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DOCKET NO. 54913

APPLICATION OF EMERALD BAY	§	PUBLIC UTILITY COMMISSION
MUNICIPAL UTILITY DISTRICT AND	§	
AQUA TEXAS, INC. FOR APPROVAL	§	OF TEXAS
OF A SERVICE AREA CONTRACT	§	
UNDER TEXAS WATER CODE § 13.248	§	
AND TO AMEND CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY IN	§	
SMITH COUNTY	§	

NOTICE OF APPROVAL

This Notice of Approval addresses the application of Emerald Bay Municipal Utility District and Aqua Texas, Inc. for approval of a service-area contract under Texas Water Code (TWC) § 13.248 and to amend water certificates of convenience and necessity (CCNs) in Smith County. The applicants seek to transfer approximately 4.5 acres of certificated service area from Emerald Bay MUD under CCN number 13047 to Aqua Texas under CCN number 13201. The Commission approves the service-area contract and amends CCN numbers 13047 and 13201 to the extent provided in this Notice of Approval.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Emerald Bay MUD is a municipal utility district organized under Chapter 54 of the Texas Water Code.
2. Emerald Bay MUD operates, maintains, and controls facilities for providing retail water service in Smith County under water CCN number 13047.
3. Aqua Texas is a Texas corporation registered with the Texas secretary of state under file number 800304878.
4. Aqua Texas operates, maintains, and controls facilities for providing retail water service in Anderson, Bosque, Camp, Cherokee, Collin, Cooke, Denton, Erath, Grayson, Gregg, Henderson, Hood, Hunt, Johnson, Kaufman, McLennan, Marion, Parker, Smith, Somervell, Tarrant, Taylor, Wise, and Wood counties under CCN number 13201.

Application

5. On April 17, 2023, Emerald Bay MUD and Aqua Texas executed an agreement to transfer water service certificated area (the service-area contract) to transfer approximately 4.5 acres of water service area currently served by Emerald Bay MUD to Aqua Texas.
6. On April 20, 2023, Emerald Bay MUD and Aqua Texas filed an application for approval of the service-area contract and to amend Emerald Bay MUD's CCN number 13047 and Aqua Texas's CCN number 13201.
7. The application included a copy of the service-area contract executed by Emerald Bay MUD and Aqua Texas.
8. The requested area consists of approximately 4.5 acres of land that is currently within Emerald Bay MUD's certificated water service area in Smith County.
9. The requested area is dually certificated with Southern Utilities Company.
10. There are no customers and no facilities within the requested area.
11. There will be no transfer of customers, assets, or facilities as a result of the service-area contract or application.
12. In Order No. 2 filed on May 23, 2023, the administrative law judge (ALJ) found the application administratively complete.

Notice

13. Individual notice is not required because there are no affected customers in the service area being transferred from Emerald Bay MUD to Aqua Texas.
14. At a special meeting held on March 21, 2023, Emerald Bay MUD's board of directors considered and approved the service-area contract.
15. The application included a copy of the notice of the special meeting, posted on March 17, 2023, a copy of the agenda and minutes from the March 21, 2023 Emerald Bay MUD board of directors meeting, as well as a supporting affidavit, dated March 21, 2023, from William F. Harris, president of the Emerald Bay MUD board of directors.
16. In Order No. 2 filed on May 23, 2023, the ALJ found the notice sufficient.

Map and Certificates

17. On June 21, 2023, Commission Staff emailed the proposed map and certificates to Emerald Bay MUD and Aqua Texas.
18. On June 30, 2023, Emerald Bay MUD and Aqua Texas filed their consent to the proposed map and certificates.

Evidentiary Record

19. In Order No. 3 filed on August 17, 2023, the ALJ admitted the following evidence into the record of this proceeding:
 - a. The application and all exhibits filed on April 20, 2023;
 - b. Commission Staff's recommendation on administrative completeness and proposed notice and proposed procedural schedule filed on May 22, 2023;
 - c. Emerald Bay MUD and Aqua Texas' executed consent forms filed on June 30, 2023;
 - d. Commission Staff's final recommendation filed on July 14, 2023; and
 - e. The proposed map and certificates as attached to the joint motion to admit evidence filed on July 28, 2023.

Informal Disposition

20. More than 15 days have passed since the completion of the notice provided in this docket.
21. No person filed a protest or motion to intervene.
22. Emerald Bay MUD, Aqua Texas and Commission Staff are the only parties to this proceeding.
23. No party requested a hearing and no hearing is needed.
24. Commission Staff recommend approval of the application.
25. This 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 the application under TWC §§ 13.041 and 13.248.

2. Aqua Texas and Emerald Bay MUD are retail public utilities as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. Notice of the application was provided in compliance with 16 TAC § 24.253(c).
4. The application was processed in accordance with the TWC, the Administrative Procedure Act,¹ and Commission rules.
5. Under TWC § 13.248, contracts between retail public utilities designating areas to be served by those retail public utilities, when approved by the Commission, are valid and enforceable and incorporated into the affected CCNs.
6. The application meets the requirements of TWC § 13.248 and 16 TAC § 24.253.
7. Under TWC § 13.257(r) and (s), Aqua Texas and Emerald Bay MUD must each record a certified copy of its approved map and certificate, along with a boundary description of their respective service areas, in the real property records of Smith County within 31 days of this Notice of Approval and must submit evidence of the recording to the Commission.
8. 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 service-area contract to the extent provided in this Notice of Approval.
2. The Commission amends Aqua Texas's CCN number 13201, as described in this Notice of Approval, and as shown on the map attached to this Notice of Approval.
3. The Commission amends Emerald Bay MUD's CCN number 13047, as described in this Notice of Approval, and as shown on the map attached to this Notice of Approval.
4. The Commission approves the map attached to this Notice of Approval.
5. The Commission issues the certificates attached to this Notice of Approval.

¹ Tex. Gov't Code §§ 2001.001-.903.

6. Aqua Texas must provide service to every customer and qualified applicant for service within the approved service area under CCN number 13201 who requests water service and meets the terms of Aqua Texas's water service policies, and such service must be continuous and adequate.
7. Emerald Bay MUD must provide service to every customer and qualified applicant for water service within the approved service area under CCN number 13047 who requests water service and meets the terms of Emerald Bay MUD's water service policies, and such service must be continuous and adequate.
8. Aqua Texas and Emerald Bay MUD must each comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Smith County affected by the application and file in this docket proof of the recording no later than 45 days after the date of this Notice of Approval.
9. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted herein.

Signed at Austin, Texas the 17th day of August 2023.

PUBLIC UTILITY COMMISSION OF TEXAS



SUSAN E. GOODSON
ADMINISTRATIVE LAW JUDGE