



## **Filing Receipt**

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**DOCKET NO. 54546**

<b>APPLICATION OF TEXAS WATER UTILITIES, LP AND WOODLAND OAKS UTILITY LP FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS AND FOR A NAME CHANGE TO CERTIFICATES OF CONVENIENCE AND NECESSITY IN MONTGOMERY COUNTY</b>	<b>§ § § § § § § §</b>	<b>PUBLIC UTILITY COMMISSION  OF TEXAS</b>
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**ORDER NO. 12  
APPROVING SALE AND TRANSFER TO PROCEED**

This Order addresses the application of Texas Water Utilities, LP and Woodland Oaks Utility LP for approval of the sale, transfer, or merger of facilities and certificate rights in Montgomery County and to amend Woodland Oaks' certificates of convenience and necessity (CCNs) to reflect a name change. The applicants seek approval of the following: (1) the sale and transfer to Texas Water Utilities of a portion of the facilities and service area held by Woodland Oaks under CCN numbers 12947 and 20880; (2) the amendment of Texas Water Utilities' CCN numbers 12983 and 20899 to include the facilities and certificated service area being sold and transferred; (3) the amendment of Woodland Oaks' CCN numbers 12947 and 20880 to remove the facilities and certificated service area being sold and transferred; and (4) the amendment of Woodland Oaks' CCN numbers 12947 and 20880 to reflect its name change from Woodland Oaks Utility Company, Inc. to Woodland Oaks Utility, LP. This Order only addresses the proposed sale and transfer of facilities and certificate rights from Woodland Oaks to Texas Water Utilities. This Order does not address the initial rates following Texas Water Utilities' acquisition of Woodland Oaks' facilities and service area, the voluntary valuation of facilities being acquired, or the amendment of Woodland Oaks' CCN numbers 12947 and 20880 to reflect its name change. The administrative law judge (ALJ) approves the transaction between Texas Water Utilities and Woodland Oaks and authorizes it to be completed as proposed.

### **I. Findings of Fact**

The Commission makes the following findings of fact.

#### **Applicants**

1. Woodland Oaks is a Texas limited partnership registered with the Texas secretary of state under file number 801175870.
2. On September 28, 2009, Woodland Oaks filed a certificate of conversion with the Texas secretary of state resulting in its name changing from Woodland Oaks Utility Company, Inc. to Woodland Oaks Utility, LP.
3. Woodland Oaks holds CCN numbers 12947 and 20880 which obligates it to provide retail water and sewer service in its certificated service areas in Montgomery County.
4. Woodland Oaks owns a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under identification number 1700648.
5. Woodland Oaks owns a sewer system permitted by the TCEQ under Texas Pollutant Discharge Elimination System permit number WQ0014166001.
6. Texas Water Utilities is a Texas limited partnership registered with the Texas secretary of state under file number 800034797.
7. Texas Water Utilities holds CCN number 12983 which obligates it to provide retail water service in its certificated service areas in Bandera, Bexar, Brazoria, Chambers, Comal, Cooke, Denton, Gillespie, Grayson, Guadalupe, Harris, Hays, Henderson, Hood, Johnson, Kendall, Kerr, Liberty, Marion, Matagorda, Medina, Montgomery, Parker, Polk, San Jacinto, Smith, Tarrant, Travis, Trinity, Tyler, Van Zandt, Wise, and Wood counties.
8. Texas Water Utilities holds CCN number 20899 which obligates it to provide retail sewer service in its certificated service area in Chambers, Grayson, Harris, Henderson, Liberty, Medina, Montgomery, Polk, San Jacinto, Trinity, and Wood counties.

#### **Application**

9. On July 15, 2022, prior to filing the application, Woodland Oaks and Texas Water Utilities filed their notice of intent to determine fair market value of a water system in Project

- No. 49859,<sup>1</sup> to initiate the Commission's fair market value process for the proposed sale and transfer of water and sewer facilities to Texas Water Utilities.
10. On January 4, 2023, the applicants filed the application at issue in this proceeding.
  11. The applicants filed supplemental information on January 9, February 8, and May 2, 2023.
  12. In the application, as supplemented, the applicants seek approval of the following transaction:
    - a. the sale and transfer to Texas Water Utilities of a portion of the facilities and service area held by Woodland Oaks under CCN numbers 12947 and 20880;
    - b. the amendment of Texas Water Utilities' CCN numbers 12983 and 20899 to include the facilities and certificated service area being sold and transferred;
    - c. the amendment of Woodland Oaks' CCN numbers 12947 and 20880 to remove the facilities and certificated service area being sold and transferred.
  13. Additionally, in the application, the applicants seek the following: (a) an order confirming the ratemaking rate base for the public water system and sewer system at issue in this proceeding; and (b) authorization for Texas Water Utilities to charge the customers served by the public water system and sewer system being acquired its most-recently approved water and sewer rates.
  14. On June 2, 2023, Woodland Oaks, Texas, Water Utilities, and the Office of Public Utility Counsel (OPUC) (collectively, the signatories) entered into a stipulation and agreement in which the signatories agreed to the following: (a) that Texas Water Utilities should be authorized to charge the customers served by the public water system being acquired the rates that are in force for Texas Water Utilities' Cedar Springs MHP public water system;<sup>2</sup> and (b) that Texas Water Utilities should continue charging the customers served by the sewer system being acquired the rates under Woodland Oaks' current sewer utility tariff.

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<sup>1</sup> *Notice of Intent to Determine Fair Market Value*, Project No. 49859, Texas Water Utilities, L.P.'s and Woodland Oaks Utility, L.P.'s Notice of Intent to Determine Fair Market Value of Water (July 15, 2022).

<sup>2</sup> *See Stipulation between Office of Public Utility Counsel, Texas Water Utilities, L.P., and Woodland Oaks Utility, LP Regarding Rates to Be Charged to the Acquired Woodland Oaks Customers at 12, 25–27.*

The signatories represented that Commission Staff did not oppose the stipulation and agreement.

15. The requested areas include the following:
  - a. 884 acres of water service area certificated under CCN number 12947;
  - b. 1,251 water customer connections;
  - c. 737.6 acres of sewer service area certificated under CCN number 20880; and
  - d. 1,291 sewer customer connections.
16. The requested water service area is located approximately 8.4 miles southwest of downtown Conroe, Texas, and is generally bounded on the north by Honea Egypt Road; on the east by Honea Egypt Road; on the south by Farm-to-Market Road 1488; and on the west by Pipestone Road.
17. The requested sewer service area is located approximately 8.4 miles southwest of downtown Conroe, Texas, and is generally bounded on the north by County Road 2629; on the east by Westwood Drive; on the south by the intersection of Tamina Road and Revelwood Drive; and on the west by Corporate Woods Drive.
18. In Order No. 5 filed on March 13, 2023, the ALJ found the application, as supplemented, administratively complete.

#### **Notice**

19. On March 31, 2023, the applicants filed the affidavit of Brian Bahr, director of rates and regulatory affairs for Texas Water Utilities, attesting that notice was provided to all current customers neighboring utilities, and affected parties on March 21, 2023.
20. In Order No. 6 filed on April 17, 2023, the ALJ found the notice sufficient.
21. On June 15, 2023, Texas Water Utilities filed the affidavit of Mr. Bahr attesting that there are no tracts of land that are least 25 acres that are wholly or partially included in the requested area.

#### **Interventions**

22. In Order No. 2 filed on February 1, 2023, the ALJ granted the OPUC's motion to intervene.

**Evidentiary Record**

23. In Order No. 11 filed on July 19, 2023, the ALJ admitted the following evidence into the record:
- a. the application, including all attachments and confidential attachments, filed on January 4, 2023;
  - b. the supplements to the application filed on January 9, February 8, and May 2, 2023;
  - c. Commission Staff's recommendation on administrative completeness and proposed notice and proposed procedural schedule filed on March 10, 2023;
  - d. Texas Water Utilities' response to Commission Staff's first request for information filed on March 16, 2023;
  - e. Texas Water Utilities' proof of notice and confidential mailing list filed on March 31, 2023;
  - f. Commission Staff's recommendation on the sufficiency of notices and name change request filed on April 14, 2023;
  - g. stipulation between OPUC, Texas Water Utilities, and Woodland Oaks regarding rates to be charged to the acquired Woodland Oaks customers filed on June 2, 2023;
  - h. Commission Staff's recommendation on final disposition and name change request filed on June 6, 2023;
  - i. Texas Water Utilities' supplemental proof of notice filed on June 15, 2023;
  - j. copies of agreed orders resolving TCEQ enforcement actions opened against Texas Water Utilities in the past five years, as provided as attachment 2 to the motion to admit evidence;
  - k. Commission Staff's supplemental recommendation on final disposition and name change request filed on July 6, 2023; and
  - l. Texas Water Utilities' response to Order No. 12 filed on July 18, 2023.

**Texas Water Utilities' Compliance History**

24. Texas Water Utilities has been subject to enforcement actions by the TCEQ in the past five years for non-compliance with rules, orders, or state statutes.
25. Texas Water Utilities has either resolved or is in the process of resolving the outstanding violations related to the TCEQ enforcement actions.
26. Texas Water Utilities does not have a history of continuing mismanagement or misuse of revenues as a utility service provider.
27. Texas Water Utilities demonstrated a compliance history that is adequate for approval of the transaction to proceed.

**Adequacy of Existing Service**

28. There are 1,251 water connections in the requested areas that are being served by Woodland Oaks through public water system number 1700648 and such service has been continuous and adequate.
29. The last TCEQ compliance investigation of Woodland Oaks' water system was on November 18, 2021.
30. There are 1,291 sewer connections in the requested area that are being served by Woodland Oaks through its sewer system, permit number WQ0014166001, and such service has been continuous and adequate.
31. The last TCEQ compliance investigation of Woodland Oaks' sewer system was on July 7, 2021.
32. The Commission's complaint records, which date back five years, show 22 complaints against Woodland Oaks. All complaints have been reviewed and closed by the Commission's Customer Protection Division.
33. Woodland Oaks has violations listed in the TCEQ database that have since been resolved.
34. Texas Water Utilities has planned capital improvements to improve the safety and reliability of water and sewer service.
35. There is no evidence in the record that Woodland Oaks has failed to comply with any Commission or TCEQ order.

**Need for Additional Service**

36. There are 1,251 existing water connections and 1,291, existing sewer connections in the requested areas that are currently receiving service from Woodland Oaks and have an ongoing need for service.
37. This is an application to transfer only existing facilities, customers, and service areas.
38. There is no evidence in the record indicating a need for additional service.

**Effect of Approving the Transaction and Granting the Amendment**

39. Texas Water Utilities will be the sole certificated water and sewer utility for the requested areas.
40. Texas Water Utilities will be required to provide continuous and adequate water and sewer service to current and future customers in the requested areas.
41. Landowners in the requested areas will be able to obtain water and sewer service from Texas Water Utilities.
42. All retail public utilities in the proximate area were provided notice of the application and no protests or adverse comments were filed by any adjacent retail public utility.
43. There will be no adverse effect on landowners in the requested area because the area is currently certificated and served by Woodland Oaks.

**Ability to Serve: Managerial and Technical**

44. Texas Water Utilities owns and operates numerous TCEQ-registered public water systems and TCEQ-permitted sewer systems.
45. Texas Water Utilities employs or contracts with TCEQ-licensed operators who will be responsible for the operation of the public water system and sewer system being transferred.
46. Texas Water Utilities has the technical and managerial capability to provide continuous and adequate service to the requested area.

**Feasibility of Obtaining Service from Adjacent Retail Public Utility**

47. Woodland Oaks is currently serving customers throughout the requested areas and such service has been continuous and adequate.



48. 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 to connect to a neighboring retail public utility.
49. It is not feasible to obtain service from an adjacent retail public utility.

**Regionalization or Consolidation**

50. It will not be necessary for Texas Water Utilities to construct a physically separate public water system or sewer system to serve the requested areas.
51. Because the requested areas will not require construction of a physically separate public water system or sewer system, consideration of regionalization or consolidation with another retail public utility is not required.

**Ability to Serve: Financial Ability**

52. Texas Water Utilities' affiliate, SouthWest Water Company, is capable, available, and willing to cover temporary cash shortages, and has a debt-service coverage ratio that is greater than 1.25. Therefore, Texas Water Utilities satisfies the leverage test.
53. SouthWest Water Company provided a written guarantee of coverage of temporary cash shortages and demonstrated that it has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations after completion of the transaction. Therefore, Texas Water Utilities satisfies the operations test.
54. Texas Water Utilities submitted documents indicating it possesses the funds necessary for the purchase of Woodland Oaks' public water system and sewer system and for the construction of Texas Water Utilities' planned capital improvements.
55. Texas Water Utilities demonstrated the financial capability and stability to pay for the facilities necessary to provide continuous and adequate service to the requested area.

**Financial Assurance**

56. There is no need to require Texas Water Utilities to provide a bond or other financial assurance to ensure continuous and adequate service.

**Environmental Integrity and Effect on the Land**

57. The environmental integrity and effect on the land will be temporary as the planned upgrades and improvements are made.

**Improvement of Service or Lowering Cost to Consumers**

58. Texas Water Utilities will continue to provide water and sewer service to Woodland Oaks' existing customers in the requested area.
59. Reliability and quality of water and sewer service is expected to improve under Texas Water Utilities' management.
60. Texas Water Utilities requested authorization to charge the customers served by the public water system being acquired the rates that are in force for Texas Water Utilities' Cedar Ridge MHP public water system.
61. If authorization is granted, water rates for customers in the requested areas will be higher than the rates currently charged by Woodland Oaks because Texas Water Utilities will charge its Cedar Ridge MHP water utility tariff's rates.

**II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. Notice of the application was provided in compliance with Texas Water Code (TWC) §§ 13.246 and 13.301(a)(2) and 16 Texas Administrative Code (TAC) § 24.239(c).<sup>3</sup>
2. After consideration of the factors in TWC § 13.246(c), Texas Water Utilities demonstrated that it is capable of rendering continuous and adequate service to every customer within the requested area, as required by TWC § 13.251.
3. Texas Water Utilities demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service in the requested area as required by TWC §§ 13.241(a) and 13.301(b).
4. The applicants demonstrated that the sale and transfer of a portion of Woodland Oaks' facilities and service area to Texas Water Utilities 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).

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<sup>3</sup> 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 Order are made to the version in effect at the time the application was filed.

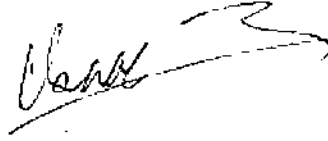
### III. Ordering Paragraphs

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

1. The Commission approves the transaction between Texas Water Utilities and Woodland Oaks in this proceeding and authorizes it to be completed as proposed.
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 completed 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 completed within this 180-day period and no extension has been granted, this approval is void and the applicants must reapply for approval.
5. This Order does not transfer the water or sewer service areas at issue in this proceeding from Woodland Oaks or authorize Texas Water Utilities to provide service in Woodland Oaks' certificated service areas. Woodland Oaks must provide continuous and adequate service in its certificated service areas until a final order or notice of approval issued by the Commission transfers the requested water and sewer service areas.
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 completed.
7. Within 15 days following the filing of the applicants' proof that the transaction has been completed 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. Before the Commission can grant final approval to this transaction, Texas Water Utilities must file a capital improvements plan that complies with the requirements of TWC § 13.244(d)(3) and 16 TAC § 24.233(a)(6).

Signed at Austin, Texas the 19th day of July 2023.

**PUBLIC UTILITY COMMISSION OF TEXAS**

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

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**ISAAC TA  
ADMINISTRATIVE LAW JUDGE**