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Addendum StartPage: 0

DOCKET NO. 51454

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

**JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED ORDER
APPROVING SALE AND ALLOWING TRANSACTION TO PROCEED**

COME NOW Aqua Utilities, Inc. and Aqua Texas, Inc. (the Applicants) together with the Staff of the Public Utility Commission of Texas, representing the public interest, (collectively, the Parties), and file this Joint Motion to Admit Evidence and Proposed Order Approving Sale and Allowing Transaction 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 in Victoria County. Aqua Texas seeks approval to acquire the Aqua Utilities Brentwood Subdivision water system (PWS ID No. 2350005) and Brentwood Manor Wastewater Treatment Facility sewer system (TPDES Permit No. WQ0010742001) facilities. Aqua Texas also seeks approval for a transfer of the Aqua Utilities certificate of convenience and necessity (CCN) areas served by those systems under water CCN No. 11157 and sewer CCN No. 20453 to Aqua Texas water CCN No. 13203 and sewer CCN No. 21065. Aqua Texas seeks these approvals as part of its effort to consolidate all of Applicants' water and sewer assets and service areas under Aqua Texas and its regional CCNs. The requested transfer includes approximately 174 acres and 75 customer connections.

On March 4, 2021, the administrative law judge (ALJ) filed Order No. 4 Finding Notice Sufficient and Establishing Procedural Schedule for Continued Processing, 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 19, 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. Applicants' STM Application – Mapping filed on November 10 and 17, 2021 (Interchange Item Nos. 3 and 4).
3. Applicants' Supplemental Application Information filed on December 28, 2020 (Interchange Item No. 7).
4. Commission Staff's Supplemental Recommendation on Administrative Completeness and Proposed Notice filed on January 21, 2021 (Interchange Item No. 8).
5. Amended Affidavit of Notice to Current Customers, Neighboring Utilities, and Affected Parties filed on March 2, 2021 (Interchange Item No. 11).
6. Commission Staff's Recommendation on the Transaction filed on March 25, 2021 (Interchange Item No. 14).

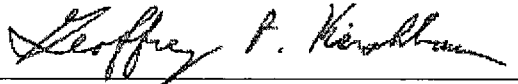
III. PROPOSED ORDER

The Parties move for adoption of the attached Proposed Order Approving Sale and Allowing Transaction to Proceed. The Parties propose that an ordering provision approving the requested CCN transfers and amendments to CCN No. 13203 and 20453 be included in the notice of approval after the Applicants close their transaction.

IV. CONCLUSION

The Parties respectfully request that the ALJ grant the Motion to Admit Evidence and adopt the attached Proposed Order Approving Sale and Allowing Transaction to Proceed.

Respectfully submitted,

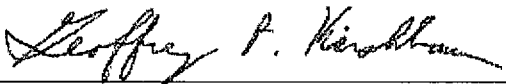
By: 

Geoffrey P. Kirshbaum
State Bar No. 24029665
TERRILL & WALDROP
810 West 10th Street
Austin, Texas 78701
Tel: (512) 474-9100
Fax: (512) 474-9888
gkirshbaum@terrillwaldrop.com

**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 19, 2021, in accordance with the Orders Suspending Rules filed in Project No. 50664.


Geoffrey P. Kirshbaum

DOCKET NO. 51454

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

**PROPOSED ORDER APPROVING SALE
AND ALLOWING TRANSACTION TO PROCEED**

This order addresses the application of Aqua Utilities, Inc. (“Aqua Utilities”) and Aqua Texas, Inc. d/b/a Aqua Texas (“Aqua Texas”) (collectively, the “Applicants”) for the sale, transfer, or merger of facilities and certificate rights in Victoria County. The applicants seek the transfer of the Brentwood Subdivision public water system and the Brentwood Manor Wastewater Treatment Facility and the corresponding portion of the service area held under Aqua Utilities’ water certificate of convenience and necessity (CCN) number 11157 and sewer CCN number 20453 and the amendment of Aqua Texas’s water CCN number 13203 and sewer CCN number 21065. The administrative law judge (ALJ) grants that the transfer is approved and the transaction between Aqua Utilities and Aqua Texas may proceed and be consummated.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Aqua Utilities is a domestic for-profit corporation registered with the Texas Secretary of State under file number 0147005600 (Texas Taxpayer No. 17605563919).
2. Aqua Texas 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. Aqua Utilities is an investor-owned utility that owns and operates various water and wastewater systems throughout the state of Texas under water CCN number 11157 and sewer CCN number 20453.
5. Aqua Texas is an investor-owned utility that owns and operates various water and wastewater systems for its geographic Southeast operating region (SE Region) under water CCN number 13203 and sewer CCN number 21065.

Application

6. On October 22, 2020, Aqua Utilities and Aqua Texas filed the application at issue in this proceeding.
7. In the application, Aqua Utilities and Aqua Texas seek approval of the transfer of the Aqua Utilities Brentwood Subdivision public water system identification number 2350005) and Brentwood Manor Wastewater Treatment Facility sewer system (TPDES permit number WQ0010742001), and the corresponding service area, in Victoria County to Aqua Texas and the amendment of Aqua Texas's water CCN number 13203 and sewer CCN number 21065.
8. The application will facilitate the consolidation of all of the applicants' certificated rights and assets under Aqua Texas's regional CCNs as part of a series of applications.
9. Aqua Texas seeks to amend its water CCN number 13203 and sewer CCN number 21065 to cover the water and wastewater systems and service areas described in the application located within the applicants' geographic Southeast Region operations area.
10. In Order No. 3 filed on January 22, 2021, the ALJ deemed the application administratively complete.

Notice

11. On March 2, 2021, the applicants filed the affidavit of Geoffrey P. Kirshbaum, attorney for Aqua Texas, attesting that notice was provided to all current customers of Aqua Utilities, neighboring utilities, and affected parties on January 29, 2021.
12. In Order No. 4 filed on March 4, 2021, the ALJ deemed the notice sufficient.

Evidentiary Record

13. On April 19, 2021, the parties jointly moved to admit evidence.
14. On April ___, 2021, the ALJ admitted the following evidence into the record: (a) the application filed on October 22, 2020; (b) applicants' STM application – mapping filed on November 10 and 17, 2021; (c) applicants' supplemental application information filed on December 28, 2020; (d) Commission Staff's supplemental recommendation on administrative completeness and proposed notice filed on January 21, 2021; (e) applicants' amended affidavit of notice to current customers, neighboring utilities, and affected parties filed on March 2, 2021; and (f) Commission Staff's recommendation on the transaction filed on March 25, 2021.

Adequacy of Existing Service and System Compliance – Texas Water Code (TWC) §§ 13.246(c)(1), (c)(4), 13.301(e)(3)(A); 16 Texas Administrative Code (TAC) §§ 24.227(a), (e)(1), (e)(4), 24.239(h)(3)(A), (h)(5)(A), (h)(5)(D), and (h)(5)(I)

15. The facilities requested for transfer are Brentwood Subdivision water system, an approved Texas Commission on Environmental Quality (TCEQ) public water system registered under identification number 2350005, and the Brentwood Manor Wastewater Treatment Facility sewer system, TPDES permit number WQ0010742001, in Victoria County that meet the requirements of TWC, Chapter 26, Texas Health and Safety Code, Chapter 341, and the applicable TCEQ rules.
16. No additional construction is necessary for Aqua Texas to serve the requested area.
17. 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 – TWC §§ 13.246(c)(2); 16 TAC §§ 24.227(e)(2), 24.239(h)(5)(B)

18. There are currently 75 existing customer connections in the requested area, which are currently served by Aqua Utilities, and there is a need for those customers to continue receiving water and sewer service.
19. 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)

20. Aqua Texas will be the certificated entity for the requested area and will be required to provide adequate and continuous service to the requested area.
21. There will be no effect on landowners as the requested area is currently certificated to and served by Aqua Utilities, an Aqua Texas affiliate also owned by Essential Utilities, Inc., and Aqua Texas will continue service to the requested area in place of Aqua Utilities.
22. 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.
23. 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)

24. Aqua Texas has numerous TCEQ-approved public water systems and wastewater treatment plants in Texas.
25. Aqua Texas has violations listed in the TCEQ database, but Aqua Texas has shown that it is actively working with TCEQ to resolve each outstanding violation.
26. Brentwood Subdivision public water system and Brentwood Manor Wastewater Treatment Facility sewer system do not have any violations listed in the TCEQ database and no additional construction is necessary for Aqua Texas to serve the requested area.
27. 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 systems following the approval of the application and CCN amendments.
28. The proposed transfer involves only existing infrastructure and new construction is not necessary to serve the requested area as a result of the transaction.
29. Aqua Texas has the technical and managerial 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), (e)(4); 16 TAC §§ 24.11(e), 24.227(a), (e)(6), 24.239(f), (h)(4), (h)(5)(F)

30. Essential Utilities, Inc., the parent entity of Aqua Texas, has a long-term debt-to-equity ratio of .76, which is less than 1.0, satisfying the leverage test.
31. Essential Utilities, Inc. is capable, available, and willing to cover temporary cash shortages. Aqua Texas has not projected any operations and maintenance expense shortages that will occur in the first five years of operations after completion of the transaction, and Essential Utilities, Inc. has sufficient cash to cover operations and maintenance expense shortages should they occur and the financial ability to pay for capital improvements as needed—satisfying the operations test.
32. Aqua Texas has demonstrated the 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)

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

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

34. The construction of a physically separate water or sewer system is not necessary for Aqua Texas to serve the requested area; therefore, concerns about regionalization or consolidation do not apply.
35. Aqua Utilities is currently serving customers of the Brentwood Subdivision public water system and Brentwood Manor Wastewater Treatment Facility sewer system, the systems are in place, and the systems have sufficient capacity to serve the requested area.
36. 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.
37. Retail public utilities in the area received notice of the application and none intervened, protested, or requested a hearing.
38. 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)

39. 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)

40. Aqua Texas will continue to provide water and sewer service to existing customers at the same rates charged by Aqua Utilities immediately following the transfer.
41. Aqua Texas does not intend to file an application to change rates as a result of the proposed transaction.
42. The quality of service for transferred Aqua Texas customers will remain high.
43. There will be no change in the quality or cost of service to Brentwood Subdivision public water system or Brentwood Manor Wastewater Treatment Facility sewer system customers as a result of the transaction.

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 has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area as required by TWC § 13.301(b).
3. The applicants have demonstrated that transferring the Brentwood Subdivision public water system, the Brentwood Manor Wastewater Treatment Facility, and the corresponding service area under water CCN number 11157 and sewer CCN number 20453 to Aqua Texas under water CCN number 13203 and sewer CCN number 21065 will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.301(d) and (e).

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 transfers proposed in the application are approved and the transactions 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 must file proof that the transaction has been consummated and customer deposits have been addressed.
3. The applicants have 180 days to complete the transactions.
4. Under 16 TAC § 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 the water and sewer systems and the corresponding service areas will remain under CCN numbers 11157 and 20453 and held by Aqua Utilities until the sale and transfer transactions are complete in accordance with Commission 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 transactions were consummated.
7. Within 15 days following the filing of the applicants' proof that the transactions have 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

**GREGORY R. SIEMANKOWSKI
ADMINISTRATIVE LAW JUDGE**