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DOCKET NO. 53243

APPLICATION OF MAUKA WATER	§	PUBLIC UTILITY COMMISSION
LP AND JAMES A. DYCHE DBA	§	
CREST WATER COMPANY FOR	§	OF TEXAS
SALE, TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS IN JOHNSON COUNTY	§	

**JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED ORDER APPROVING
SALE AND ALLOWING TRANSACTION TO PROCEED**

COME NOW, Mauka Water, LP (Mauka) and James A. Dyche d/b/a Crest Water Company (Crest) (collectively, Applicants), together with the Staff of the Public Utility Commission of Texas (Commission Staff) (collectively, the Parties), and file this Joint Motion to Admit Evidence and Proposed Order Approving Sale and Allowing Transaction to Proceed. In support thereof, the Parties show the following:

On February 18, 2022, Applicants filed an application for approval of the sale, transfer, or merger of facilities and certificate rights in Johnson County. Specifically, Crest seeks approval to acquire facilities and to transfer all of the water service area held under Mauka's water certificate of convenience and necessity (CCN) number 12917 to Crest, CCN number 12037. The requested water service area includes approximately 371 acres and 339 customer connections.

On August 15, 2022, the administrative law judge (ALJ) filed Order No. 6, establishing a deadline of October 21, 2022 for the Parties to file a joint motion to admit evidence and proposed order approving sale and allowing transaction to proceed. Therefore, this pleading is timely filed.

I. MOTION TO ADMIT EVIDENCE

The Parties move to admit the following evidence into the record of this proceeding:

- A. Applicants' application for sale, transfer, or merger of facilities, filed on February 18, 2022 (Interchange Item No. 1);
- B. Applicants' confidential asset purchase agreement, the list of customer deposits and Crest's projected financial information bates stamped 000001 through 000068, filed on February 18, 2022 (Interchange Item No. 2);
- C. Applicants' mapping depicting area to be transferred from CCN number 12917 to CCN number 12037, filed on March 2, 2022 (Interchange Item No. 4);
- D. Staff's recommendation on administrative completeness and proposed procedural schedule, filed on March 18, 2022 (Interchange Item No. 5);

- E. Crest's supplemental application pages bate stamped 000072 through 000104, filed confidentially on March 22, 2022 (Interchange Item No. 7);
- F. Crest's Response to Order No. 2 including pages bate stamped 000105 through 000119, filed on April 18, 2022 (Interchange Item No. 9);
- G. Crest's supplemental application pages bate stamped 00120 through 000122, filed confidentially on April 18, 2022 (Interchange Item No. 10);
- H. Crest's supplemental application page, filed on May 31, 2022 (Interchange Item No. 13);
- I. Staff's supplemental recommendation on administrative completeness and proposed notice, filed on June 3, 2022 (Interchange Item No. 14);
- J. Crest's affidavit of notice, filed on July 18, 2022 (Interchange Item No. 16);
- K. Staff's recommendation on sufficiency of notice, filed on July 28, 2022 (Interchange Item No. 17); and,
- L. Staff's final recommendation on the transaction, including confidential Attachment EB-1, filed on September 16, 2022 (Interchange Item Nos. 21 and 22).

II. PROPOSED ORDER APPROVING SALE AND ALLOWING TRANSACTION TO PROCEED

The Parties respectfully request the approval of the attached Agreed Proposed Order Approving Sale and Allowing Transaction to Proceed, which would: authorize the transfer of all of the water service and facilities held under Mauka's CCN number 12917 to Crest's CCN number 12037.

III. CONCLUSION

The Parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the Order proposed by the Parties be adopted.

Respectfully submitted,

**ATTORNEY FOR CREST WATER
COMPANY**

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CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of October 2022, a true and correct copy of the foregoing document was served on all parties of record via electronic mail in accordance with the Order Suspending Rules issued in Project No. 50664.

Helen S. Gilbert

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CREST WATER COMPANY FOR	§	OF TEXAS
SALE, TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS IN JOHNSON COUNTY	§	

PROPOSED ORDER APPROVING SALE AND ALLOWING TRANSACTION TO PROCEED

This Order addresses the February 18, 2022 application of Mauka Water, LP (Mauka) and James A. Dyche d/b/a Crest Water Company (Crest) for approval of the sale, transfer, or merger of facilities and certificate rights in Johnson County. The applicants seek the sale and transfer of all facilities and service area held under Mauka’s water certificate of convenience and necessity (CCN) number 12917 to Crest’s CCN number 12037. The administrative law judge (ALJ) grants that the sale is approved and the transaction between Mauka and Crest may proceed and be consummated.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Mauka is a Texas limited partnership registered with the Texas secretary of state under filing number 0012461710.
2. Mauka is an investor-owned utility that owns, operated, and controls facilities for providing retail water service in Johnson County under water CCN number 12917.
3. Mauka owns and operated an approved public water system, currently operated by Crest, authorized by the Texas Commission on Environmental Quality (TCEQ) as PWS ID No. 1260123.
4. Crest is an investor-owned utility owned and operated by a sole proprietorship, James A. Dyche doing business as Crest Water Company.
5. Crest will own, operate, and control facilities for providing retail water service in Johnson County upon the transfer of Mauka’s water facilities under CCN number 12917.

Application

6. On February 18, 2022, Mauka and Crest filed the application at issue in this proceeding.
7. On March 2, 2022, March 22, 2022, March 25, 2022, April 18, 2022, and May 31, 2022, the Applicants supplemented the application.
8. In the application, Mauka and Crest seek approval for the following transaction: (a) Crest will acquire all of Mauka's facilities and service area under water CCN number 12917, (b) all of CCN number 12917 will be transferred (merged) into Crest's CCN number 12037; and (c) Mauka's CCN number 12917 will be cancelled.
9. The requested area includes approximately 371 acres and 339 water connections.
10. The requested area is located approximately 2.4 miles northwest of downtown Venus, Texas, and is generally bounded on the north by County Road 510; on the east by North Farm to Market Road 157; on the south by North Farm to Market Road 157 and County Road 507; and on the west by County Road 616.
11. In Order No. 4 filed on June 6, 2022, the ALJ found the application administratively complete.

Notice

12. On July 18, 2022, Crest filed the affidavit of owner Marcia Dyche attesting that notice was provided to all current customers of Mauka, neighboring utilities, and affected parties on July 6, 2022.
13. In Order No. 5 filed on August 2, 2022, the ALJ found the notice sufficient.

Evidentiary Record

14. On October 21, 2022, the parties filed a joint motion to admit evidence.
15. In Order No. 7 filed on _____, 2022, the ALJ admitted the following evidence into the record: (a) Applicants' application for sale, transfer, or merger of facilities, filed on February 18, 2022; (b) Applicants' confidential asset purchase agreement, the list of customer deposits and Crest's projected financial information bate stamped 000001 through 000068, filed on February 18, 2022; (c) Applicants' mapping depicting area to be transferred from CCN number 12917 to CCN number 12037, filed on March 2, 2022; (d) Staff's recommendation on administrative completeness and proposed procedural

schedule filed on March 18, 2022; (e) Crest's supplemental application pages bates stamped 000072 through 000104 filed confidentially on March 22, 2022; (f) Crest's Response to Order No. 2 including pages bates stamped 000105 through 000119 filed on April 18, 2022; (g) Crest's supplemental application pages bates stamped 00120 through 000122 filed confidentially on April 18, 2022; (h) Crest's supplemental application page filed on May 31, 2022; (i) Staff's supplemental recommendation on administrative completeness and proposed notice, filed on June 3, 2022; (j) Crest's affidavit of notice, filed on July 18, 2022; (k) Staff's recommendation on sufficiency of notice, filed on July 28, 2022; and, (l) Staff's final recommendation on the transaction, including confidential Attachment EB-1, filed on September 16, 2022.

System Compliance

16. Mauka does not have any unresolved violations listed in the TCEQ database.
17. Mauka has not been subject to any unresolved enforcement action by the Commission, the TCEQ, the Texas Department of Health and Human Services, the Office of the Attorney General of Texas, or the United States Environmental Protection Agency in the past five years for non-compliance with rules, orders, or state statutes.
18. Mauka demonstrated a compliance history that is adequate for approval of the sale to proceed.

Adequacy of Existing Service

19. There are currently 339 water connections in the requested area that are being served by Mauka through PWS ID No. 1260123 and such service has been continuous and adequate.

Need for Additional Service

20. There is a continuing need for service because Mauka is currently providing service to 339 connections in the requested area.
21. There have been no specific requests for additional service within the requested area.

Effect of Approving the Transaction and Granting the Amendment

22. Approving the sale and transfer to proceed and transferring the CCN will obligate Crest to provide continuous and adequate water service to current and future customers in the requested area.

23. Utilities within a two-mile radius were noticed and no protests or requests to intervene were filed in this docket.
24. 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.
25. There will be no effect on landowners as the area is currently certificated.

Ability to Serve: Managerial and Technical

26. Crest has the managerial and technical ability to provide continuous and adequate service to the requested area.
27. Crest plans to use a TCEQ-licensed operator who is responsible for operating the water system.
28. No additional construction is necessary for Crest to serve the requested area.
29. Crest has the technical and managerial capability to provide adequate and continuous service to the requested area.

Ability to Serve: Financial Ability and Stability

30. Crest has a debt-to-equity ratio that is less than one, satisfying the leverage test.
31. Crest's financial projections show there are not projected shortages, satisfying the operations test.
32. Crest has demonstrated the financial and managerial capability and stability to pay for the facilities necessary to provide continuous and adequate service to the requested area.

Financial Assurance

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

Environmental Integrity and Effect on the Land

34. The requested area will continue to be served with existing infrastructure.

Improvement of Service or Lowering Cost to Consumers

35. The rates charged to customers in the requested area will be higher as a result of the proposed transaction, but reliability and quality of water service are expected to improve under Crest management.

Feasibility of Obtaining Service from Adjacent Retail Public Utility

36. Crest is currently serving customers in the requested area with existing facilities and there will be no changes to land uses or existing CCN boundaries as a result of the transaction.
37. 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 in order to connect a neighboring retail public utility. Therefore, it is not feasible to obtain service from an adjacent retail public utility.

Regionalization or Consolidation

38. Crest will not need to construct a physically separate water system to continue serving the requested area; therefore, concerns of regionalization or consolidation do not apply.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. Notice of the application was provided in compliance with TWC §§ 13.246 and 13.301(a)(2) and 16 Texas Administrative Code (TAC) § 24.239.
2. After consideration of the factors in TWC § 13.246(c), Crest has demonstrated adequate financial, managerial, and technical capability to provide adequate and continuous service to the requested area. TWC § 13.301(b).
3. Mauka and Crest demonstrated that the sale of Mauka's water facilities and the service area under sewer CCN number 12917 to Crest will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.301(d) and (e).

III. Ordering Paragraphs

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

1. The sale and transfers proposed in the application are approved and the transaction between Mauka and Crest may proceed and be consummated.
2. As soon as possible after the effective date of the transaction, but not 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. The applicants 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 is not granted, this approval is void and the applicants will have to reapply for approval.
5. The applicants are advised that the requested water service area and associated facilities will remain under CCN number 12917 and be held by Mauka until the sale and transfer transactions are complete in accordance with Commission rules.
6. In an effort to finalize this case as soon as possible, the applicants must 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 ____ day of ____ 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

**GREGORY R. SIEMANKOWSKI
ADMINISTRATIVE LAW JUDGE**