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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	§	

ORDER NO. 10
APPROVING SALE AND TRANSFER TO PROCEED

This Order addresses the application of Aqua Utilities, Inc. and Aqua Texas, Inc. for a sale, transfer, or merger of facilities and certificate of convenience and necessity (CCN) rights in Bandera County. The applicants seek approval to transfer the Blue Medina Water public water system from Aqua Utilities to Aqua Texas. The administrative law judge (ALJ) grants that the sale is approved and 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. Aqua Utilities is Texas corporation registered with the Texas secretary of state under file number 0147005600.
2. Aqua Utilities operates, maintains, and controls facilities for providing water service throughout Texas under CCN number 11157.
3. Aqua Utilities owns and operates a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under identification number 0100030.
4. Aqua Texas is a Texas corporation registered with the Texas secretary of state under file number 0800304878.
5. Aqua Texas holds water CCN number 13254 for its geographic Southwest water operating region.
6. Both applicants are fully owned by Essential Utilities, Inc., a Pennsylvania corporation.

Application

7. On October 22, 2020, Aqua Utilities and Aqua Texas filed the application at issue in this proceeding.
8. In the application, the applicants seek approval to transfer the Blue Medina Water public drinking water system, identification number 0100030, currently held under Aqua Utilities' water CCN number 11157, to Aqua Texas and to amend Aqua Texas's water CCN number 13254 to include the Blue Medina Water service area.
9. The purpose of the application is to facilitate consolidation of all of applicants' southwest region certificated rights and assets under Aqua Texas and its southwest region CCN as part of a series of applications.
10. The total requested area comprises 474 acres and 75 current connections.
11. The requested area is located approximately seven miles southeast of downtown Bandera, Texas, and is generally bounded on the north by Medina River, on the east by a line approximately one mile west of Farm to Market 1283, on the south by Medina River, and on the west by Medina River.
12. In Order No. 2 filed on November 24, 2020, the ALJ found the application administratively complete.

Notice

13. On December 30, 2020, the applicants filed publisher's affidavit of Shannon Lincoln, advertising representative, attesting that notice of the application was published in *The Bandera Bulletin*, a newspaper of general circulation in Bandera County, on December 16, and 23, 2020.
14. On January 4, 2021, the applicants filed an affidavit of Geoffrey P. Kirshbaum, attorney, attesting that notice of the application was mailed to current customers, neighboring utilities, and affected parties, on December 10, 2020.
15. In Order No. 4 filed on January 21, 2021, the ALJ found the notice sufficient.

Evidentiary Record

16. On April 7, 2021, the parties filed a joint motion to admit evidence.

17. In Order No. 8 filed on April 15, 2021, the ALJ admitted the following evidence into the record of this proceeding: (a) the application filed on October 22, 2020; (b) the publisher's affidavit filed on December 30, 2020; (c) the applicants' affidavit of notice to current customers, neighboring utilities, and affected parties filed on January 4, 2021; (d) Aqua Utilities' responses to Commission Staff's first request for information filed on February 22, 2021; (e) Aqua Texas' responses to Commission Staff's first request for information filed on February 22, 2021; and (f) Commission Staff's final recommendation filed on February 26, 2021.
18. In Order No. 9 filed on April 15, 2021, the ALJ admitted the following evidence, *sua sponte*, into the record of this proceeding: (a) Commission Staff's recommendation on administrative completeness and proposed notice of approval filed on November 23, 2020; and (b) Commission Staff's recommendation on sufficiency of notice and proposed procedural schedule filed on January 11, 2021.

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)

19. The Blue Medina Water public water system number 0100030 is currently in compliance with the drinking water rules of the TCEQ.
20. 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.
21. Aqua Utilities and Aqua Texas demonstrated a compliance history adequate for approval of the sale and transfer.

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

22. There are currently 75 existing connections in the 474-acre requested area who are being served by Aqua Utilities through Blue Medina Water public water system number 0100030, and such service has been continuous and adequate.
23. No additional construction will be necessary for Aqua Texas to serve the requested area.

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

24. There is a need for service because Blue Medina Water is currently serving 75 existing connections in the 474-acre requested area.

25. This is an application to transfer only existing facilities, customers, and service area. There have been no specific requests for additional service within the 474-acre requested area.
26. There is no evidence of specific requests for additional service within the requested 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)

27. Granting the CCN amendment will obligate Aqua Texas to provide service to current and future customers in the 474-acre requested area.
28. If the proposed transaction in the application is approved, it will facilitate the Aqua Utilities and Aqua Texas's efforts to consolidate the CCNs and system assets into one Essential Utilities, Inc. subsidiary with regional CCNs.
29. Aqua Utilities and Aqua Texas are the only utilities affected by this sale and transfer.
30. There will be no effect on landowners as the requested area is currently being served by Blue Medina Water's public water system.
31. There will be no effect on any other retail public utility serving the proximate area. All retail public utilities in the proximate area were provided notice of the transaction and CCN amendment proposed in this application and did not request to intervene.

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

32. Blue Medina Water, public water system number 0100030, through which Aqua Utilities is currently providing service to 75 connections in the 474-acre requested area, has sufficient capacity to serve its current customers in the requested water service area.
33. Aqua Texas operates several TCEQ-approved public water systems and employs TCEQ-licensed water operators who will operate the public water system.
34. Aqua Texas has violations listed in the TCEQ database; however, Aqua Texas has shown it is actively working with TCEQ to resolve each outstanding violation.
35. Aqua Texas 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.

36. Aqua Texas has the managerial and technical capability to provide adequate and continuous service to the 474-acre 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)

37. Essential Utilities, the ultimate parent company of Aqua Utilities and Aqua Texas, has a debt to equity ratio of less than one, satisfying the leverage test.
38. Essential Utilities, Inc.'s financial statements demonstrate sufficient operating income and cash available to cover any operations and maintenance shortages in the next five years of operations as well as providing for any future improvements needed for continuous and adequate service, satisfying the operations test.
39. Aqua Texas has the necessary financial ability 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)

40. There is no need to require Aqua Texas to provide a bond or other financial assurance to ensure continuous and adequate service to the requested area.

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

41. Aqua Utilities is currently serving the existing customers in the requested area with an existing facility and has sufficient capacity.
42. Utilities within a two-mile radius were properly noticed; no protests or motions to intervene were filed in this docket.
43. Following the transfer, water service to the requested areas will be provided by Aqua Texas using existing infrastructure; therefore, it is not feasible to obtain service from an adjacent retail public utility.

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

44. The 474-acre requested area will continue to be served with existing infrastructure.
45. There will be minimal effects on environmental integrity and on the land as a result of any planned upgrades, renovations, or repairs to the water system.

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

46. There will be no change in the quality or cost of service to Blue Medina Water system customers as a result of the transaction because Aqua Texas will continue to provide water service to existing customers at the same rates charged by Aqua Utilities immediately following the transfer.

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

47. Concerns of regionalization or consolidation do not apply because construction of a physically separate water system is not needed to serve the requested area.

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), Aqua Texas demonstrated adequate financial, managerial, and technical capability to provide adequate and continuous service to the requested area as required by TWC § 13.301(b).
3. The applicants demonstrated that the transfer of Aqua Utilities' Blue Medina Water system to Aqua Texas and amending water CCN number 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, as required by TWC §§ 13.246(b), 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 Aqua Utilities and Aqua Texas 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 notified that the 474-acre requested area will remain under water CCN number 11157 and be held by Aqua Utilities until the sale and transfer transactions are completed in accordance with Commission rules.
6. In an effort to finalize this proceeding as soon as possible, the applicants must 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 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 15 day of April 2021.

PUBLIC UTILITY COMMISSION OF TEXAS



KATIE MOORE MARX
ADMINISTRATIVE LAW JUDGE