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DOCKET NO. 53922

APPLICATION OF SKYLINE DRIVE	§	PUBLIC UTILITY COMMISSION
LANDOWNERS ASSOCIATION WATER	§	
SYSTEM AND JOHNSON COUNTY	§	OF TEXAS
SPECIAL UTILITY DISTRICT FOR	§	
SALE, TRANSFER OR MERGER OF	§	
FACILITIES AND TO AMEND JOHNSON	§	
COUNTY SPECIAL UTILITY	§	
DISTRICT'S WATER CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	
JOHNSON COUNTY	§	

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

I. INTRODUCTION

On August 1, 2022, Skyline Drive Landowners Association Water System (SDLA) and Johnson County Special Utility District (Johnson County SUD) (collectively, Applicants) filed an application for approval of the sale, transfer, or merger (STM) of facilities and certificate rights in Johnson County. Specifically, Johnson County SUD, Certificate of Convenience and Necessity (CCN) No. 10081, seeks approval to acquire facilities and to transfer all of the water service area from SDLA under water CCN No. 12479. On December 19, 2022, the Applicants filed an amended application, in which Johnson County SUD also seeks approval to amend its CCN for uncertificated service area separate from the area to be transferred in the STM.

The Staff (Staff) of the Public Utility Commission of Texas (Commission) filed its final recommendation on approval of the sale and the CCN amendment on April 17, 2023. In Order No. 6, the administrative law judge (ALJ) directed the Applicants and Staff (collectively, Parties) to file a joint motion to admit evidence and a proposed order approving the sale and allowing the transaction to proceed by April 28, 2023. Therefore, this pleading is timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

The Parties move to admit the following evidence:

- (a) The application, including all attachments, filed on August 1, 2022 (Interchange Item No. 1);

- (b) The Applicants' supplemental information to the application, filed on August 2, 2022 (Interchange Item No. 2);
- (c) The Applicants' amended application, filed on December 19, 2022 (Interchange Item Nos. 8 and 9);
- (d) Staff's recommendation on administrative completeness, proposed notice, and proposed procedural schedule and request to restyle the docket, filed on January 23, 2023 (Interchange Item No. 10);
- (e) The Applicants' proof of notice and supporting documentation, filed on February 22, 2023 (Interchange Item No. 12);
- (f) The Applicants' supplemental information to the application, filed on February 28, 2023 (Interchange Item No. 13);
- (g) Staff's recommendation on sufficiency of notice and proposed procedural schedule, filed on March 6, 2023 (Interchange Item No. 14);
- (h) Staff's final recommendation on approval of the sale, filed on April 17, 2023 (Interchange Item No. 19); and
- (i) The Parties' joint motion to admit evidence and joint proposed order approving the sale and allowing the transaction to proceed, filed on April 28, 2023 (Interchange Item No. ____).

III. JOINT PROPOSED ORDER APPROVING SALE AND ALLOWING TRANSACTION TO PROCEED AND APPROVING CCN AMENDMENT

The attached Joint Proposed Order would authorize the sale and transfer of all of SDLA's facilities and customers to Johnson County SUD and would amend Johnson County SUD CCN number 10081 to add the requested area to the extend provided in this Proposed Order.

IV. CONCLUSION

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

Dated: April 28, 2023

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Marisa Lopez Wagley
Interim Division Director

Sneha Patel
Managing Attorney

/s/ Kelsey Daugherty
Kelsey Daugherty
State Bar No. 24125054
1701 N. Congress Ave.
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7255
(512) 936-7268 (Fax)
Kelsey.Daugherty@puc.texas.gov

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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 April 28, 2023, in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ Kelsey Daugherty
Kelsey Daugherty

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**JOINT PROPOSED ORDER APPROVING SALE AND ALLOWING TRANSACTION
TO PROCEED AND APPROVING CCN AMENDMENT**

This Order addresses the application of Skyline Drive Landowners Association (SDLA) and Johnson County Special Utility District (Johnson County SUD) (collectively, Applicants) for approval of the sale, transfer, or merger (STM) of facilities and certificate rights in Johnson County. The applicants seek to transfer facilities and water service area held by SDLA to Johnson County SUD. Johnson County SUD also seeks approval to amend its certificate of convenience and necessity (CCN) for uncertificated service area separate from the area to be transferred in the STM. On April 17, 2023, the Staff (Staff) of the Public Utility Commission of Texas (Commission) recommended that the transaction proceed in this docket. The administrative law judge (ALJ) approves the sale and transaction between SDLA and Johnson County SUD.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. SDLA is a landowners association.
2. Johnson County SUD is a special utility district operating under Texas Water Code Chapters 49 and 65.
3. SDLA operates, maintains, and controls facilities that provide water service in Johnson County that are registered with the Texas Commission on Environmental Quality (TCEQ) under public water system identification number 1260060.

4. Johnson County SUD operates, maintains, and controls facilities that provide water service in Johnson County that are registered with the TCEQ under public water system identification number 1260018.

Application

5. On August 1, 2022, SDLA and Johnson County SUD filed an application for sale, transfer, or merger of facilities in Johnson County. The Applicants seek approval to sell and transfer SDLA's facilities and all of its water service area to Johnson County SUD.
6. Johnson County SUD also seeks approval to amend its CCN to add uncertificated service area separate from the area to be transferred in the STM.
7. The Applicants filed supplemental information on August 2, 2022, December 19, 2022, February 22, 2023, and February 28, 2023.
8. The requested area to be transferred is located approximately 4.7 miles northeast of downtown Godley, Texas, and is generally bounded on the north by the intersection of First Street and Texas Street, on the east by County Road 915B, on the south by County Road 915, and on the west by Clearview Drive.
9. The requested area includes 26.8 acres of uncertificated area and 61.7 acres of transferred area from CCN No. 12479.
10. The total area affected subject to this transaction is approximately 88.5 acres and 34 customer connections.
11. In Order No. 4, filed on January 24, 2023, the ALJ found the application administratively complete.

Notice

12. On February 22, 2023, Johnson County SUD filed the affidavit of Pete Kampfer, General Manager of Johnson County SUD, attesting that notice was provided to customers, cities, districts, neighboring retail public utilities, county offices, and affected parties on January 31, 2023.
13. Also on February 22, 2023, Johnson County SUD filed the publisher's affidavit attesting to the publication of notice in the *Cleburne Times Review*, a newspaper of general circulation in Johnson County, on February 4 and 11, 2023.
14. In Order No. 5, filed on March 7, 2023, the ALJ found the notice sufficient.

Evidentiary Record

15. In Order No. 7, filed on _____, 2023, the ALJ admitted the following evidence into the record: (a) The application, including all attachments, filed on August 1, 2022; (b) the Applicants' supplemental information to the application, filed on August 2, 2022; (c) the Applicants' amended application, filed on December 19, 2022; (d) Staff's recommendation on administrative completeness, proposed notice, and proposed procedural schedule and request to restyle the docket, filed on January 23, 2023; (e) the Applicants' proof of notice and supporting documentation, filed on February 22, 2023; (f) the Applicants' supplemental information to the application, filed on February 28, 2023; (g) Staff's recommendation on sufficiency of notice and proposed procedural schedule, filed on March 6, 2023; (h) Staff's final recommendation on approval of the sale, filed on April 17, 2023; and (i) the Parties' joint motion to admit evidence and joint proposed order approving the sale and allowing the transaction to proceed and approving the CCN amendment, filed on April 28, 2023.

Adequacy of Existing Service and System Compliance – Texas Water Code (TWC) §§ 13.246(c)(1) and 13.301(e)(3)(A); 16 Texas Administrative Code (TAC) §§ 24.227(a) and (e)(1), 24.239(h)(3)(A), (h)(5)(A), and (h)(5)(I).

16. SDLA has a TCEQ approved public water system (PWS) registered as PWS number 1260060.
17. The last TCEQ compliance investigation of SDLA's water system was on October 22, 2020. SDLA has violations listed in the TCEQ database that have since been resolved.
18. The Commission's complaint records, which date back to 2017, show no complaints against SDLA.

Need for Additional Service – TWC § 13.246(c)(2); 16 TAC §§ 24.227(e)(2), 24.239(h)(5)(B).

19. There is a continuing need for service because there are currently 34 existing customers in the requested area.
20. No additional service is needed at this time.

Effect of Approving the Transaction and Granting the Amendment – TWC 13.246(c)(3); 16 TAC §§ 24.227(e)(3), and 24.239(h)(5)(c).

21. SDLA and Johnson County SUD are the only retail public utilities affected by this transfer.
22. Johnson County SUD will be the certificated entity for the requested area and will be required to provide continuous and adequate service to the requested area.

23. There will be no effect on landowners, as the area being transferred from SDLA is currently certificated and the uncertificated area being added to Johnson County SUD's CCN contains portions of some of the existing customers' land that was mistakenly not included within SDLA's CCN.
24. All retail public utilities in the proximate area were provided with notice of the transaction. None of the retail public utilities intervened.
25. There will be no effect on any retail public utility servicing the proximate area.

Ability to Serve: Managerial and Technical – TWC §§ 13.241(a) and (b); 13.246(c)(4); 13.301(b) and (e)(2); 16 TAC §§ 24.227(a) and (e)(4), 24.239(f) and (h)(5)(D).

26. Johnson County SUD has a TCEQ approved PWS registered as PWS number 1260018.
27. Johnson County SUD does not have any active violations listed in the TCEQ database.
28. The Commission's complaint records show 30 complaints against Johnson County SUD since 2017. All of the complaints have been reviewed and closed by the Commission's Customer Protection Division.
29. Johnson County SUD will have qualified TCEQ licensed operators licensed in water treatment to run the acquired systems.
30. Johnson County SUD has the managerial and technical ability to provide continuous and adequate service to the requested area.

Ability to Serve: Financial Ability and Stability – TWC §§ 13.241(a), 13.246(c)(6), 13.301(b); 16 TAC §§ 24.11(e), 24.227(a), (e)(6), 24.239(e), (f), and (h)(5)(F).

31. Johnson County SUD's debt-to-equity ratio is less than one, meeting the leverage test.
32. Johnson County SUD meets the operations test specified in 16 TAC § 24.11(e)(3). Johnson County SUD projects that there are no operations and maintenance shortages to cover during the first five years of operations after approval of the transaction and CCN amendment.
33. Johnson County SUD meets the requirements specified in 16 TAC § 24.11(e)(5)(A). Capital improvements required to provide continuous and adequate service are projected to cost \$150,000. Johnson County SUD's board of directors (Directors) approved the capital improvements during their January 18, 2022 meeting. The Directors also approved funding the improvements through Johnson County SUD's 2023 capital improvements

budget. Johnson County SUD's audited financial statements contain a cash and cash equivalents balance of \$18,043,642.

34. Johnson County SUD has demonstrated that it has the financial ability and stability and managerial capacity to provide continuous and adequate service to the requested area.

Financial Assurance – TWC §§ 13.246(d), 13.301(c); 16 TAC §§ 227(f), and 24.239(f).

35. There is no need to require Johnson County SUD to provide a bond or other financial assurance to ensure continuous and adequate service.

Regionalization and Consolidation – TWC § 13.241(d); 16 TAC § 24.227(b).

36. The construction of a physically separate system is not necessary for Johnson County SUD to serve the requested area. Therefore, concerns of regionalization or consolidation are not applicable.

Feasibility of Obtaining Service from Adjacent Retail Public Utility – TWC § 13.246(c)(5); 16 TAC §§ 24.227(e)(5), 24.239(h)(5)(E).

37. SDLA is currently serving the existing customers in the requested area with existing facilities and has sufficient capacity.

38. Obtaining service from an adjacent retail public utility would likely increase costs to customers because new facilities will need to be constructed. At a minimum, an interconnect would need to be installed in order to connect to a neighboring retail public utility.

39. It is not feasible to obtain service from an adjacent retail public utility.

Capital Improvements Plan, Budget, and Timeline for Construction of Facilities – TWC § 13.244(d)(3).

40. Johnson County SUD is proposing to make improvements to SDLA's water system. The proposed capital improvements are expected to exceed \$100,000.

Financial Ability of Buyer 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).

41. Capital improvements required to provide continuous and adequate service are projected to cost \$150,000. Johnson County SUD's board of directors (Directors) approved the capital improvements during their January 18, 2022 meeting. The Directors also approved funding the improvements through Johnson County SUD's 2023 capital improvements

budget. Johnson County SUD's audited financial statements contain a cash and cash equivalents balance of \$18,043,642.

42. Johnson County SUD meets the requirements specified in 16 TAC § 24.11(e)(5)(A).

Environmental Integrity and Effect on Land – TWC §§ 13.246(c)(7), (c)(9); 16 TAC §§ 24.227(e)(7), (e)(9), 24.239(h)(5)(G).

43. The environmental integrity of the land will be minimally affected as facilities are constructed to provide service to the requested area.

Improvement of Service or Lowering of Cost to Customers – TWC § 13.246(c)(8); 16 TAC §§ 24.227(e)(8), 24.239(h)(5)(H).

44. Reliability and quality of water service are expected to improve under Johnson County SUD's management.

45. The customers' rates will be higher than the current rates charged by SDLA.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Applicants provided notice of the application that complies with TWC §§ 13.246 and 13.301(a)(2), and 16 TAC § 24.239.
2. After consideration of the factors in TWC § 13.246(c), Johnson County SUD demonstrated adequate financial, managerial, and technical capability to provide continuous and adequate service to the requested area as required by TWC § 13.301(b).
3. The Applicants have demonstrated that the transfer of SDLA's water facilities and customers to Johnson County SUD 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 these findings of fact and conclusions of law, the Commission issues the following orders.

1. The transfer is approved and the transaction between SDLA and Johnson County SUD 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 § 29.239(m), if the transaction is not consummated within this period, or an extension has not been granted, this approval is void and the applicants will have to reapply for approval.
5. The Applicants are advised that the 61.7-acre requested area in CCN No. 12479 will remain with and be held by SDLA 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.
8. Upon approval of the transfer of SDLA's service area the Commission will also amend Johnson County SUD's CCN number 10081 to add the requested uncertificated area described in this Notice of Approval.

Signed at Austin, Texas the _____ day of April ____, 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

JEFFREY J. HUHN
ADMINISTRATIVE LAW JUDGE