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DOCKET NO. 54171

APPLICATION OF TEXAS WATER UTILITIES, LP AND CS WATER CORPORATION FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN BOSQUE COUNTY	§ § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED ORDER APPROVING SALE AND TRANSFER TO PROCEED

COME NOW Texas Water Utilities, L.P. (TWU) and CS Water Corporation (CS Water) (collectively, Applicants), together with the Staff (Staff) of the Public Utility Commission of Texas (Commission) (collectively, the Parties) and file this Joint Motion to Admit Evidence and Proposed Order Approving Sale and Transfer to Proceed. In support thereof, the Parties show the following:

I. BACKGROUND

On September 30, 2022, Monarch Utilities I L.P. (Monarch) and CS Water filed an application for the sale, transfer, or merger (STM) of facilities and certificate rights in Bosque County, Texas, under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239. On November 29, 2022, the administrative law judge (ALJ) issued Order No. 4, recognizing that Monarch had changed its name to Texas Water Utilities, L.P. on November 15, 2022, and restyling the application accordingly.

On January 3, 2023, the ALJ filed Order No. 6, directing the Parties to file a joint motion to admit evidence and proposed order approving the sale and allowing the transaction to proceed by March 10, 2023. Order No. 7 extended the deadline to March 14, 2023. Therefore, this pleading is timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

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

- (a) The application of CS Water and TWU, and confidential attachments, filed on September 30, 2022 (Interchange Item Nos. 1 and 2);
- (b) The supplements to the application, filed on October 4, 2022, October 25, 2022, October 26, 2022, and February 10, 2023 (Interchange Item Nos. 4, 5, 10, 11, 12 and 37);

- (c) Commission Staff's Recommendation on Administrative Completeness and Notice and Proposed Procedural Schedule, filed on October 31, 2022 (Interchange Item No, 13);
- (d) TWU's proof of notice and confidential mailing list, filed on November 21, 2022 (Interchange Item Nos. 19 and 20);
- (e) TWU's Response to Commission Staff's First Request for Information and confidential attachments, filed on November 1, 2022 (Interchange Item Nos. 14 and 15);
- (f) Commission Staff's Recommendation on Sufficiency of Notice, filed on December 12, 2022 (Interchange Item No. 24);
- (g) TWU's Objections to Commission Staff's Second Request for Information, filed on December 12, 2022 (Interchange Item No. 25);
- (h) TWU's Response to Commission Staff's Second Request for Information, filed on January 4, 2023 (Interchange Item Nos. 30 and 31);
- (i) TWU's Supplemental Response to Commission Staff's Second Request for Information, filed on January 20, 2023 (Interchange Item Nos. 33 and 34); and
- (j) Commission Staff's Recommendation on Approval of the Sale and on the CCN Amendment, filed on January 31, 2023 (Interchange Item Nos. 35 and 36).

III. JOINT PROPOSED ORDER

The attached Joint Proposed Order Approving Sale and Transfer to Proceed would grant Applicants' application for the sale, transfer, or merger of facilities and certificate rights in Bosque County. The Applicants and Commission Staff disagree as to whether proposed Finding of Fact No. 38 is necessary in light of Finding of Fact No. 37 and defer to the ALJ regarding whether to include it in the Order Approving the Transaction to Proceed.

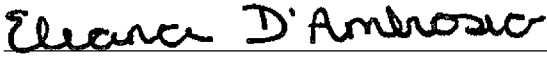
IV. CONCLUSION

The Parties respectfully request that the Commission grant the Joint Motion to Admit Evidence and adopt the attached Joint Proposed Order Approving Sale and Transfer to Proceed.

Respectfully submitted,

SPENCER FANE, LLP
816 Congress Avenue
Suite 1200
Austin, TX 78701
Telephone: (512) 840-4550
Facsimile: (512) 840-4551

William A. Faulk, III
State Bar No. 24075674
cfaulk@spencerfane.com
Rashmin J. Asher
State Bar No. 24092058
rasher@spencerfane.com


Eleanor D'Ambrosio
Eleanor D'Ambrosio
State Bar No. 24097559
edambrosio@spencerfane.com

**ATTORNEY FOR TEXAS WATER
UTILITIES, L.P.**

**PUBLIC UTILITY COMMISSION OF
TEXAS
LEGAL DIVISION**

Keith Rogas
Division Director

John Harrison
Managing Attorney


/s/ Margaux Fox

Margaux Fox
State Bar No. 24120829
Ian Groetsch
State Bar No. 24078599
1701 N. Congress Ave.
P.O. Box 13326
Austin, Texas 78711-3326

(512) 936-7021
(512) 936-7268 (facsimile)
Margaux.Fox@puc.texas.gov

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 March 14, 2023, in accordance with the Order Suspending Rules, issued in Project No. 50664.


Eleanor D' Ambrosio
Eleanor D' Ambrosio

DOCKET NO. 54171

APPLICATION OF TEXAS WATER UTILITIES, LP AND CS WATER CORPORATION FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN BOSQUE COUNTY	§ § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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JOINT PROPOSED ORDER APPROVING SALE AND TRANSFER TO PROCEED

This Order addresses the application of CS Water Corporation (CS Water) and Texas Water Utilities, L.P. (TWU) for approval of the sale, transfer, or merger of facilities and certificate rights in Bosque County. The applicants seek approval to sell and transfer all of CS Water's facilities and service area under water certificate of convenience and necessity (CCN) number 11441 to TWU's water CCN number 12983, and to cancel CS Water's water CCN number 11441. The administrative law judge (ALJ) approves the transaction between TWU and CS Water, and the transaction may be completed as proposed.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. TWU is a limited partnership registered with the Texas secretary of state under file number 800034797.
2. TWU is an investor-owned utility that owns, operates, and controls facilities for providing water service under CCN number 12983.
3. CS Water is a Texas corporation registered with the Texas secretary of state under filing number 114397600.
4. CS Water is an investor-owned utility that owns, operates, and controls facilities for providing water service under CCN number 11441.

Application

5. On September 30, 2022, the applicants filed the application at issue in this proceeding.
6. The applicants supplemented the application on October 4, October 25, October 26, 2022, and February 10, 2023.

7. In the application, as supplemented, the applicants seek approval for the following: (a) to sell and transfer all of CS Water's facilities and service area under water CCN number 11441 to TWU's water CCN number 12983; (b) to cancel water CCN number 11441; and (c) to amend TWU's water CCN number 12983 to include the areas previously included in CS Water's CCN number 11441.
8. The requested area includes approximately 726 acres and 178 current customers.
9. The requested area is located approximately 6.5 miles west of downtown Whitney, Texas, and is generally bounded on the north by County Road 1500 and Cedron Creek; on the east by Brazos River and Lake Whitney; on the south by King Creek; and on the west by Farm to Market 56.
10. In Order No. 3 filed on November 1, 2022, the ALJ found the application, as supplemented, administratively complete.

Notice

11. On November 21, 2022, the applicants filed the affidavit of George Freitag, Texas Regulatory Manager for TWU, attesting that notice was provided to all current customers, neighboring utilities, and affected parties on November 18, 2022.
12. In Order No. 5 filed on December 14, 2022, the ALJ found the notice sufficient.

Evidentiary Record

13. On March 10, 2023, the Parties filed a joint motion to admit evidence and proposed order approving the sale and transfer to proceed.
14. In Order No. __ filed on March __, 2023, the ALJ admitted the following evidence into the record of this proceeding: (a) The application and all attachments, filed on September 30, 2022; (b) the supplements to the application, filed on October 4, 2022, October 25, 2022, October 26, 2022, and February 10, 2023; (c) Commission Staff's recommendation on administrative completeness and notice and proposed procedural schedule, filed on October 31, 2022; (d) TWU's response to Commission Staff's first request for information and confidential attachments, filed on November 1, 2022; (e) TWU's proof of notice and confidential mailing list, filed on November 21, 2022; (f) Commission Staff's recommendation on the sufficiency of notice, filed on December 12, 2022;

(g) TWU's objections to Commission Staff's second request for information, filed on December 12, 2022; (h) TWU's response to Commission Staff's second request for information and confidential attachment, filed on January 4, 2023; (i) TWU's supplemental response to Commission Staff's second request for information and confidential attachments, filed on January 20, 2023; and (j) Commission Staff's recommendation on approval of the sale and on the CCN amendment and confidential attachment, filed on January 31, 2023.

Purchaser's Compliance History

15. TWU has been subject to an enforcement action by the Commission, Texas Commission on Environmental Quality (TCEQ), Texas Department of Health, the Office of the Attorney General, or the United States Environmental Protection Agency in the past five years for non-compliance with rules, orders, or state statutes. TWU has resolved, or is in the process of resolving, the compliance issues related to the open TCEQ enforcement actions listed in the application.
16. TWU owns and operates 106 other public water systems. Some of TWU's other public water systems have minor, unresolved TCEQ violations that are unrelated to capacity and will not affect TWU's ability to provide adequate service to the requested area.
17. TWU does not have a history of continuing mismanagement or misuse of revenues as a utility service provider.
18. TWU has demonstrated a compliance history that is adequate for approval of the proposed transaction.

Adequacy of Existing Service

19. CS Water owns and operates one public water system (PWS) in Bosque County registered with TCEQ under PWS identification number 0180033.
20. CS Water's PWS at issue in this proceeding is currently providing continuous and adequate service to the requested area.
21. The last TCEQ compliance investigation of CS Water was on June 30, 2020. CS Water does not have any violations listed in the TCEQ database. The Commission's complaint records, which dates back to 2017, show two complaints against CS Water.

22. There is no evidence in the record that CS Water has failed to comply with any Commission or TCEQ order.

Need for Additional Service

23. There are 178 existing water customers in the requested area that are currently receiving service from CS Water and have an ongoing need for service.
24. This is an application to transfer only existing facilities, customers, and service area.
25. There is no evidence in the record indicating a need for additional service.

Effect of Approving the Transaction and Granting the Amendment

26. Approving the transaction will obligate TWU to provide continuous and adequate water service to current and future customers in the requested area.
27. CS Water and TWU are the only utilities affected by this sale and transfer.
28. All retail public utilities in the proximate area were provided notice of the application.
29. There will be no effect on landowners in the requested area because they are currently served by CS Water.

Initial Rates

30. TWU as an entity is entitled to request approval to charge initial rates and service charges that are shown in the water tariff issued to TWU at the time the application was filed.
31. TWU's tariff in force for its other water systems on the date the application was filed was approved in Docket No. 52494.¹

Ability to Serve: Managerial and Technical

32. The operations, maintenance, management, and customer services will be provided by TWU through TCEQ-licensed operators who will operate the public water and wastewater systems.
33. Reliability and quality of water service is expected to improve under TWU's management.

¹ *Application of R&N Enterprises and Monarch Utilities I L.P. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Cooke County, Docket No. 52494, Notice of Approval (Sept. 1, 2022).*

34. TWU has access to an adequate supply of water and is capable of providing water that meets the requirements of chapter 341 of the Texas Health and Safety Code, chapter 13 of the Texas Water Code (TWC), and the TCEQ's rules.
35. TWU has the technical and managerial capability to provide continuous and adequate service to the requested area.

Ability to Serve: Financial Ability and Stability

36. TWU's affiliate, SouthWest Water Company, has a debt-service ratio of greater than 1.25, satisfying the leverage test.
37. Through SouthWest Water Company, TWU has sufficient cash available to cover any projected operations and maintenance shortages during the first five years after the completion of the proposed sale and transfer, satisfying the operations test.
38. TWU has access to a line of credit to pay for the purchase price and planned capital improvements for the CS water system alongside TWU's other purchased systems and planned system improvements.²
39. TWU has demonstrated the financial capability and stability to provide continuous and adequate water service.

Financial Assurance

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

Feasibility of Obtaining Service from an Adjacent Retail Public Utility

41. It is not feasible for an adjacent utility to provide service to the requested area because CS Water's existing facilities possess sufficient capacity to provide continuous and adequate service.
42. Utilities within a two-mile radius were noticed and no protests, adverse comments, or motions to intervene were filed by any adjacent retail public utility in this docket.

² The applicants and Commission Staff disagree as to whether this finding of fact is necessary in light of FOF 37 and defer to the ALJ regarding whether to include it in the Order Approving the Transaction to Proceed.

Environmental Integrity

43. The proposed transaction will not adversely affect the environmental integrity of the land.
44. The effect on the land should be minimal as the requested area will continue to be served with existing facilities.

Improvement of Service or Lowering Costs to Consumers

45. The proposed transaction will improve reliability and quality of water service because the water system will be operated and maintained by a sufficient number of licensed operators.

Regionalization or Consolidation

46. The construction of a physically separate water system is not necessary for TWU to serve the requested area; therefore, it is not necessary to consider regionalization or consolidation.

Voluntary Valuation of Acquired Utility or Facilities

47. TWU notified the Commission of its intent to use a fair market value process to determine the ratemaking rate base of CS Water.
48. TWU provided copies of the three appraisal reports and evidence of the purchase price with the application.
49. The purchase price and the appraised value for CS Water reported by each utility valuation expert are identified in confidential Attachment FB-1 filed with Commission Staff's recommendation on approval of the sale and on the CCN amendment.
50. The average of the three appraisals yields a fair market value for CS Water that is less than the purchase price.
51. The ratemaking rate base for CS Water is the purchase price identified in confidential Attachment FB-1.
52. TWU provided evidence of the amount of fees paid to the three utility valuation experts with the application.

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(c).
2. After consideration of the factors in TWC § 13.246(c), TWU demonstrated that it is capable of rendering continuous and adequate water service to every customer within the requested area, as required by TWC § 13.251.
3. TWU 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).
4. The applicants demonstrated that the sale of CS Water's facilities and the transfer of the service area held under water CCN number 11441 to TWU will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public, as required TWC §§ 13.246(b) and 13.301(d) and (e).
5. TWU filed its notice of intent to use fair market value as required by TWC § 13.305(c)(1).
6. The Commission's Executive Director selected three utility valuation experts to perform appraisals of CS Water in compliance with TWC § 13.305(c)(2).
7. The application included copies of the three appraisal reports completed by the utility valuation experts as required by TWC § 13.305(h).
8. The calculation of the fair market valuation for CS Water complies with TWC § 13.305(f).
9. The calculation of the ratemaking rate base for CS Water complies with TWC § 13.305(g).

III. Ordering Paragraphs

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

1. The sale and transfer is approved, and the transaction between CS Water and TWU 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 from the date of this Order to complete the transaction.
4. Under 16 TAC § 24.239(m), if the transaction is not consummated within this 180-day period, and an extension is not granted, this approval is void, and the applicants will have to reapply for approval.
5. The applicants are notified that the facilities and service area subject to the transaction will remain under water CCN number 11441 and will be held by CS Water until the sale and transfer transaction is consummated 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 March, 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

**KATIE MOORE MARX
ADMINISTRATIVE LAW JUDGE**