets the requirements of Texas Health and Safety Code, Chapter 341 and the applicable TCEQ rules.

25. Blue Medina Water does not have any violations listed in the TCEQ database.

26. No additional construction is necessary for Aqua Texas to serve the requested area.

27. The system requested for transfer is adequate and in compliance with Texas Health and Safety Code, Chapter 341 and the applicable TCEQ rules.

28. Aqua Texas has worked with TCEQ to resolve compliance issues as they arise and intends to continue that practice following the approval of the proposed transaction.

Need for Additional Service in the Requested Area – TWC §§ 13.246(c)(2); 16 TAC §§24.227(e)(2), 24.239(h)(5)(B)

29. There are currently 75 existing customer connections in the requested area and there is a need for those customers to continue receiving service from the Blue Medina Water PWS.

30. No additional service is needed at this time.

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)

31. Aqua Texas will be the certificated entity for the requested area and required to provide adequate and continuous service to the requested area.
32. There will be no effect on landowners as the requested area is currently being served by the Blue Medina Water system and that service will continue under Aqua Texas in place of its affiliate, Aqua Utilities, both of which are owned by Essential Utilities, Inc.
33. If the proposed transaction in the application is approved, it will facilitate the Applicants' efforts to consolidate their CCNs and system assets into one Essential Utilities, Inc. subsidiary with regional CCNs.
34. There will be no effect on any other retail public utility serving the proximate area as all retail public utilities in the proximate area were provided notice of the transaction proposed in the Application and none requested to intervene.

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

35. Aqua Texas has several approved TCEQ PWSs.
36. Aqua Texas has violations listed in the TCEQ database, but Aqua Texas has shown it is actively working with TCEQ to resolve each outstanding violation.
37. Blue Medina Water does not have any violations listed in the TCEQ database and no additional construction is necessary for Aqua Texas to serve the requested area.
38. The proposed transaction will not have any effect on the operation of the water system because the same experienced management and personnel will operate the Blue Medina Water system following the approval of the STM application and CCN amendment.
39. The proposed transfer involves only existing infrastructure and new construction is not necessary to serve the requested area as a result of the transaction.

Ability to Serve: Financial Ability and Stability – TWC §§ 13.241(a), 13.246(c)(6), 13.301(b), (e)(4); 16 TAC §§ 24.11(e), 24.227(a), (e)(6), 24.239(f), (h)(4), (h)(5)(F)

40. 16 TAC § 24.11 establishes criteria to demonstrate that an owner or operator of a retail public utility has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and requested utility service area.

41. 16 TAC § 24.11(e) lists the financial tests.
42. Aqua Texas meets one out of five leverage tests under 16 TAC § 24.11(e)(2) for which the Applicant is only required to meet one.
43. Essential Utilities, Inc., the parent entity of Aqua Texas, enables Aqua Texas to meet the debt service coverage test with a long-term debt-to-equity ratio of .76, which is less than 1.0 and meets the leverage test specified in 16 TAC § 24.11(e)(2)(A).
44. Aqua Texas also meets the leverage test specified in 16 TAC § 24.11(e)(2)(E) because Essential Utilities, Inc. is capable, available, and willing to cover temporary cash shortages.
45. 16 TAC § 24.11(e)(3) establishes an operations test which requires that the owner or operator must demonstrate sufficient cash is available to cover any projected operations and maintenance expense shortages in the first five years of operations.
46. Aqua Texas has not projected any operations and maintenance expense shortages will occur as a result of the proposed transaction and CCN amendment.
47. Aqua Texas been operating for more than five years.
48. Aqua Texas has further demonstrated it will have sufficient cash to cover operations and maintenance expense shortages should they occur and the financial ability to pay for capital improvements as needed.
49. Aqua Texas meets the operations test specified in 16 TAC § 24.11(e)(3).

Whether to Require Bond or Other Financial Assurance – TWC §§ 13.246(d), 13.301(c); 16 TAC §§ 24.227(f), 24.239(f)

50. Aqua Texas meets the financial tests.
51. No additional financial assurance is needed.

Feasibility of Obtaining Service from Adjacent Retail Public Utility and Regionalization/Consolidation – TWC §§ 13.241(d), 13.246(c)(5); 16 TAC §§24.227(b), (e)(5), 24.239(h)(5)(E)

52. The construction of a physically separate system is not necessary for Aqua Texas to serve the requested area; therefore, concerns about regionalization or consolidation do not apply.
53. Aqua Utilities is currently serving customers of the Blue Medina Water system, the water system is in place, and the water system has sufficient capacity to serve the requested CCN area.

54. Obtaining service from an adjacent retail public utility would likely increase costs to customers because new facilities would need to be constructed; at a minimum, an interconnect would need to be installed.
55. Retail public utilities in the area received notice of the Application and none intervened, protested, or requested a hearing.
56. It is not feasible to obtain service from an adjacent retail public utility.

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

57. The environmental integrity of the land will not be affected as no additional construction is needed to provide service to the requested area, and service is currently being provided 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(h)(5)(H)

58. Aqua Texas will continue to provide water service to existing customers at the same rates charged by Aqua Utilities immediately following the transfer.
59. Aqua Texas does not intend to file an application to change rates as a result of the proposed transaction and other factors would drive any future decisions regarding rate changes, which would require separate future applications.
60. The quality of service for transferred Aqua Texas customers will remain high.
61. There will be no change in the quality or cost of service to Blue Medina Water system customers as a result of the transaction.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. After consideration of the factors in TWC § 13.246(c), Aqua Texas has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested CCN amendment area and customers of the Blue Medina Water system. TWC §§ 13.246(b)-(c) and 13.301(b); 16 TAC §§ 16 TAC §§ 24.227(d), 24.239(g).
2. The Applicants have demonstrated that transferring the Aqua Utilities Blue Medina Water system to Aqua Texas and amending water CCN No. 13254 to include the service area for

that system will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public. TWC §§ 13.246(b)-(c); TWC § 13.301(d), (e); 16 TAC §§ 24.227(d), 24.239(g).

III. Ordering Paragraphs

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

1. The sale and asset transfer of the Blue Medina Water system proposed in the application is approved and the transaction between the 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 shall 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 Texas Administrative Code § 24.239(m), if the transactions are 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 Aqua Texas CCN No. 13254 will not be amended to include the Blue Medina Water system service area until the sale and transfer transactions are completed in accordance with Commission rules.
6. To finalize this case as soon as possible, the Applicants shall continue to file monthly updates regarding the status of the closing and submit documents evidencing that the transaction was consummated after the closing.
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 April, 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

KATIE MOORE
ADMINISTRATIVE LAW JUDGE