



Filing Receipt

Filing Date - 2024-03-27 11:35:12 AM

Control Number - 55790

Item Number - 13

DOCKET NO. 55790

**APPLICATION OF YANCEY WATER § PUBLIC UTILITY COMMISSION
SUPPLY CORPORATION AND NEW §
ALSACE WATER SUPPLY § OF TEXAS
CORPORATION FOR SALE, §
TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN MEDINA COUNTY §**

**ORDER NO. 5
APPROVING SALE AND TRANSFER TO PROCEED**

This Order addresses the application of Yancey Water Supply Corporation and New Alsace Water Supply Corporation for approval of the sale, transfer, or merger of facilities and certificate rights in Medina County. The applicants seek approval of the following: (1) the sale and transfer to Yancey WSC of all facilities and service area held under New Alsace WSC's certificate of convenience and necessity (CCN) number 12558; (2) the cancellation of New Alsace WSC's CCN number 12558; and (3) the amendment of Yancey WSC's CCN number 11463 to include all facilities and service area previously held under New Alsace WSC's CCN number 12558. The administrative law judge (ALJ) approves the transaction between Yancey WSC and New Alsace WSC and authorizes it to be completed.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Yancey WSC is a non-profit corporation registered with the Texas secretary of state under filing number 44417301.
2. Yancey WSC holds CCN number 11463 which obligates it to provide retail water service in its certificated service area in multiple counties.
3. Yancey WSC owns and operates multiple public water systems registered with Texas Commission on Environmental Quality (TCEQ).
4. New Alsace WSC is a non-profit corporation registered with the Texas secretary of state under filing number 800120036.

5. New Alsace WSC holds CCN number 12558 which obligates it to provide retail water service in its certificated service area in Medina County.
6. New Alsace WSC owns a public water system registered with TCEQ under public water system identification number 1630024.

Application

7. On November 1, 2023, the applicants filed the application at issue in the proceeding.
8. In the application, the applicants seek approval of the following:
 - a. the sale and transfer to Yancey WSC of all facilities and service area held under New Alsace WSC's certificate of convenience and necessity (CCN) number 12558;
 - b. the cancellation of New Alsace WSC's CCN number 12558; and
 - c. the amendment of Yancey WSC's CCN number 11463 to include all facilities and service area previously held under New Alsace WSC's CCN number 12558.
9. The requested area is located approximately 0.8 miles west of downtown Castroville, Texas, and is generally bounded on the north by Medina Canal; on the east by River Bluff Road; on the south by County Road 4516, and on the west by the intersection of County Road 4516 and Double Gate Road.
10. The requested area includes approximately 176 acres and 67 customer connections.
11. In Order No. 2 filed on December 4, 2023, the ALJ found the application administratively complete.

Notice

12. On December 7, 2023, Yancey WSC filed the affidavit of Cole Ruiz, attorney for Yancey WSC, attesting that notice, including maps, was sent via first class mail on December 7, 2023 to all customers, neighboring utilities, affected parties, landowners, political subdivisions, and other persons identified in Commission Staff's December 1, 2023 recommendation.
13. Also on December 7, 2023, Yancey WSC filed the affidavit of Mr. Ruiz, attesting that there are no landowners owning tracts of land over 25 acres wholly or partly inside the requested area.

14. On January 3, 2024, Yancey WSC filed the affidavit of Mr. Ruiz, attesting that notice, including maps, was mailed to a corrected address for five current customers via first class mail on December 21, 2023.
15. In Order No. 3 filed on January 23, 2024, the ALJ found notice, as supplemented, sufficient.

Evidentiary Record

16. In Order No. 4 filed on March 26, 2024, the ALJ admitted the following evidence into the record:
 - a. the application of Yancey WSC and New Alsace WSC for sale, transfer, or merger of facilities and certificate rights in Medina County filed on November 1, 2023;
 - b. Commission Staff's recommendation on administrative completeness and notice and proposed procedural schedule filed on December 1, 2023;
 - c. Yancey WSC's proof of notice filed on December 7, 2023;
 - d. Yancey WSC's supplemental proof of notice filed on January 3, 2024;
 - e. Commission Staff's recommendation on sufficiency of notice and proposed procedural schedule filed January 17, 2024; and
 - f. Commission Staff's recommendation on approval of the sale and on certificate of convenience and necessity amendment filed on February 26, 2024.

Purchaser's Compliance History

17. Yancey WSC has two public water systems registered with the TCEQ under identification numbers 1630021 and 1630039.
18. Yancey WSC has two violations listed in the TCEQ database that have been resolved.
19. The Commission's complaint records, which go back five years, show five complaints against Yancey WSC which have been reviewed and closed by the Commission's consumer protection division.
20. Yancey WSC does not have a history of continuing mismanagement or misuse or revenues as a utility service provider.

21. Yancey WSC has demonstrated a compliance history that is adequate for approval of the transaction to proceed.

Adequacy of Existing Service

22. New Alsace has a public water supply registered with the TCEQ under identification number 1630024.
23. The last TCEQ compliance investigation of the New Alsace WSC public water system was on June 9, 2021.
24. There are two violations listed in the TCEQ database for the New Alsace WSC public water system that have since been resolved.
25. The Commission's complaint records, which date back five years, show no complaints against New Alsace WSC.
26. No capital improvements are necessary for Yancey WSC to provide continuous and adequate service to the requested area.
27. There is no evidence in the record that Yancey WSC has failed to comply with any Commission or TCEQ order.

Need for Additional Service

28. There are 67 existing customer connections in the requested area that are receiving service from New Alsace WSC and have an ongoing need for service.
29. There have been no specific requests for additional service within the requested area.

Effect of Approving the Transaction and Granting the Amendment

30. Yancey WSC will be the sole certificated water utility for the requested area.
31. Yancey WSC will be required to provide continuous and adequate water service to current and future customers in requested area.
32. Landowners in the requested area will be able to obtain water service from Yancey WSC.
33. All retail public utilities in the proximate area were provided notice of the application and none filed protests, adverse comments, or sought to intervene in this proceeding.
34. There will be no effect on any retail public utility servicing the proximate area.

Ability to Serve: Managerial and Technical

35. Yancey WSC employs or contracts with TCEQ-licensed operators who will operate the water system being transferred.
36. No additional construction is necessary for Yancey WSC to provide service to the requested area.
37. Yancey WSC has the managerial and technical capability to provide adequate and continuous service to the requested area.

Ability to Serve: Financial Capability and Stability

38. Yancey WSC has a debt-to-equity ratio less than 1.00, satisfying the leverage test.
39. Yancey WSC's financial statements include cash, cash equivalents, and net operating income and the company indicates no projected case shortages in the first five years of operations after completion of the transaction, satisfying the operations test.
40. Yancey WSC has demonstrated the financial capability and stability to provide continuous and adequate service to the requested area.

Financial Assurance

41. There is no need to require Yancey WSC to provide a bond or other financial assurance to ensure continuous and adequate service.

Feasibility of Obtaining Service from Adjacent Retail Public Utility

42. 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 interconnection would need to be installed to connect to a neighboring retail public utility.
43. It is not feasible to obtain service from an adjacent retail public utility.

Regionalization or Consolidation

44. It will not be necessary for Yancey WSC to construct a physically separate water system to serve the requested area.
45. Because the requested area will not require construction of a physically separate water system, consideration of regionalization or consolidation with another retail public utility is not required.

Environmental Integrity and Effect on the Land

46. The requested area will continue to be served with existing infrastructure.
47. The environmental integrity of the land will not be impacted as no construction is needed to provide service to the requested area.

Improvement in Service or Lowering Cost to Consumers

48. Customer rates will be lower than current rates.
49. Reliability and quality of water service is expected to improve under Yancey WSC's management.

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.
2. After consideration of the factors in TWC § 13.246(c) and 16 TAC § 24.227(e), Yancey WSC has 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. Yancey WSC demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area as required by TWC §§ 13.241(a) and 13.301(b).
4. The applicants demonstrated that the sale and transfer of the facilities and service area from New Alsace WSC to Yancey WSC 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).

III. Ordering Paragraphs

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

1. The transaction between Yancey WSC and New Alsace WSC in this proceeding is approved and may be completed.

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 will have to reapply for approval.
5. CCN number 12558, and the associated service area, will continue to be held by New Alsace WSC until the final order or notice of approval is issued in this matter, in accordance with Commission rules.
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.

Signed at Austin, Texas on the 27th day of March 2024.

PUBLIC UTILITY COMMISSION OF TEXAS

Susan E. Goodson

SUSAN E. GOODSON

ADMINISTRATIVE LAW JUDGE