



Filing Receipt

Received - 2021-12-01 12:00:29 PM

Control Number - 52464

ItemNumber - 11

DOCKET NO. 52464

APPLICATION OF CREEKWOOD	§	PUBLIC UTILITY COMMISSION
RANCHES WATER SUPPLY	§	
CORPORATION AND EAST MEDINA	§	OF TEXAS
SPECIAL UTILITY DISTRICT FOR	§	
SALE, TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS IN MEDINA COUNTY	§	

COMMISSION STAFF’S RECOMMENDATION ON THE TRANSACTION

On August 24, 2021, East Medina Special Utility District (East Medina SUD) and Creekwood Ranches Water Supply Corporation (Creekwood Ranches WSC) (collectively, the Applicants) filed an application for approval of the sale and transfer of facilities and certificate rights in Medina County. Specifically, East Medina SUD, Certificate of Convenience and Necessity (CCN) No. 10217, seeks approval to acquire facilities and to transfer all of the water service area from Creekwood Ranches WSC under water CCN No. 11897. The requested area includes 161 customer connections and approximately 355 acres, comprised of 355 acres of transferred area from CCN No. 11897. The Applicants filed supplemental information on September 3, 2021.

On November 5, 2021, the administrative law judge (ALJ) filed Order No. 3, establishing a deadline of December 1, 2021 for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to request a hearing or file a recommendation on the approval of the sale. Therefore, this pleading is timely filed.

I. RECOMMENDATION TO ALLOW THE TRANSACTION TO PROCEED

Staff has reviewed the application and, as detailed in the attached memoranda of Patricia Garcia of the Commission’s Infrastructure Division and Fred Bednarski of the Commission’s Rate Regulation Division, recommends that the proposed transaction satisfies the relevant statutory and regulatory criteria, including those factors identified in Texas Water Code Chapter 13 and 16 Texas Administrative Code Chapter 24. Additionally, based upon its review, Staff recommends that East Medina SUD 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. Therefore, Staff recommends the entry of an order permitting the proposed transaction to proceed.

II. CONCLUSION

For the reasons discussed above, Staff respectfully requests that an order be issued allowing the proposed transaction to proceed.

Dated: December 1, 2021

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Rachelle Nicolette Robles
Division Director

Rustin Tawater
Managing Attorney

/s/ Forrest Smith
Forrest Smith
State Bar No. 24093643
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7388
(512) 936-7268 (facsimile)
Forrest.Smith@puc.texas.gov

DOCKET NO. 52464

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 December 1, 2021, 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: Patricia Garcia, Senior Engineering Specialist
Infrastructure Division

DATE: December 1, 2021

RE: Docket No. 52464 – *Application of Creekwood Ranches Water Supply Corporation and East Medina Special Utility District for Sale, Transfer, or Merger of Facilities and Certificate Rights in Medina County*

1. Application

On August 24, 2021, East Medina Special Utility District (East Medina SUD) and the Creekwood Ranches Water Supply Corporation (Creekwood Ranches WSC) (collectively the Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Medina County, Texas, under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239.

Specifically, East Medina SUD, Certificate of Convenience and Necessity (CCN) No. 10217, seeks approval to acquire facilities and to transfer all of the water service area from Creekwood Ranches WSC under water CCN No. 11897. The requested area includes 161 customer connections and approximately 355 acres, comprised of 355 acres of transferred area from CCN No. 11897.

The application proposes the transfer of approximately 355 acres from CCN No. 11897 to CCN No. 10217.

2. Notice

East Medina SUD provided notice consistent with 16 TAC § 24.239(c). The deadline to intervene was November 3, 2021; there were no motions to intervene, protests, or opt-out requests received.

3. Factors Considered

Under TWC §§ 13.241 and 13.246 and 16 TAC §§ 24.11(e), 24.227 and 24.239, the Commission must consider certain factors when granting or amending a water or sewer CCN. These factors are addressed below.

3.1. Consideration of the adequacy of service currently provided to the requested area and system compliance (TWC § 13.246(c)(1), 13.301(e)(3)(A); 16 TAC §§ 24.227(a) and (e)(1), 24.239(h)(3)(A), (h)(5)(A), and (h)(5)(D)).

Creekwood Ranches WSC has a Texas Commission on Environmental Quality (TCEQ) approved public water systems (PWS) registered as Creekwood Ranches WSC, PWS ID No. 1630029. The last TCEQ compliance investigation of the Creekwood Ranches WSC system was on July 7, 2020. No violations or concerns were noted as a result of that investigation. In addition, the Commission's complaint records, which date back to 2014, show no complaints against Creekwood Ranches WSC.

No additional construction is necessary for the East Medina SUD to serve the requested area.

3.2. Consideration of the need for additional service in the requested area (TWC § 13.246(c)(2); 16 TAC §§ 24.227(e)(2) and 24.239(h)(5)(B)).

The purpose of the transaction is to transfer Creekwood Ranches WSC public water system to East Medina SUD. The customers are currently receiving water service from Creekwood Ranches WSC's water system.

There are currently 161 existing customers in the requested area, therefore, there is a need for service. No additional service is needed at this time.

3.3. Consideration of the effect of granting an amendment on the recipient of the certificate or amendment, on the landowners in the area, and on any other retail public utility of the same kind already servicing the proximate area (TWC § 13.246(c)(3), 16 TAC §§ 24.227(e)(3), 24.239(h)(5)(c)).

East Medina SUD will be the certificated entity for the requested area and be required to provide adequate and continuous service to the requested area.

There will be no effect on landowners as the area is currently certificated.

There will be no effect on any retail public utility servicing the proximate area. All retail public utilities in the proximate area were provided notice of the transaction taking place in this application and did not request to intervene.

3.4. Consideration of the managerial and technical ability of the applicant to provide adequate service (TWC §§ 13.241(a) and (b), 13.246(c)(4); and 13.301(b) and (e)(2); 16 TAC §§ 24.227(a) and (e)(4), and 24.239(f) and (h)(5)(D)).

East Medina SUD has the ability to provide adequate service in the requested area. East Medina SUD has three Texas Commission on Environmental Quality (TCEQ) approved public water systems. East Medina SUD does not have any violations listed in the TCEQ database for any of their public water systems. In addition, the Commission's complaint records, which date back to 2014, show no complaints against East Medina SUD. No additional construction is necessary for East Medina SUD to serve the requested area.

- 3.5. ***The applicants' demonstration that regionalization or consolidation with another retail public utility is not economically feasible when construction of a physically separate water or sewer system is required to provide service to the requested area. (TWC § 13.241(d); 16 TAC § 24.227(b)).***

The construction of a physically separate system is not necessary for East Medina SUD to serve the requested area. Therefore, concerns of regionalization or consolidation do not apply.

- 3.6 ***Consideration of the feasibility of obtaining service from an adjacent retail public utility (TWC § 13.246(c)(5); 16 TAC §§ 24.227(e)(5) and 24.239(h)(5)(E)).***

Creekwood Ranches WSC is currently serving customers and has sufficient capacity. Obtaining service from an adjacent retail public utility would likely increase costs to customers because new facilities will need to be constructed. At the minimum, an interconnect would need to be installed in order to connect to a neighboring retail public utility. Therefore, it is not feasible to obtain service from an adjacent retail public utility.

- 3.7. ***Consideration of the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service (TWC §§ 13.246(c)(6) and 13.301(b); 16 TAC §§ 24.227(a) and (e)(6), 24.11(e), and 24.239(f) and (h)(5)(F)).***

The Rate Regulation Division will be addressing this criterion in a separate memo.

- 3.8. ***Requirement of the applicant to provide a bond or other financial assurance in a form and amount specified by the Commission to ensure that continuous and adequate utility service is provided (TWC §§ 13.246(d), 13.301(c); 16 TAC §§ 24.227(f), 24.239(f)).***

The Rate Regulation Division will be addressing this criterion in a separate memo.

- 3.9. ***Consideration of the environmental integrity and the effect on the land to be included in the certificated area (TWC § 13.246(c)(7) and (9); and 16 TAC §§ 24.227(e)(7) and (9) and 24.239(h)(5)(G)).***

The environmental integrity of the land will not be affected as no additional construction is needed to provide service to the requested area.

- 3.10. ***Consideration of the probable 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)).***

East Medina SUD will continue to provide water service to the existing customers in the area. There will be no change in the quality or cost of service to customers.

The Applicants meet all of the statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules and regulations. Approving this application to transfer water facilities in the requested area, and the water service area of the water CCN No. 11897 to East Medina SUD and amending water CCN No. 10217 of East Medina SUD is necessary for the service, accommodation, convenience and safety of the public.

4. Recommendation

Based on the above information, I recommend that the Commission find that the transaction will serve the public interest and that the Applicants be allowed to proceed with the proposed transaction. There are no deposits held by Creekwood Ranches WSC for the customers being served. I further recommend that a public hearing is not necessary.

Public Utility Commission of Texas

Memorandum

TO: Forrest Smith, Attorney
Legal Division

FROM: Fred Bednarski III, Financial Analyst
Rate Regulation Division

DATE: December 1, 2021

RE: Docket No. 52464 - *Application of Creekwood Ranches Water Supply Corporation and East Medina Special Utility District for Sale, Transfer, or Merger of Facilities and Certificate Rights in Medina County*

On August 24, 2021, East Medina Special Utility District (East Medina SUD) and Creekwood Ranches Water Supply Corporation (Creekwood Ranches WSC) (collectively, the Applicants) filed an application for the sale, transfer, or merger of facilities and certificate rights in Medina County.

I recommend that East Medina SUD 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 information provided by East Medina SUD before the date of this memorandum and may not reflect any changes in East Medina SUD's status after this review.

Ability to serve: financial ability and stability (Texas Water Code (TWC §§ 13.241(a) and 13.246(c)(6))

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 Texas Administrative Code (TAC) § 24.11. East Medina SUD 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 the financial statements of East Medina SUD, ending December 31, 2020. These financial statements contain an unqualified auditor's opinion from ABIP, PC stating that the financial statements present fairly, in all material respects, the financial position of East Medina SUD as of December 31, 2020.

East Medina SUD's 2020 financial statements report long-term debt of \$7,096,338 and equity of \$10,550,225. The debt-to-equity ratio is 0.67. Because the ratio is less than 1.0, East Medina SUD 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).

East Medina SUD's financial statements include \$948,337 in operating income excluding depreciation expense of \$478,718 and \$4,914,630 in cash and cash equivalents that indicate East Medina SUD will have sufficient cash to cover projected shortages.

No capital improvements are needed to provide continuous and adequate service to the requested area. Sufficient cash and net operating income available to cover possible future shortages provide an indication of financial stability and financial and managerial capability. Therefore, East Medina SUD meets the operations test specified in 16 TAC § 24.11(e)(3).

Financial assurance (TWC § 13.246(d))

Because East Medina SUD meets the financial tests, I do not recommend that the Commission require additional financial assurance.