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DOCKET NO. 55304

APPLICATION OF TEXAS WATER UTILITIES, LP AND SWWC UTILITIES, INC. DBA HORNSBY BEND UTILITY COMPANY, INC. FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN TRAVIS COUNTY	§ § § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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COMMISSION STAFF’S RECOMMENDATION ON THE CAPITAL IMPROVEMENTS PLAN IN RESPONSE TO ORDER NO. 9

On July 31, 2022, Texas Water Utilities, LP (TWU) and SWWC Utilities, Inc. dba Hornsby Bend Utility Company, Inc. (Hornsby Bend) (collectively, Applicants) filed an application for the sale, transfer, or merger of facilities and certificate rights in Travis County under the provisions of Texas Water Code § 13.301 and 16 Texas Administrative Code (TAC) § 24.239.

On February 16, 2024, the administrative law judge (ALJ) filed Order No. 9 directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a recommendation on the adequacy of Applicants’ confirmation that no capital improvements are needed in this application and that the capital improvement plan satisfies the requirements of the Commission, TWC § 13.244(d)(3), and 16 TAC § 24.233(a)(6) by March 22, 2024. Therefore, this pleading is timely filed.

I. RECOMMENDATION ON THE CAPITAL IMPROVEMENT PLAN

Staff has reviewed the supplemental information provided by TWU in response to Order No. 9, and, as detailed in the attached memorandum from James Harville of the Infrastructure Division, recommends that the information provided is sufficient. Specifically, Staff confirms that there are no improvements necessary to provide continuous and adequate service to the requested service area, therefore a capital improvements plan is not necessary. Further, Staff recommends that TWU meet all of the statutory requirements of Texas Water Code (TWC) Chapter 13 and the Commission’s Chapter 24 rules and regulations.

II. CONCLUSION

For the reasons detailed above, Staff recommends that TWU has met all of the statutory requirements of TWC Chapter 13 and the Commission’s Chapter 24 rules and regulations. Staff respectfully requests the entry of an order consistent with Staff’s recommendation.

Date: March 22, 2024

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Marisa Lopez Wagley
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/s/ Markel Perkins
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CERTIFICATE OF SERVICE

I certify that unless otherwise ordered by the presiding officer, notice of the filing of this document will be provided to all parties of record via electronic mail on March 22, 2024 in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Markel Perkins
Markel Perkins

Public Utility Commission of Texas

Memorandum

TO: Markel Perkins, Attorney
Legal Division

FROM: James Harville, Infrastructure Analyst
Infrastructure Division

DATE: March 22, 2024

RE: Docket No. 55304 – *Application of Texas Water Utilities, LP and SWWC Utilities, Inc. dba Hornsby Bend Utility Company, Inc. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Travis County*

1. Application

On July 31, 2023, Texas Water Utilities, L.P. (Texas Water Utilities) and SWWC Utilities, Inc. dba Hornsby Bend Utility Company, Inc. (SWWC Utilities) (collectively Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Travis County, Texas, under Texas Water Code (TWC) §§ 13.242 through 13.250 and § 13.301 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237 and § 24.239.

Specifically, Texas Water Utilities, Certificate of Convenience and Necessity (CCN) Nos. 12983 and 20899, seeks approval to acquire facilities and to transfer all of the water and sewer service area from SWWC Utilities under water CCN No. 11978 and sewer CCN No. 20650.

Based on the mapping review by Hank Journey, Infrastructure Division, the revised maps submitted with Item 6 on August 28, 2023 are sufficient.

- The requested water area includes 3,340 customer connections and approximately 5,629.4 acres of transferred area from SWWC Utilities (CCN No. 11978) to Texas Water Utilities (CCN No. 12983).
- The requested sewer area 1 includes 3,767 customer connections and approximately 10,483.5 acres of transferred area from SWWC Utilities (CCN No. 20650) to Texas Water Utilities (CCN No. 20899).
- The requested sewer area 2 includes 0 customer connections and approximately 3,958.6 acres of transferred area from SWWC Utilities (CCN No. 20650) to Texas Water Utilities (CCN No. 20899).

- **The total water area includes 3,340 customer connections and approximately 5,629.4 acres of transferred area from SWWC Utilities (CCN No. 11978) to Texas Water Utilities (CCN No. 12983).**
- **The total sewer area includes 3,767 customer connections and approximately 14,442.1 acres of transferred area from SWWC Utilities (CCN No. 20650) to Texas Water Utilities (CCN No. 20899).**
- The application proposes the subtraction of approximately 5,629.4 acres from CCN No. 11978 and the addition of approximately 5,629.4 acres to CCN No. 12983.
- The application proposes the subtraction of approximately 14,442.1 acres from CCN No. 20650 and the addition of approximately 14,442.1 acres to CCN No. 20899.

2. Violations

SWWC Utilities has several Texas Commission on Environmental Quality (TCEQ) approved public water systems (PWS) and wastewater treatment plants (WWTP) registered. The two associated systems are Austin's Colony, PWS ID No. 2270255 and Austin's Colony WWTP, Wastewater Discharge Permit No. WQ0013138001. On March 4, 2024, Texas Water Utilities filed supplemental information to Order No. 9 stating that "Applicants are working with the TCEQ Regional Office to close the violations and expect that the TCEQ database will reflect that these violations are resolved soon, at no additional cost to either TWU or Hornsby Bend." Staff makes a correction to the amended final recommendation filed February 15, 2024. In the recommendation, Staff referenced the last TCEQ compliance investigation for the Austin's Colony WWTP as August 31, 2023. The correct date to reference is March 30, 2021, as evidenced by TCEQ's central registry and documentation submitted by Texas Water Utilities on September 7, 2023 (Item 10). On March 14, 2024, Texas Water Utilities further supplemented correspondence regarding the last TCEQ compliance investigation for the Austin's Colony water system dated March 8, 2023.

3. Capital Improvement Plan and Loan Documentation

On February 16, 2024, the administrative law judge (ALJ) requested an updated recommendation in Order No. 9 from Commission Staff (Staff) on the supplemental information provided by the applicants regarding associated Texas Commission on Environmental Quality (TCEQ) documentation and violations, capital improvements, and loan documentation.

An application for a certificate of public convenience and necessity or for an amendment to a certificate must contain: a capital improvements plan, including a budget and estimated timeline for construction of all facilities necessary to provide full service to the entire proposed service area (TWC § 13.244(d)(3)).

Staff confirms that there are no improvements necessary to provide continuous and adequate service to the requested area, therefore a capital improvements plan is not necessary. Texas Water Utilities filed a response on March 4, 2024, advising "There are no capital improvements to the system to be transferred that are required or necessary to meet the TCEQ's minimum

requirements for a public water system. The estimated capital expenditures provided with TWU' s application are for anticipated improvements and are based on preliminary estimates. TWU could forego these improvements and still be able to provide continuous and adequate service in the near-term post-acquisition.” TWU further supplemented a preliminary capital improvement plan for Hornsby Bend for anticipated future improvements with preliminary estimates on March 5, 2024.

Staff conferred with the Rate Regulation Division and based on the responses by Texas Water Utilities, loan documentation is not required pursuant to 16 TAC § 24.11(e)(5).

4. Recommendation

The supplemental documentation and statements are sufficient to prove that the Applicants meet all of the applicable statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules. Approving this application is in the public interest and necessary for the service, accommodation, convenience and safety of the public. Based on the above information, I recommend that the Commission find that the transaction will serve the public interest and that the Applicants be allowed to proceed with the proposed transaction.

Staff further recommends that a capital improvement plan and associated loan documentation are not required, and that violations for each system have been adequately addressed.

There are deposits held by SWWC Utilities for the customers being served by SWWC Utilities.