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APPLICATION OF FLAT FORK	§	PUBLIC UTILITY COMMISSION
WATER SUPPLY CORPORATION AND	§	
CITY OF CENTER FOR SALE,	§	OF TEXAS
TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS IN SHELBY COUNTY	§	

NOTICE OF APPROVAL

This Notice of Approval addresses the application of Flat Fork Water Supply Corporation and the City of Center for approval of the sale, transfer, or merger of facilities and certificate rights in Shelby County. The Commission approves the transfer of 39 meters under Flat Fork WSC's certificate of convenience and necessity (CCN) number 11711 to Center.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Flat Fork WSC is a Texas non-profit water supply corporation organized under chapter 67 of the Texas Water Code (TWC).
2. Flat Fork WSC is registered with the Texas secretary of state under file number 21371601.
3. Flat Fork WSC operates, maintains, and controls facilities for providing retail water service under CCN number 11711 in Shelby County.
4. Flat Fork WSC owns and operates one public water system registered with the Texas Commission on Environmental Quality (TCEQ) under identification number 2100007.
5. Center is a municipality in Shelby County, Texas.
6. Center operates, maintains, and controls facilities for providing retail water service under CCN number 10397 in Shelby County.
7. Center owns and operates a public water system registered with the TCEQ under identification number 2100001.

Application

8. On November 29, 2021, Flat Fork WSC and Center filed the application at issue in this proceeding.
9. On February 17 and August 31, 2022, the applicants filed supplements to the application.
10. In the application, the applicants seek approval of the transfer of 39 meters from Flat Fork WSC's certificated service area under CCN number 11711 to Center.
11. The 39 meters are located approximately one mile north of downtown Center, Texas, and are generally bounded on the north by County Road 3736, on the east by Loop 500, on the south by Henrietta Road, and on the west by County Road 3754 and County Road 3780.
12. In Order No. 8 filed on June 6, 2022, the administrative law judge (ALJ) found the application, as supplemented, administratively complete.

Notice

13. On July 15, 2022, Flat Fork WSC filed the affidavit of Glynn Russell, president of Flat Fork WSC, attesting that notice was provided to current customers on July 14, 2022.
14. In Order No. 9 filed on July 18, 2022, the ALJ found notice sufficient.

Evidentiary Record

15. In Order No. 13 filed on October 19, 2022, the ALJ admitted the following evidence into the record:
 - (a) The application and all attachments filed on November 29, 2021;
 - (b) The applicants' supplement to the application filed on February 17, 2022;
 - (c) Commission Staff's supplemental recommendation on administrative completeness and proposed procedural schedule filed on February 23, 2022;
 - (d) Commission Staff's supplemental amended recommendation on administrative completeness and proposed procedural schedule filed on June 3, 2022;
 - (e) The applicants' affidavit of notice filed on July 15, 2022;
 - (f) Commission Staff's recommendation on sufficiency of notice filed on July 15, 2022;

- (g) The applicants' supplement to the application filed on August 31, 2022; and
 - (h) Commission Staff's recommendation on approval of the transaction filed on September 2, 2022.
16. In Order No. 18 filed on March 30, 2023, the ALJ admitted the following additional evidence into the record:
- (a) The applicants' bill of sale and assignment, including a request for good-cause exception, filed on December 14, 2022, and January 4, 18, and 26, 2023;
 - (b) Commission Staff's recommendation on the sufficiency of the closing documents filed on February 10, 2023;
 - (c) Center's consent form filed on March 3, 2023; and
 - (d) Flat Fork WSC's consent form filed on March 6, 2023.

Sale

17. In Order No. 14 filed on October 19, 2023, the ALJ approved the transaction to proceed and required the applicants to file proof that the transaction had closed and that customer deposits, if any, had been addressed.
18. On December 14, 2022, and January 4, 18, and 26, 2023, Flat Fork WSC filed notice that the sale closed on December 5, 2022, and confirmed that there were no outstanding customer deposits to address. Flat Fork WSC also requested a good-cause exception to the deadline to file proof that the transaction had closed.
19. In Order No. 16 filed on February 13, 2023, the ALJ granted Flat Fork WSC's good-cause exception and found the closing documents sufficient.

Center's Compliance History

20. Center has no unaddressed violations listed in the TCEQ database associated with its public water system, identification number 2100001.
21. The Commission's complaint records, which date back to 2017, show one complaint against Center.
22. Center does not have a history of continuing mismanagement or misuse of revenues as a utility service provider.

23. Center demonstrated a compliance status that is adequate for approval of the transaction.

Adequacy of Existing Service

24. There is no evidence in the record that Flat Fork WSC has failed to comply with any Commission or TCEQ order.
25. Center currently supplies water to the 39 meters under a purchase water agreement with Flat Fork WSC, and such service has been continuous and adequate.

Need for Additional Service

26. Customers are currently receiving service through the 39 meters and have an ongoing need for service.
27. This is an application to transfer only existing meters and customers.
28. There is no evidence in the record indicating a need for additional service.

Effect of Approving the Transaction and CCN Amendment

29. Approving the transfer will obligate Center to provide continuous and adequate water service to current and future customers served by the 39 meters.
30. Because this application is to transfer only existing meters and customers, there will be no effect on any other retail public utility providing service to the proximate area.
31. There will be no adverse effect on current customers served by the 39 meters because they are already receiving service from Center.

Ability to Serve: Managerial and Technical

32. Center currently serves the 39 meters through its public water system identification number 2100001.
33. Center employs or contracts with TCEQ-licensed water operators who operate its public water system through which it will provide service to the 39 meters.
34. No additional construction is necessary for Center to serve the 39 meters.
35. Center has the technical and managerial capability to provide continuous and adequate service to the 39 meters.

Feasibility of Obtaining Service from Adjacent Retail Public Utility

36. Center is an adjacent utility and is currently serving the 39 meters through a purchase water agreement with Flat Fork WSC, and such service has been continuous and adequate.
37. It is not feasible to obtain service from another adjacent retail public utility.

Regionalization or Consolidation

38. It will not be necessary for Center to construct a physically separate water system to serve the 39 meters.
39. Because construction of a physically separate water system is unnecessary, consideration of regionalization or consolidation with another retail public utility is not required.

Ability to Serve: Financial Ability and Stability

40. Center has a debt-to-equity ratio of less than one, satisfying the leverage test.
41. Center has sufficient cash and net operating income available to cover any projected operations and maintenance shortages in the first five years of operations after completion of the transaction, satisfying the operations test.
42. No additional construction or capital improvements are necessary for Center to serve the 39 meters.
43. Center demonstrated the financial and managerial capability and stability to pay for the facilities necessary to provide continuous and adequate service to the 39 meters.

Financial Assurance

44. There is no need to require Center to provide a bond or other financial assurance to ensure continuous and adequate service.

Environmental Integrity and Effect on the Land

45. The 39 existing meters will continue to be served by Center with existing facilities and no additional construction is necessary.
46. There will be no effects on environmental integrity or the land as a result of the transaction.

Improvement of Service or Lowering Cost to Consumers

47. The rates charged to existing customers will not change as a result of the transaction because Center already provides service to the customers.

48. There will be no change to the reliability and quality of water service from Center, as service is already provided through existing facilities.

Maps and Certificates

49. On March 3, 2023, Center filed a consent form acknowledging that final maps or certificates are not necessary, because no changes to either are needed.
50. On March 6, 2023, Flat Fork WSC filed a consent form acknowledging that final maps or certificates are not necessary, because no changes to either are needed.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this proceeding under TWC §§ 13.241, 13.242, 13.244, 13.246, 13.251, and 13.301.
2. Center and Flat Fork WSC are retail public utilities as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. The application meets the requirements of TWC § 13.244 and 16 TAC § 24.233.
4. Notice of the application was provided in compliance with TWC §§ 13.246 and 13.301(a)(2) and 16 TAC § 24.239(c).
5. The Commission processed the application in accordance with the requirements of the TWC, the Administrative Procedure Act,¹ and Commission rules.
6. Under 16 TAC § 24.2(b), good cause exists to grant Flat Fork WSC and Center an exception to the 30-day deadline in 16 TAC § 24.239(l).
7. Flat Fork WSC and Center complied with the requirements of 16 TAC § 24.239(k) and (l) with respect to customer deposits.
8. After consideration of the factors in TWC § 13.246(c), Center demonstrated that it is capable of rendering continuous and adequate service to the 39 meters, as required by TWC § 13.251.

¹ Tex. Gov't Code §§ 11.001–.903.

9. Center demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the 39 meters as required by TWC §§ 13.241(a) and 13.301(b).
10. It is not necessary for Center to provide bond or other financial assurance under TWC §§ 13.246(d) and 13.301(c).
11. Regionalization and consolidation concerns under TWC § 13.241(d) do not apply in this proceeding because construction of a physically separate water system is not required.
12. The applicants demonstrated that the sale and transfer of the 39 meters from Flat Fork WSC to Center will serve the public interest and is necessary for the continued service, accommodation, convenience, or safety of the public as required by TWC §§ 13.246(b) and 13.301(d) and (e).
13. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission approves the sale and transfer of the 39 meters held under Flat Fork WSC's water CCN number 11711 to Center.
2. The Commission amends Center's CCN number 10397 to include the 39 meters previously included in Flat Fork WSC's CCN number 11711.
3. Center must provide service to every customer or applicant for service associated with the 39 meters who requests water service and meets the terms of Center's water service policies, and such service must be continuous and adequate.
4. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas the 30th day of March 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read 'Isaac TA', written over a horizontal line.

**ISAAC TA
ADMINISTRATIVE LAW JUDGE**