



May 13, 2021

RECEIVED

MAY 13 2021

Mr. Brandon Frey
Executive Secretary
Louisiana Public Service Commission
602 North Street
Galvez Building, 12th Floor
Baton Rouge, LA 70802

LA Public Service Commission

Re: Magnolia Water Utility Operating Company, LLC
Petition for Non-Opposition To The Sale of
Wastewater System Assets (Total Environmental
Solutions, Inc)

Dear Mr. Frey:

Please find enclosed an original and three copies of Magnolia Water Utility Operating Company, LLC's Petition for Non-Opposition to the sale of six (6) wastewater systems currently operated by Total Environmental Solutions, Inc. in Rapides and Natchitoches Parish. After review, please see that a docket is opened in connection with this filing and that notice is placed in the Official Bulletin on May 28, 2021. Further, we ask that you exercise your discretion pursuant to Rule 19 of the Commission's Rules and shorten the period to protest this application from twenty-five (25) to fifteen (15) days. Upon filing, we request that the Records Division date stamp and return one copy to our courier.

If you have any questions concerning this filing, please so notify me.

Sincerely,

Ezell Law Firm, LLC

Andrew B. Ezell

ROUTE TO Bull ^{15 days} ROUTE FROM _____
DEPT. _____ DATE 5/13 DEPT. _____
DEPT. _____ DATE _____ DEPT. _____
DEPT. _____ DATE _____ DEPT. _____
DEPT. _____ DATE _____ DEPT. _____

F-21-60763

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MAY 13 2021

LA Public Service Commission

BEFORE THE
LOUISIANA PUBLIC SERVICE COMMISSION

MAGNOLIA WATER UTILITY
OPERATING COMPANY, LLC, EX PARTE

DOCKET NO.

In re: Request for Letter of Non-Opposition to the Sale or Transfer of All or Substantially All of Certain Wastewater System Assets Operated by Total Environmental Solutions, Inc. to Magnolia Water Utility Operating Company, LLC

**PETITION FOR NON-OPPOSITION TO THE TRANSFER OF
ALL OR SUBSTANTIALLY ALL OF THE ASSETS OF CERTAIN WASTEWATER
SYSTEMS CURRENTLY REGULATED BY
THE LOUISIANA PUBLIC SERVICE COMMISSION**

SELLER: Total Environmental Solutions, Inc.

BUYER: Magnolia Water Utility Operating Company, LLC

In accordance with the March 18, 1994, *General Order* regarding approval of sales and other changes in ownership or control of public utilities subject to Louisiana Public Service Commission (“Commission”) jurisdiction, Magnolia Water Utility Operating Company, LLC (“Magnolia”) seeks an order of approval or non-opposition from the Commission to the transfer and assignment by Total Environmental Solutions, Inc. (hereafter “Seller” or “TESI”), of all or substantially all of the assets and property comprising six (6) Commission regulated wastewater utility systems currently providing regulated wastewater service to customers in the parishes of Rapides and Natchitoches (the “Systems”).

Magnolia is a Louisiana limited liability company, in good standing, formed to acquire the assets of water and wastewater utilities in Louisiana and to own and operate those assets as public utilities subject to the Commission’s regulatory jurisdiction. Magnolia currently serves approximately 23,027 sewer connections and approximately 12,967 water connections in regulated systems in parishes throughout Louisiana. Magnolia is part of an affiliate group that includes Central States Water Resources, Inc. (“Central States”), a Missouri corporation in good standing, CSWR, LLC (“CSWR”), a Missouri limited liability company in good standing, and several other companies, some of which currently operate small water or wastewater utilities in Missouri, Arkansas, Kentucky, Texas, Tennessee, and Louisiana. A chart showing the companies in the affiliate group is attached hereto as **Exhibit A**. The significance of those affiliate relationships to the proposed transaction is discussed in greater detail below. The principal address of Central States and CSWR is 1650 Des Peres Road, Suite 303, St. Louis, MO 63131. The principal address of Magnolia is 10761 Perkins Road, Suite A, Baton Rouge, LA 70810. All notices and other official documents related to the application should be sent to the attention of Andrew B. Ezell, c/o Ezell Law Firm, LLC, 10761 Perkins Road, Suite A, Baton Rouge, Louisiana 70810, or at the following email address: aezell@ezellfirm.com. Copies also should be sent to Josiah Cox, President, Mike Duncan,

Assistant Vice President, and Russ Mitten, General Counsel, at the address shown in the preceding sentence or at the following email addresses: jcox@cswrgroup.com; mduncan@cswrgroup.com; rmitten@cswrgroup.com.

Seller currently provides wastewater services to a total of 424 residential customers in six (6) subdivisions located in the parishes of Rapides and Natchitoches. The Oak Shadows and the Woodlands subdivisions are located in Rapides Parish. The Cedar Grove, Cedar Bend, Payne and Point Place subdivisions are located in Natchitoches Parish. TESI is a Louisiana corporation, in good standing, whose principal office address is 1824 Ryder Drive, Baton Rouge, LA 70808. All notices and other official documents related to the application should be sent to the attention of Mr. Wayne Owens, P.O. Box 14059, Baton Rouge, Louisiana 70898-4059, or at the following email address: wowens@tesi-usa.com.

The Seller proposes to sell, transfer and assign to Magnolia all of its franchises, works, operations, systems, land and related improvements, easements, rights-of-way, permits, leases, service facilities, equipment, machinery, lines, plant, pipes, manholes and appurtenances, supplies, and other assets used to provide regulated wastewater services to the Systems. Magnolia and Seller have entered into a formal Purchase And Sale Agreement (“Sale Agreement”) specifying the terms of the proposed transaction, which is attached hereto as **Exhibit B** and incorporated herein by reference. In accordance with Rule 12.1 of the Commission’s Rules of Practice and Procedure, Exhibit B has been designated “Confidential” because it contains information regarding strategies employed in contract negotiations and other competitively sensitive information.

The proposed transaction is scheduled to close within forty-five (45) days of the effective date of any required regulatory approval or at such other time as the parties mutually agree. During the period between the date of the Commission’s order and the scheduled closing date, Seller and Magnolia will cooperate to satisfy all remaining closing conditions specified in the Sale Agreement and take other steps necessary to ensure the proposed sale does not adversely affect customers. At closing, Magnolia will adopt and provide service in accordance with tariff rates and fees currently in effect for Seller.

The need to comply with increasingly stringent federal and state health and environmental regulations has imposed cost and compliance burdens small wastewater utilities are finding difficult, if not impossible, to bear. Difficulty in securing capital necessary to make investments or expenditures for improvements required to bring their systems into full regulatory compliance has forced many such utilities to seek buyers for those systems whose technical, managerial, and financial resources make them better able to bear those burdens. This motivation is especially strong for system owners, particularly developers, whose primary business is not the operation of regulated water or wastewater utilities.

Magnolia is the type of qualified buyer that small system operators and developers seek out to assure that customers receive safe, efficient and reliable water and wastewater operations and service. Through its relationship with CSWR (which acts as a service company for the group) and other companies within the affiliate group, Magnolia has access to highly skilled technical, managerial, and financial experts and resources not usually available to small water and wastewater companies. Magnolia’s access to CSWR’s personnel provides extensive experience in

the technical, managerial and financial aspects of the utility industry, particularly small systems, and also innovative operational, marketing, and customer service programs that provide high quality advanced services at fair and reasonable rates.

Magnolia is a Commission-authorized operator of water and wastewater systems in Louisiana. Magnolia currently operates numerous small to mid-size water and wastewater systems throughout the state. Thus far, most of the systems Magnolia has acquired, have experienced some degree of operational neglect, with several recording numerous, and oftentimes ongoing violations of applicable health and environmental regulations. Significant capital improvements have been completed in many of the systems currently operated by Magnolia, and most are operating in full compliance with the rules and regulations of all applicable regulatory authorities. Those systems currently not in compliance are being systematically brought into compliance. Magnolia's systems are currently operated pursuant to agreements with the Louisiana Department of Environmental Quality and the Louisiana Department of Health and Hospitals concerning the timing and methodology required to bring troubled systems into post-acquisition compliance.

As previously noted, consummation of the proposed transfer of assets is contingent upon receipt of Commission approval of the transaction. To secure approval of the transaction, Magnolia provides the following information required by the March 18, 1994, *General Order*.

1. The proposed transfer of assets to Magnolia is in the public interest. Magnolia and its affiliates have the technical, managerial, and financial expertise and experience necessary to own and operate the utility assets it proposes to acquire and ready access to sufficient financial resources to make necessary capital investments and expenditures, if necessary, required to comply with current and future health and environmental regulations. Moreover, Magnolia is committed to providing customers safe, efficient and reliable service at fair and reasonable rates.
2. Magnolia is ready, willing, and able to provide safe, reliable, and adequate service to customers of the system it proposes to acquire and to do so at rates that are fair and reasonable.
3. Magnolia's only business is ownership and operation of small water and wastewater systems. Further, because of its ability to readily access any capital necessary to bring the subject systems into compliance with health and environmental regulations and operate the Systems in a manner consistent with those regulations, Magnolia's acquisition of the system assets will certainly enhance the financial condition of the Systems.
4. The Systems Magnolia proposes to acquire have been operational for several years and have consistently operated in non-compliance with health and environmental regulations. The Oak Shadows and The Woodlands systems are mechanical systems. The Cedar Grove, Cedar Bend, Payne and Point Place systems are lagoon systems. Though some repair and rehabilitation work has been performed on some of the Systems, both the wastewater collection and wastewater treatment facilities are in very poor condition and in need of substantial repair and rehabilitation. A preliminary analysis by Balor Engineers and Surveyors has determined that a total of approximately \$1,824,000.00 in intermediate and

deferred capital investment will be required to restore the operational efficiency and regulatory compliance of the Systems. As detailed elsewhere in the petition, Magnolia has also identified certain capital investments and expenditures necessary to upgrade the Systems' future operation to assure 24/7 system monitoring and prompt emergency response. These system improvements, coupled with Magnolia's commitment to operate the Systems in a manner which ensures that customers receive safe, efficient and reliable service at a fair price, will combine to provide a high overall quality of service to customers of the Systems. The wastewater system assets send effluent to wastewater treatment facilities currently operated by Seller serving each of the six (6) communities under the following system names, permits and AI numbers: (i) Oak Shadows Wastewater Treatment System LAG540048 AI# 20003, (ii) The Woodlands Wastewater Treatment System LAG540803 AI# 19034, (iii) Cedar Grove Wastewater Treatment System LAG570231 AI# 38241, (iv) Cedar Bend Wastewater Treatment System LAG540047 AI# 40973, (v) Payne Wastewater Treatment System LAG570099 AI# 43966, and (vi) Point Place Wastewater Treatment System LAG560013 AI# 43965. Water for the Oak Shadows and The Woodlands systems is provided by Rapides Island Water Association, Inc. pursuant to system design specifications determined by the Louisiana Department of Health, Office of Public Health, to be in substantial conformity with LDH sanitary requirements. Water for the Cedar Grove, Cedar Bend and Point Place systems is provided by Waterworks District #2, while water for the Payne system is provided by the City of Natchitoches, all pursuant to system design specifications determined by the Louisiana Department of Health, Office of Public Health, to be in substantial conformity with LDH sanitary requirements.

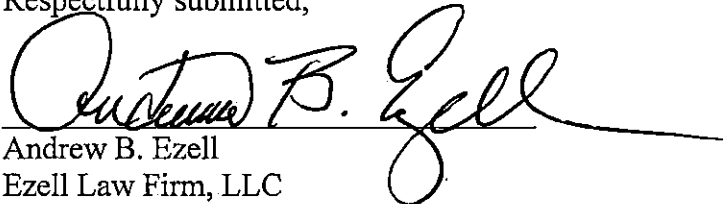
5. Authorizing Magnolia to acquire the Systems will bring both short and long-term benefits for customers. Technical, managerial, and financial resources available from its affiliates will enable Magnolia to quickly identify and remedy any deficiencies in the operation or management of the Systems. Also, because of economies of scale available to Magnolia as an affiliate of CSWR, Magnolia can access and utilize those resources at a lower cost than would otherwise be available to a stand-alone company. As explained below, Magnolia's affiliate group also has access to funds required to make capital investments and expenditures necessary to ensure the Systems provide safe, efficient and reliable service that complies with all applicable health and environmental regulations.
6. The transaction would not adversely affect competition because Seller is the only wastewater utility authorized to serve customers within its service area.
7. As noted elsewhere herein, personnel from Central States and CSWR have far greater technical, managerial, and financial expertise and experience than is available to most small wastewater utilities. These personnel would be actively involved in overseeing Magnolia's day-to-day operations and in assisting Magnolia in planning any system improvements and additions necessary to provide safe, efficient and reliable service. As a result of the involvement of these highly skilled and experienced utility professionals, the quality of service that Magnolia can provide to customers will be greatly improved and enhanced.

8. Magnolia intends to hire a qualified and experienced third-party contractor to manage and operate the Systems day-to-day. Should Seller have any qualified employees, Magnolia will require the third-party contractor to offer employment to any such employees of Seller.
9. The proposed transfer would be fair and reasonable to TESI's sole shareholder, as evidenced by the fact that the sole shareholder authorized TESI's Chief Executive Officer to negotiate the financial terms of the transaction and execute the Sale Agreement on behalf of TESI. Further, Magnolia and Seller have no other business relationship or family affiliations. The terms of the transaction satisfy both Magnolia and Seller and are the result of fair, arms-length negotiation.
10. The proposed transaction will have an overall positive effect on state and local economies. From a local property tax standpoint, the transfer of assets should have no adverse effect on state or local taxing authorities. If the transaction is approved, only the identity of the taxpayer would change. And overall, the proposed transaction should prove beneficial to the state of Louisiana and the local communities where Seller's customers reside. All of those entities have an interest in ensuring their citizens receive safe, efficient, and reliable wastewater services at fair and reasonable rates. Authorizing Magnolia to acquire Seller's assets would produce that desired result.
11. Magnolia concedes the Commission's authority to regulate its rates and operations in the manner prescribed by Louisiana law. Therefore, the proposed transfer would have no effect on the Commission's jurisdiction over the Systems.
12. Neither Seller nor Magnolia anticipates any adverse consequences to customers or other interested stakeholders if the Commission approves the transaction proposed in the petition. Both parties are committed to ensuring the sale of assets is concluded and operational authority over those assets is transferred in a manner that is as transparent as possible and causes no adverse effects to customers.
13. Magnolia was formed for the purpose of acquiring and operating water and wastewater utilities in Louisiana. It has a good, but limited, track record of regulatory compliance in Louisiana. However, Central States, through its work with other companies within Magnolia's affiliated group, has compiled an enviable record of acquiring small to mid-size water and wastewater systems, including many severely distressed systems, bringing them into compliance, then successfully operating those systems in full compliance with health and environmental regulations. Affiliated companies within the group operating in Missouri, Kentucky and Texas have a good customer service and operating reputation with utility regulators in that state. (Arkansas, the other state where Magnolia's affiliates currently operate, does not regulate rates or operations of small water and wastewater utilities.)
14. Through its affiliated group, Magnolia has ready access to capital required to make necessary investments and expenditures in the subject system. CSWR will provide the equity financing necessary to make the proposed asset acquisition. Ongoing capital needs will be financed through debt from providers approved by the Commission on terms and

conditions that accurately reflect the current state of this system. Current plans envision a capital structure for Magnolia consisting of fifty percent (50%) equity and fifty percent (50%) debt. CSWR's consolidated income statement and balance sheet for 2020 is attached hereto as **Exhibit C** and incorporated by reference. In accordance with Rule 12.1 of the Commission's Rules of Practice and Procedure, Exhibit C has been designated "Confidential" because it contains competitively sensitive information.

15. In addition to the major repairs and improvements that are required, Magnolia has identified certain investments in system upgrades, improvements, and replacements that it plans to make if the Commission approves the transaction, including installation of flow metering and remote monitoring equipment to facilitate more timely response and minimize the length and impact of any service-related issue. Magnolia will have a better idea of the total capital investment necessary to repair or improve the Systems upon completion of an engineering analysis and report to be provided to Staff upon receipt.
16. Magnolia's affiliates always hire a qualified and experienced third-party contractor to manage and operate the subject wastewater system day-to-day and will ensure the contractor's personnel have or obtain all required health, safety, and other permits.
17. Magnolia, through CSWR, will invest equity capital to purchase Seller's assets. Consequently, the asset purchase would not encumber Magnolia's assets in any way. Ongoing capital needs will be financed through debt from providers approved by the Commission on terms and conditions that accurately reflect the current state of the Systems.
18. The acquisition of assets proposed in the petition is fair and reasonable in all respects. Consequently, the Commission should not impose or attach any conditions to the transaction.

Respectfully submitted,



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