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Received - 2021-10-15 11:07:07 AM
Control Number - 52616
ItemNumber - 5

DOCKET NO. 52616

APPLICATION OF AUS-TEX PARTS & SERVICES, LTD. AND RAILYARD UTILITY COMPANY LLC FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN HAYS COUNTY	§ § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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COMMISSION STAFF’S RECOMMENDATION ON ADMINISTRATIVE COMPLETENESS AND PROPOSED NOTICE

On September 17, 2021, Aus-Tex Parts & Services, Ltd. (Aus-Tex) and Railyard Utility Company LLC (Railyard Utility) (collectively, Applicants) filed an application for approval of the sale, transfer, or merger of facilities and certificate rights in Hays County. Specifically, the Applicants are seeking approval of the sale and transfer of all facilities and service area under Aus-Tex’s sewer Certificate of Convenience and Necessity (CCN) number 20875 to Railyard Utility’s newly assigned sewer CCN number and the cancellation of Aus-Tex’s sewer CCN. The requested sewer service area consists of approximately 205.9 acres and 354 customer connections.

On September 20, 2021, the administrative law judge filed Order No. 1, establishing a deadline of October 15, 2021 for the Staff of the Public Utility Commission of Texas (Staff) to file comments on the administrative completeness of the application and proposed notice, and to propose a procedural schedule for the further processing of this docket. Therefore, this pleading is timely filed.

I. ADMINISTRATIVE COMPLETENESS

Staff has reviewed the application and, as detailed in the attached memorandum from Jolie Mathis of the Commission’s Infrastructure Division, recommends that the application is administratively incomplete. In addition to the deficiencies noted in Ms. Mathis’ memorandum, Staff has identified issues that require clarification. The Water Utility Database shows that CCN No. 20875 is held by Railyard WWTP and lists Aus-Tex Parts & Services, Ltd. as the responsible party. The current tariff for CCN No. 20875 filed with the application lists the utility name as Aus-Tex Parts & Services, LLC dba The Railyard Waste Water Treatment Plant. A search of Texas Secretary of State records reveals that the legal name of the transferor is Aus-

Tex Parts & Services, Ltd. Staff recommends that the Applicants clarify the name of the legal entity that holds CCN No. 20875 and, if different, the name of the legal entity that owns the facilities to be transferred via the proposed transaction. If this is two different entities, Staff further recommends that representatives of both should sign the purchase agreement, contract, etc. addressed by Ms. Mathis.

Staff also requires clarification on the Applicants' answer to Question 32 in Part H of the application, which asks what effect the proposed transaction will have on an average bill to be charged to the affected customers.¹ The Applicants answered that "[a]ll of the customers will be charged the same rates they were charged before the transaction" and that "[a]ll of the customers will be charged...[higher] rates than they were charged before the transaction."² Since it is impossible for every customer to be charged both the same rate that they were charged before the transaction and higher rates than they were charged before the transaction, Staff recommends that the Applicants clarify this contradiction and amend the application as necessary.

II. COMMENTS ON PROCEDURAL SCHEDULE

In accordance with Staff's deficiency recommendation, Staff does not propose a procedural schedule for further processing of the docket at this time. Staff respectfully requests that the Applicants be ordered to cure the deficiencies identified in Ms. Mathis' memorandum by November 15, 2021, and that Staff be given a deadline of December 15, 2021 to file a supplemental recommendation on the administrative completeness of the application. Staff notes that the Applicants should not issue notice until the application is found administratively complete.

III. CONCLUSION

For the reasons detailed above, Staff recommends that the application be found administratively incomplete at this time and that the Applicants address the identified deficiencies by November 15, 2021. Staff respectfully requests that an order be filed in accordance with Staff's recommendations.

¹ Application of Aus-Tex Parts & Services, Ltd. and Railyard Utility Company LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Hays County at 12 (Sept. 17, 2021).

² *Id.*

Dated: October 15, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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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 October 15, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Jenna Keller
Jenna Keller

Public Utility Commission of Texas

Memorandum

TO: Jenna Keller, Attorney
Legal Division

FROM: Jolie Mathis, Utility Engineering Specialist
Infrastructure Division

DATE: October 15, 2021

RE: Docket No. 52616 – *Application of Aus-Tex Parts & Services, Ltd. and Railyard Utility Company LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Hays County*

Railyard Utility Company LLC (Railyard Utility) and Aus-Tex Parts & Services, Ltd. (Aus-Tex) (collectively, Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Hays County, Texas, under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239.

Specifically, Railyard Utility dba the Railyard Wastewater Treatment Plant seeks approval to acquire facilities and to transfer all of the sewer service area from Aus-Tex (dba The Railyard Wastewater Treatment Plant) under sewer certificate of convenience and necessity (CCN) No. 20875.

Based on my technical and managerial review of the information filed by the Applicants, I recommend that the application be deemed administratively incomplete and not accepted for filing due to the deficiencies detailed below.

Application Content:

The following deficiencies must be remedied:

1. Provide a copy of the proposed tariff for Railyard Utility Company LLC.
2. Provide a copy of the supporting documentation for the proposed transaction signed by the Transferor and Transferee, such as a contract, a lease, or proposed purchase agreement.

Further, please confirm that Railyard Utility wants a new CCN number and does not want to retain CCN No. 20875.

Note: Any confidential items should be submitted as confidential filings with the PUC. The instructions for filing confidential documents can be found on our website at: (<http://www.puc.texas.gov/industry/filings/FilingProceed.aspx>).