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APPLICATION OF AUS-TEX PARTS &	§	PUBLIC UTILITY COMMISSION
SERVICES, LTD. AND RAILYARD	§	
UTILITY COMPANY LLC FOR SALE,	§	OF TEXAS
TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS IN HAYS COUNTY	§	

ORDER NO. 11
APPROVING SALE AND TRANSFER TO PROCEED

This Order addresses the application of Aus-Tex Parts & Services, Ltd. and Railyard Utility Company, LLC for approval of the sale, transfer, or merger of facilities and certificate rights in Hays County. The applicants seek approval to sell and transfer all of Aus-Tex's certificated service area under certificate of convenience and necessity (CCN) number 20875 to Railyard Utility and transfer Aus-Tex's CCN number 20875 to Railyard Utility. The administrative law judge (ALJ) approves the sale and transfer and authorizes the transaction between Aus-Tex and Railyard Utility to proceed and be consummated.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants and Interested Parties

1. Aus-Tex is a Texas limited partnership registered with the Texas secretary of state under registration number 0012969910.
2. Aus-Tex operates, maintains, and controls facilities for providing retail sewer service under CCN number 20875 in Hays County.
3. Aus-Tex owns and operates the Railyard Wastewater Treatment Facility registered under Texas Pollutant Discharge Elimination System permit number WQ0014060001.
4. Railyard Utility is a Texas limited liability company registered with the Texas secretary of state under file number 0804194436.

5. Railyard Utility is an investor-owned utility that will own, operate, and control facilities for providing sewer service in Hays County upon the consummation of the transaction between Aus-Tex and Railyard Utility.
6. BVRT Utility Holding Company, LLC is a Texas limited liability company registered with the Texas secretary of state under file number 0802341619 and is the parent company of Railyard Utility.

Application

7. On September 17, 2021, Aus-Tex and Railyard Utility filed the application at issue in this proceeding.
8. In the application, Aus-Tex and Railyard Utility seek approval of the following transaction: (a) Railyard Utility will acquire all of Aus-Tex's facilities and service area under sewer CCN number 20875; and (b) Aus-Tex's sewer CCN number 20875 will be transferred to Railyard Utility.
9. On November 10 and 23 and December 15, 2021 and February 23, 2022, the applicants filed supplemental information.
10. The requested area includes 354 customers and approximately 206 acres.
11. The requested area is located approximately three miles north of Uhland, Texas, and is generally bounded on the north by Coronado Lane; on the east by Lonie Lane; on the south by High Road; and on the west by Lilac Way.
12. In Order No. 3 filed on November 22, 2021, the ALJ found the application, as supplemented, administratively complete.

Notice

13. On December 16, 2021, the applicants filed the affidavit of Mia Natalino, P.E., general manager for Railyard Utility, attesting that notice was provided to all current customers, neighboring utilities, and affected parties on December 10, 2021.
14. In Order No. 4 filed on January 5, 2022, the ALJ found the notice sufficient.

Evidentiary Record

15. On March 30, 2022, the parties filed a joint motion to admit evidence and proposed order approving the sale and transfer to proceed.
16. In Order No. 6 on April 8, 2022, the ALJ admitted the following evidence into the record of this proceeding: (a) the applicants' application for sale, transfer, or merger of facilities filed on September 17, 2021; (b) the applicants' confidential asset purchase agreement and Railyard Utility's projected financial information bate stamped 000001 to 000172 filed on September 17, 2021; (c) Commission Staff's recommendation on administrative completeness and proposed notice filed on October 15, 2021; (d) Railyard Utility's response to Order No. 2 filed on November 10, 2021; (e) Commission Staff's supplemental recommendation on administrative completeness and proposed notice filed on November 22, 2021; (f) Railyard Utility's confidential affiliate financial statement bate stamped 000194 to 000197 filed on November 23, 2021; (g) affiliate BVRT Utility Holding Company's affidavit on behalf of Railyard Utility filed on December 15, 2021; (h) Railyard Utility's affidavit of notice filed on December 16, 2021; (i) Commission Staff's recommendation on sufficiency of notice filed on January 4, 2022; (j) Railyard Utility's response to Commission Staff's first requests for information, including confidential operating agreement and additional affiliate financial statements bate stamped 0000198 to 000231 filed on February 23, 2022; and (k) Commission Staff's recommendation on the transaction, including confidential attachment FB-1, filed on March 4, 2022.
17. On April 25, 2022, the parties filed a joint motion to admit evidence and proposed order approving the sale and transfer to proceed.
18. In Order No. 10 filed on April 26, 2022, the ALJ admitted the digital shape files filed on September 17, 2021 and Commission Staff's supplemental recommendation on the transaction filed on April 22, 2022 as evidence into the record of this proceeding.

System Compliance

19. Aus-Tex's sewer system is registered with the TCEQ under Texas Pollutant Discharge Elimination System permit number WQ0014060001.

20. The last TCEQ compliance investigation of the Railyard Wastewater Treatment Facility was on June 19, 2018. Several violations or concerns were noted as a result of that investigation that have since been resolved.
21. The Commission's complaint records, which date back to 2017, show no complaints against Aus-Tex.

Adequacy of Existing Service

22. There are currently 354 sewer connections in the requested area that are being served by Aus-Tex through its sewer system, Texas Pollutant Discharge Elimination System permit number WQ0014060001, and such service has been continuous and adequate.

Need for Additional Service

23. There is a continuing need for service because Aus-Tex is currently providing service to 354 existing customer connections in the requested area.
24. There have been no specific requests for additional service in the requested area.

Effect of Approving the Transaction and Granting the Amendment

25. Railyard Utility will become the certificated entity for the requested area and will be obligated to provide adequate and continuous sewer service to the requested area.
26. Retail public utilities in the proximate area were provided notice of the transaction proposed in the application and none filed protests, adverse comments, or sought to intervene in this proceeding.
27. This application is to transfer only existing facilities, customers, and service area; therefore, there will be no effect on any other retail public utility providing service in the proximate area.
28. There will be no effect on landowners in the requested area because the area is currently certificated. Any landowners in the requested area that do not currently receive service from Aus-Tex will need to request service from Railyard Utility if they require service after the transaction has been completed.

Ability to Serve: Managerial and Technical

29. BVRT Utility Holding Company, the parent company of Railyard Utility, owns and operates several sewer CCNs: Mustang Plaza, CCN 20953; Windy Hill Utility Co. LLC,

CCN 21101; Forest Glen Utility, CCN 21070; and Zipp Road Utility Company LLC, CCN 21098. BVRT Utility Company has the managerial and technical ability to provide continuous and adequate service to the requested area.

30. BVRT Utility Holding Company will provide assistance to Railyard Utility in the operations of the utility.
31. Railyard Utility employs two TCEQ-licensed operators who are responsible for operating the sewer system.
32. No additional construction is necessary for Railyard Utility to serve the requested area.
33. Railyard Utility has the technical and managerial capability to provide adequate and continuous service to the requested area.

Ability to Serve: Financial Ability and Stability

34. Railyard Utility's parent company, BVRT Utility Holding Company, is capable, available, and willing to cover temporary cash shortages, and has a debt-to-equity ratio that is less than one, satisfying the leverage test.
35. BVRT Utility Holding Company provided a written guarantee of coverage of temporary cash shortages, demonstrated that it has sufficient cash available to cover any projected operations and maintenance shortages in the first year five years of operations after completion of the transaction, and possesses the cash and leverage ability to pay for capital improvements and necessary equity investments, satisfying the operations test.
36. Railyard Utility demonstrated the financial capability and stability to pay for the facilities necessary to provide continuous and adequate service to the requested area.

Financial Assurance

37. There is no need to require Railyard Utility to provide a bond or other financial assurance to ensure continuous and adequate service to the requested area.

Regionalization or Consolidation

38. The construction of physically separate wastewater system is not needed to serve the requested area; therefore, concerns about regionalization or consolidation do not apply.

Feasibility of Obtaining Service from Adjacent Retail Public Utility

39. Aus-Tex is currently serving customers in the requested area, and there will be no changes to land uses or existing CCN boundaries as a result of the transaction.
40. 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.
41. Retail public utilities in the proximate area received notice of the application and none intervened, protested, or requested a hearing.
42. It is not feasible to obtain service from an adjacent retail public utility.

Environmental Integrity and Effect on the Land

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

Improvement in Service or Lowering Cost to Consumers

44. Railyard Utility will continue to provide sewer service to existing customers at the same rates charged by Aus-Tex immediately following the transfer.
45. There will be no change in the quality or cost of service to Aus-Tex's 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 Texas Water Code (TWC) §§ 13.246 and 13.301(a)(2), and 16 Texas Administrative Code (TAC) § 24.239(c).
2. After consideration of the factors in TWC § 13.246(c), Railyard Utility demonstrated that it is capable of rendering continuous and adequate sewer service to every customer within the requested area, as required by TWC § 13.251.
3. Aus-Tex demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area as required by TWC § 13.301(b).

4. The applicants demonstrated that the sale and transfer of Aus-Tex's sewer facilities and the service area held under CCN number 20875 from Aus-Tex to Railyard Utility 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) and 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 and the transaction between Railyard Utility and Aus-Tex may proceed and be consummated.
2. As soon as possible after the effective date of the transaction, but no 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. Railyard Utility and Aus-Tex have 180 days to complete the transaction.
4. Under 16 TAC § 24.239(m), if the transaction is not consummated within this period, or an extension has not been granted, this approval is void and Railyard Utility and Aus-Tex will have to reapply for approval.
5. The applicants are advised that CCN number 20875 and the associated facilities and service area will continue to be held by Aus-Tex until the sale and transfer transaction is completed in accordance with the Commission's 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 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 schedule for continued processing of this docket.

Signed at Austin, Texas the 26th day of April 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read "Christina Denmark", written over a horizontal line.

CHRISTINA DENMARK
ADMINISTRATIVE LAW JUDGE

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