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DOCKET NO. 51646

APPLICATION OF WATERS OF VISTA	§	PUBLIC UTILITY COMMISSION
RANCH WATER SUPPLY	§	
CORPORATION AND AQUA WATER	§	OF TEXAS
SUPPLY CORPORATION FOR SALE,	§	
TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS IN FAYETTE COUNTY	§	

COMMISSION STAFF'S RESPONSE TO ORDER NO. 23

On December 21, 2020, Waters of Vista Ranch Water Supply Corporation (Vista Ranch WSC) and Aqua Water Supply Corporation (Aqua WSC) (collectively, Applicants) filed an application for approval of the sale, transfer, or merger of facilities and certificate rights in Fayette County. Applicants seek approval of the sale and transfer of the facilities and service area held under Vista Ranch WSC's water Certificate of Convenience and Necessity (CCN) No. 12927, the cancellation of Vista Ranch WSC's CCN No. 12927, and the amendment of Aqua WSC's CCN No. 10294 to include the service area previously included in Vista Ranch WSC's CCN No. 12972. In addition, Aqua WSC seeks to amend its CCN with currently uncertificated area. The requested area consists of approximately 5,496 acres and 31 current customers.

On, February 24, 2023, the administrative law judge (ALJ) filed Order No. 23, requiring Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a supplemental recommendation on whether (a) Aqua Water Supply Corporation's capital improvement plan satisfies the requirements of Texas Water Code (TWC) § 13.244(d)(3) and (b) whether Aqua WSC's response satisfies the requirements of 16 Texas Administrative Code (TAC) § 24.11(e)(5). Therefore, this pleading is timely filed.

I. STAFF'S RESPONSE TO ORDER NO. 23

Staff has reviewed the application and supplemental information and, as detailed in the attached memoranda from Jolie Mathis, Infrastructure Division, and Fred Bednarski, Rate Regulation Division, recommends that the supplemental information filed by Aqua WSC on January 9, January 10, and January 30, 2023 satisfies the requirements of TWC § 13.244(d)(3) and 16 TAC § 24.11(e)(5) as discussed in the Open Meeting on October 6, 2022¹. As detailed in

¹ Open Meeting at 32:38 (Oct. 6, 2022), Item No. 7 (available at https://adminmonitor.com/tx/puct/open_meeting/20221006/).

the attached memorandum from Jolie Mathis, Staff recommends that the supplemental information filed by Aqua WSC regarding its capital improvement plan complies with the requirements of TWC § 13.244(d)(3). Moreover, based on its review and as detailed in the attached memorandum from Fred Bednarski, Staff recommends that Aqua WSC has demonstrated that it possesses the financial, technical, and managerial capability to provide continuous and adequate service to the area subject to the proposed transaction as required by the relevant criteria outlined in 16 TAC § 24.11(e)(5).

II. CONCLUSION

For the reasons discussed above, Staff recommends that Aqua WSC has satisfied the relevant statutory and regulatory criteria and respectfully requests that an order be issued consistent with the foregoing recommendations.

Dated: March 8, 2023

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

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Division Director

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/s/ Forrest Smith
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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 March 8, 2023, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Forrest Smith
Forrest Smith

Public Utility Commission of Texas

Memorandum

TO: Forrest Smith, Attorney
Legal Division

FROM: Jolie Mathis, Utility Engineering Specialist
Infrastructure Division

DATE: March 8, 2023

RE: Docket No. 51646 – *Application of Waters of Vista Ranch Water Supply Corporation and Aqua Water Supply Corporation for Sale, Transfer, or Merger of Facilities and Certificate Rights in Fayette County*

Aqua Water Supply Corporation (Aqua WSC) and the Waters of Vista Ranch Water Supply Corporation (WOVR WSC) (collectively Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Fayette County, Texas, under Texas Water Code (TWC) §§ 13.242 to 13.250 and § 13.301 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237 and § 24.239.

Specifically, Aqua WSC, certificate of convenience and necessity (CCN) No. 10294, seeks approval to acquire facilities and to transfer all of the water service area from under water Certificate of Convenience and Necessity (CCN) No. 12927 and amend (CCN) No. 10294.

On January 31, 2023, the Administrative Law Judge requested Commission Staff file a supplemental recommendation on the following: (a) whether Aqua Water Supply Corporation's capital improvement plan satisfies the requirements of Texas Water Code (TWC) § 13.244(d)(3), consistent with the Commission's discussion at its October 6, 2022 open meeting; and (b) whether Aqua WSC's response satisfies the requirements of 16 Texas Administrative Code (TAC) § 24.11(e)(5).

The capital improvement plan provided satisfies the requirements of TWC § 13.244(d)(3). Aqua WSC didn't give specific timelines for the dates the phases would be implemented but since they only need to install transmission and distribution lines it is acceptable. The installation of the transmission and distribution lines for the first 2 phases will be able to provide service for up to 20 years.

The requirements of 16 TAC § 24.11(e)(5) will be addressed by Mr. Fred Bednarski in the Rate Regulation Division.

Public Utility Commission of Texas

Memorandum

TO: Forrest Smith
Legal Division

FROM: Fred Bednarski III
Rate Regulation Division

DATE: March 8, 2023

RE: Docket No. 51646 – *Application of Waters of Vista Ranch Water Supply Corporation and Aqua Water Supply Corporation for Sale, Transfer, or Merger of Facilities and Certificate Rights in Fayette County*

On December 21, 2020, Aqua Water Supply Corporation (Aqua WSC) and Waters of Vista Ranch Water Supply Corporation (Vista Ranch WSC) filed an application for the sale, transfer, or merger of facilities and certificate rights under the provisions of Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239 Fayette County under Subchapter G of Texas Water Code Chapter 13, and for Aqua WSC to amend its water CCN No. 10294 in Fayette County under Subchapter G of Texas Water Code Chapter 13.

An owner or operator of a retail public utility must have the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and requested utility service areas, as established by 16 TAC § 24.11. Aqua WSC must demonstrate that it meets one of the five leverage tests under 16 TAC § 24.11(e)(2) as well as the operations test under 16 TAC § 24.11(e)(3).

Leverage Test

My analysis is based on financial statements ending December 31, 2021. These financial statements contain an unqualified auditor's opinion from Montemayor Britton Bender PC stating

that the financial statements present fairly, in all material respects, the financial position of Aqua WSC as of December 31, 2021, as required by 16 TAC § 24.11(e)(4)(B)(i).¹

Based upon my review of Aqua WSC's financial statements, I calculate debt-to-equity ratio to be 0.09. The debt-to-equity ratio is based on long-term debt of \$11,120,730 divided by equity of \$118,711,578.² Because the ratio is less than one, I recommend a finding that Aqua WSC meets the leverage test specified in 16 TAC § 24.11(e)(2)(A).

Operations Test

An owner or operator must demonstrate sufficient available cash to cover projected cash shortages for operations and maintenance expense during the first five years of operations, as required by 16 TAC § 24.11(e)(3).

Aqua WSC's financial statements include \$14,461,242³ in net income excluding depreciation expense and \$21,981,912⁴ in cash and cash equivalents that indicate Aqua WSC will have sufficient cash to cover shortages.⁵ Therefore, I recommend a finding that Aqua WSC meets the operations test specified in 16 TAC § 24.11(e)(3).

Capital Improvements

Aqua WSC provided a capital improvement plan indicating the total cost of the 9 phased improvements to provide service to the requested area will cost \$9,870,660.⁶ Aqua WSC's cash balance as of 11/30/2022 is \$20,739,328. Aqua WSC generates sufficient cash reserves to pay for the capital improvements cost.⁷ Additionally Aqua WSC provided a letter from their bank indicating Aqua WSC is in good financial standing and has the liquidity to pay for the improvements.⁸ Aqua WSC's general manager Alan McMurray also provided an affidavit

¹ WOVR SWC and Aqua WSC's response to PUC Staff's Third Request for Information, at pdf 28 and 29 (Jan. 29, 2023).

² *Id.*, at pdf 30.

³ *Id.*, at pdf 31 and 39.

⁴ *Id.*, at pdf 30.

⁵ Waters of Vista Ranch WSC and Aqua WSC's Response to Commission Staff's First RFI at pdf 7 (Mar. 19, 2021).

⁶ Application, at 67 (May 16, 2022).

⁷ Confidential Attachment C pdf 21 (Jan. 10, 2023).

⁸ Revised Affidavit of Alan David McMurray at pdf 3 (Mar. 7, 2023)..

committing to pay for the improvements with Aqua WSC's cash reserves.⁹ Therefore, I recommend a finding that Aqua WSC meets the requirements specified in 16 TAC § 24.11(e)(5).

Recommendation

Because Aqua WSC meets the financial tests, I do not recommend that the Commission require additional financial assurance.

Consequently, I recommend a finding that Aqua WSC demonstrates the financial and managerial capability needed to provide continuous and adequate service to the area subject to this application. My conclusions are based on the information provided by Aqua WSC before the date of this memorandum and may not reflect any changes in Aqua WSC's status after this review.

⁹ *Id.* at pdf 2.