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DOCKET NO. 53922

APPLICATION OF SKYLINE DRIVE	§	PUBLIC UTILITY COMMISSION
LANDOWNERS ASSOCIATION	§	
WATER SYSTEM AND JOHNSON	§	OF TEXAS
COUNTY 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	§	

NOTICE OF APPROVAL

This Notice of Approval addresses the application of Skyline Drive Landowners Association and Johnson County Special Utility District for approval of the sale, transfer, or merger of facilities and certificate rights in Johnson County. The Commission approves the following: (1) the sale and transfer of all facilities and water service area held by Skyline Drive under certificate of convenience and necessity (CCN) number 12479 to Johnson County SUD; (2) the amendment of Johnson County SUD's CCN number 10081 to include all facilities and service area previously held by Skyline Drive under CCN number 12479; (3) the cancellation of Skyline Drive's CCN number 12479; and (4) the amendment of Johnson County SUD's CCN number 10081 to add 26.8 acres of uncertificated area, to the extent provided in this Notice of Approval.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Skyline Drive is a Texas property owners' association.
2. Skyline Drive holds CCN number 12479 which obligates it to provide retail water service in its certificated service area in Johnson County.

3. Skyline Drive owns a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under public water system identification number 1260060.
4. Johnson County SUD is a special utility district operating under chapter 65 of Texas Water Code (TWC).
5. Johnson County SUD holds CCN number 10081 which obligates it to provide retail water service in its certificated service area in Johnson County.
6. Johnson County SUD owns a public water system registered with the TCEQ under public water system identification number 1260018.

Application

7. On August 1, 2022, Skyline Drive and Johnson County SUD filed the application at issue in this proceeding.
8. The applicants filed supplemental information on August 2 and December 19, 2022, and on February 22 and 28, 2023.
9. In the application, as supplemented, the applicants seek approval of the following:
 - (a) the sale and transfer to Johnson County SUD of all of Skyline Drive's facilities and service area held under CCN number 12479;
 - (b) the amendment of Johnson County SUD's CCN number 10081 to include the facilities and service previously included in Skyline Drive's CCN number 12479;
 - (c) the cancellation of Skyline Drive's CCN number 12479; and
 - (d) the amendment of Johnson County SUD's CCN number 10081 to add 26.8 acres of uncertificated area.
10. The requested area includes the following:
 - (a) 61.7 acres of singly certificated service area under Skyline Drive's CCN number 12479;
 - (b) 26.8 acres of uncertificated area immediately adjacent to Skyline Drive's existing certificated service area; and
 - (c) 34 customer connections.

11. The requested area 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.
12. In Order No. 4 filed on January 24, 2023, the administrative law judge (ALJ) found the application, as supplemented, administratively complete.

Notice

13. 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.
14. On February 22, 2023, Johnson County SUD filed a 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.
15. In Order No. 5 filed on March 7, 2023, the ALJ found the notice sufficient.
16. On June 16, 2023, Johnson County SUD filed proof that there are no owners of a tract of land that is at least 25 acres and is wholly or partially included in the requested area.
17. In Order No. 9 filed on July 17, 2023, the ALJ found the supplemental notice sufficient.

Evidentiary Record

18. In Order No. 10 filed on August 2, 2023, the ALJ admitted the following evidence into the record of this proceeding:
 - (a) the application and 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) Commission 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) Commission Staff's recommendation on sufficiency of notice and proposed procedural schedule filed on March 6, 2023;
 - (h) Commission Staff's final recommendation on approval of the sale filed on April 17, 2023;
 - (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;
 - (j) the applicants' response to Order No. 7 filed on May 30, 2023;
 - (k) Commission Staff's clarification in response to Order No. 7 filed on May 30, 2023;
 - (l) the applicants' supplemental proof of notice and supporting documentation filed on June 16, 2023; and
 - (m) Commission Staff's recommendation on sufficiency of supplemental notice filed on July 5, 2023.
19. In Order No. 16 filed on July 9, 2024, the ALJ admitted the following additional evidence into the record:
- (a) executed transactional documents and executed affidavit of customer deposits filed on March 14, 2024;
 - (b) Commission Staff's recommendation on sufficiency of closing documents and proposed procedural schedule filed on April 1, 2024;
 - (c) Johnson County SUD's executed consent form filed on April 30, 2024;
 - (d) Skyline Drive's executed consent form filed on May 3, 2024;
 - (e) the final map and certificate attached to the parties' joint supplemental motion to admit evidence and proposed notice of approval filed on May 28, 2024;

- (f) Johnson County SUD's response to Order No. 15 filed June 14, 2024; and
- (g) Commission Staff's recommendation and Johnson County SUD's response to Order No. 15 filed on July 3, 2024.

Sale

- 20. In Order No. 12 filed on September 18, 2023, the ALJ approved the sale and transaction to proceed and required the applicants to file proof that the transaction had closed and customer deposits, if any, had been addressed.
- 21. On March 14, 2024, the applicants filed proof that the transaction had closed and confirmed that there were no outstanding customer deposits that needed to be addressed.
- 22. In Order No. 14, filed on April 4, 2024, the ALJ found the closing documentation sufficient.

Purchaser's Compliance History

- 23. The Commission's complaint records, which date back to 2017, show 30 complaints against Johnson County SUD. All the complaints have been reviewed and closed by the Commission's customer protection division.
- 24. Johnson County SUD has not been under an enforcement action by the Commission, TCEQ, Texas Health and Human Services, the Office of the Texas Attorney General, or the United States Environmental Protection Agency in the past five years for non-compliance with rules, orders, or state statutes.
- 25. Johnson County SUD does not have a history of continuing mismanagement or misuse of revenues as a utility service provider.
- 26. Johnson County SUD demonstrated a compliance history that is adequate for approval of transaction.

Adequacy of Existing Service

- 27. There are currently 34 connections in the requested area that are being served by Skyline Drive through public water system number 1260060 and such service has been continuous and adequate.
- 28. The last TCEQ compliance investigation of Skyline Drive's water system was on October 22, 2022.

29. Skyline Drive has violations listed in the TCEQ database that have been resolved.
30. The Commission's complaint records, which date back to 2017, show no complaints against Skyline Drive.
31. Capital improvements are necessary for Johnson County SUD to continue providing continuous and adequate service to the requested area.
32. There is no evidence in the record that Skyline Drive has failed to comply with a Commission or TCEQ order.

Need for Additional Service

33. There are 34 customer connections in the requested areas that are receiving service from Skyline Drive and have an ongoing need for service.
34. The requested area includes uncertificated area with existing customers served by Skyline Drive.
35. There is no evidence in the record indicating a need for additional service.

Effect of Approving the Transaction and Granting the Amendment

36. Johnson County SUD will be sole certificated water utility for the requested area.
37. Johnson County SUD will be required to provide continuous and adequate water service to current and future customers in the requested area.
38. There will be no effect on landowners as requested area is currently certificated or receiving service from Skyline Drive.
39. All retail public utilities in the proximate area were provided notice of the transaction proposed in this application, and no protests, adverse comments, or motions to intervene were filed by any adjacent retail public utility.

Ability to Serve: Managerial and Technical

40. Johnson County SUD owns and operates public water system number 1260018, which is registered with the TCEQ.
41. Johnson County employs TCEQ-licensed operators who will be responsible for operating the public water system being transferred.

42. Johnson County SUD has the managerial and technical ability to provide continuous and adequate service to the requested area.

Feasibility of Obtaining Service from Adjacent Retail Public Utility

43. Skyline Drive is currently serving the existing customers in the requested area with existing facilities and service has been continuous and adequate.
44. Johnson County SUD is an adjacent retail public utility.
45. Texas Water Utilities, LP, the only other retail public utility in the proximate area, did not file a protest, adverse comment, or motion to intervene in this proceeding.
46. It is not feasible to obtain service from a different retail public utility.

Regionalization or Consolidation

47. It will not be necessary for Johnson County SUD to construct a physically separate water system to serve the requested area.
48. Because the requested area will not require construction of a physically separate water system, consideration of regionalization or consolidation with an adjacent retail public utility is not required.

Ability to Serve: Financial Capability and Stability

49. Johnson County SUD has a debt-to-equity ratio that is less than one, satisfying the leverage test.
50. 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. Therefore, Johnson County SUD satisfied the operations test.
51. Johnson County SUD submitted documents indicating it possesses the funds necessary for the purchase of Skyline Drive's water system and for the construction of the capital improvements necessary for Johnson County SUD to continue providing continuous and adequate service to existing customers.
52. Johnson County SUD filed a capital improvements plan that included a budget and an estimated timeline for construction of all facilities necessary to provide service to the requested area keyed to a map showing where such facilities will be located.

53. Johnson County SUD demonstrated that it has the financial capability and stability to pay for the facilities necessary to provide continuous and adequate service.

Financial Assurance

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

Environmental Integrity and Effect on the Land

55. The effect on environmental integrity and the land will be minimal and temporary as facilities are constructed for Johnson County SUD to continue providing continuous and adequate service to the requested area.

Improvement of Service or Lowering Cost to Consumers

56. Reliability and quality of water service are expected to improve under Johnson County SUD's management.
57. No lowering of cost to consumers will result from approving the transaction to proceed.

Map and Certificate

58. On April 29, 2024, Commission Staff emailed to Johnson County SUD and Skyline Drive the final proposed map and certificate related to this docket.
59. On April 30, 2024, Johnson County SUD filed its consent form concurring with the proposed final map and certificate.
60. On May 3, 2024, Skyline Drive filed its consent form concurring with the proposed final map.
61. On May 28, 2024, the final map and certificate were provided as attachments to the parties' joint supplemental motion to admit evidence and proposed Notice of Approval.

Informal Disposition

62. More than 15 days have passed since the completion of notice provided in this docket.
63. No person filed a protest or motion to intervene.
64. Johnson County SUD, Skyline Drive, and Commission Staff are the only parties to this proceeding.
65. No party requested a hearing, and no hearing is needed.

66. Commission Staff recommended approval of the application.
67. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this proceeding under TWC §§ 13.041, 13.241, 13.242, 13.244, 13.246, 13.251, and 13.301.
2. Johnson County SUD and Skyline Drive are retail public utilities as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. Notice of the application was provided in compliance with TWC §§ 13.246 and 13.301(a)(2) and 16 TAC § 24.239.¹
4. The application meets the requirements of TWC § 13.244 and 16 TAC §§ 24.227 and 24.233.
5. The Commission processed this application as required by the TWC, Administrative Procedure Act,² and Commission rules.
6. The applicants complied with the requirements of 16 TAC § 24.239(k) and (l) with respect to customer deposits.
7. Johnson County SUD and Skyline Drive completed the sale and transfer within the time required by 16 TAC § 24.239(m).
8. After consideration of the factors in TWC § 13.246(c), Johnson County SUD demonstrated that it is capable of rendering continuous and adequate service to every customer in the requested area, as required by TWC § 13.251.
9. Johnson County SUD demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area as required by TWC §§ 13.241(a) and 13.301(b).

¹ After this application was filed, 16 TAC § 24.239 was amended, effective March 29, 2023. Accordingly, all references and citations to 16 TAC § 24.239 in this Notice of Approval are made to the version in effect at the time the application was filed.

² Tex. Gov't Code §§ 2001.001-.903.

10. 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.
11. It is not necessary for Johnson County SUD to provide bond or other financial assurance under TWC §§ 13.246(d) and 13.301(c).
12. Johnson County SUD provided a capital improvements plan under TWC § 13.244(d)(3) and 16 TAC § 24.233(a)(6).
13. The applicants demonstrated that the sale and transfer of Skyline Drive's facilities and service area under CCN number 12479 to Johnson County SUD 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).
14. Under TWC § 13.257(r) and (s), Johnson County SUD must record a certified copy of its approved map and certificate approved by this Notice of Approval, along with a boundary description of its service area, in the real property records of Johnson County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording.
15. 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 facilities, customers, and service area held under Skyline Drive's CCN number 12479 to Johnson County SUD, to the extent provided in this Notice of Approval.
2. The Commission cancels Skyline Drive's CCN number 12479.
3. The Commission amends Johnson County SUD's CCN number 10081 to include the facilities, customers, and 67.1 acres of certificated service area previously included in Skyline Drive's CCN number 12479, as well as 26.8 acres of uncertificated area, as described in this Notice of Approval and shown on the attached map.

4. The Commission approves the map attached to this Notice of Approval.
5. The Commission issues the certificate attached to this Notice of Approval.
6. Johnson County SUD must provide service to every customer or applicant for service within the approved area under CCN number 10081 that requests service and meets the terms of Johnson County SUD's water service policies, and such service must be continuous and adequate.
7. Johnson County SUD must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Johnson County affected by the application and must submit to the Commission evidence of the recording no later than 45 days after the date of this Notice of Approval.
8. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted

Signed at Austin, Texas the 9th day of July 2024.

PUBLIC UTILITY COMMISSION OF TEXAS



REBECCA BROMLEY-WILLIAMS
ADMINISTRATIVE LAW JUDGE

PUCT Docket No. 53922

Johnson County SUD


Portion of Water CCN No. 10081

Transfer all of Skyline Drive Landowners Association, CCN No. 12479 and Amend CCN No. 10081 in
Johnson County



Water CCN

 10081 - Johnson County SUD

 12983 - Texas Water Utilities LP

0 300 600
Feet





Public Utility Commission of Texas

By These Presents Be It Known To All That

Johnson County Special Utility District

having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Johnson County Special Utility District, is entitled to this

Certificate of Convenience and Necessity No. 10081

to provide continuous and adequate water utility service to that service area or those service areas in Ellis, Hill, Johnson, and Tarrant Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 53922 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of Johnson County Special Utility District, to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.