



Control Number: 42992



Item Number: 25

Addendum StartPage: 0

**DOCKET NO. 42992**

**APPLICATION OF CHEYENNE  
HILLS WATER SUPPLY AND  
SOMERVELL COUNTY WATER  
DISTRICT FOR SALE, TRANSFER,  
OR MERGER OF FACILITIES AND  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY IN SOMERVELL  
COUNTY (37725-S)**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**STAFF'S FILING OF JOINT PROPOSED NOTICE OF APPROVAL**

In accordance with Order No. 3 in this docket, the staff (Staff) of the Public Utility Commission of Texas (Commission) files this joint proposed notice of approval.

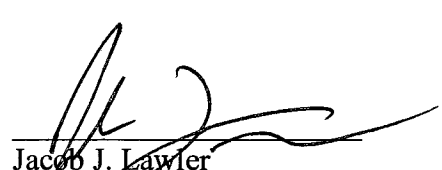
On behalf of all parties in this docket, Staff requests that the Commission approve this joint proposed notice of approval.

**Date: December 8, 2014**

Respectfully Submitted,

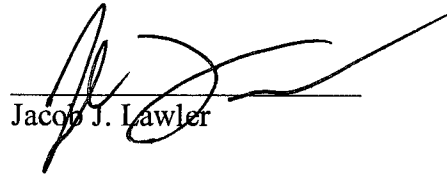
Margaret Uhlig Pemberton  
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Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on December 8, 2014 in accordance with P.U.C. PROC. R. 22.74.

  
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Jacob J. Lawler

**PUC DOCKET NO. 42992**

<b>APPLICATION OF CHEYENNE HILLS</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>WATER SUPPLY AND SOMERVELL</b>	<b>§</b>	
<b>COUNTY WATER DISTRICT FOR</b>	<b>§</b>	
<b>SALE, TRANSFER, OR MERGER OF</b>	<b>§</b>	
<b>FACILITIES AND CERTIFICATE OF</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CONVENIENCE AND NECESSITY IN</b>	<b>§</b>	
<b>SOMERVELL COUNTY (37725-S)</b>	<b>§</b>	

**PROPOSED NOTICE OF APPROVAL**

This Notice of Approval orders that Seller's Certificate of Convenience and Necessity (CCN) will be transferred to Purchaser pursuant to P.U.C. SUBST. R. 24.112. Accordingly, the Administrative Law Judge (ALJ) of the Public Utility Commission of Texas (PUC or Commission) makes the following findings of fact and conclusions of law.

**I. Findings of Fact**

**Procedural History**

1. On September 13, 2013, Purchaser and Seller filed an Application for approval of a sale, acquisition, lease, rental, merger, or consolidation between Purchaser and Seller pursuant to P.U.C. SUBST. R. 24.109 and for approval of the sale, assignment, or lease of Seller's CCN to Purchaser pursuant to P.U.C. SUBST. R. 24.112.
2. Seller holds CCN No. 12895 for the provision of service in Somervell County, Texas.
3. On February 28, 2014, the Texas Commission on Environmental Quality (TCEQ) issued a letter accepting the application for filing.
4. On March 26, 2014, TCEQ issued an interoffice memorandum recommending that the Purchaser be found to have demonstrated adequate financial and managerial capability to provide service to the area subject to this application.

5. On June 25, 2014, TCEQ issued a letter notifying the Purchaser and Seller that a hearing will not be requested in this proceeding.
6. On July 21, 2014, Purchaser sent TCEQ the Bill of Sale and other closing documents, as required by TCEQ's letter issued June 25, 2014.
7. On September 24, 2014, the ALJ issued Order No. 1 addressing water program transfer and procedural matters.
8. On September 24, 2014, the ALJ issued Order No. 2 requiring Commission Staff file comments on the status of this proceeding on or before October 9, 2014.
9. On October 9, 2014, Commission Staff filed a status report and proposed a procedural schedule.
10. On October 9, 2014, the ALJ issued Order No. 3 adopting a procedural schedule.
11. On November 17, 2014, Commission Staff filed a proposed map, CCN certificate, and a final recommendation that included a Commission Staff Memorandum.
12. On December 8, 2014, Commission Staff filed a Proposed Notice of Approval, including findings of fact, conclusions of law, and ordering paragraphs.
13. On December [XX], 2014, the ALJ issued this Notice of Approval.
14. Public notice of the Application was provided as required by P.U.C. SUBST. R. 24.109, P.U.C. SUBST. R. 24.112(c), and the Commission's procedural rules.
15. It is not necessary to hold a hearing on the merits regarding the Application.

16. The criteria for informal disposition pursuant to P.U.C. PROC. R. 22.35 have been satisfied in this proceeding.

**Sale, Acquisition, Lease, Rental, Merger, or Consolidation between Seller and Purchaser**

17. Purchaser has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and any areas certificated to the Purchaser.
18. Purchaser and Seller have demonstrated that approval of the transaction serves the public interest.

**Transfer of Certificate of Convenience and Necessity**

19. The Commission has considered the factors listed in TEX. WATER CODE ANN. (TWC) § 13.246(c) (Vernon 2008 & Supp. 2013), including (1) the adequacy of service currently provided to the requesting area; (2) the need for additional service in the requested area, including whether any landowners or prospective landowners, tenants, or residents have requested service; (3) the effect of the approval of the Application on any retail public utility of the same kind already serving the proximate area; (4) the ability of the Purchaser to provide adequate service, including meeting the standards of the Commission, taking into consideration the current and projected density and land use of the area; (5) the feasibility of obtaining service from an adjacent retail public utility; (6) the financial ability of the Purchaser to pay for the facilities necessary to provide continuous and adequate service and the financial ability of the Purchaser, including, if applicable, the adequacy of the Purchaser's debt-to-equity ratio; (7) environmental integrity; (8) the probability improvement of service or lowering of cost to consumers in that area resulting from the granting of the certificate or amendment; and (9) the effect on the land included in the certificated area.
20. After consideration of the factors in TWC § 13.246(c), Purchaser and Seller have demonstrated that Purchaser is capable of rendering adequate and continuous service to every consumer within the certificated area.

## II. Conclusions of Law

1. The Commission has jurisdiction over this proceeding pursuant to TWC §§ 13.041, 24.246, 13.251, 13.255, and 13.301.
2. Seller is a water and sewer utility as that term is defined in TWC § 13.002(23).
3. Purchaser is a Texas Constitution Article XVI, Section 59 conservation and reclamation district operating pursuant to Chapters 49 and 51 of the Texas Water Code.
4. Public notice of the Application was provided as required by TWC § 13.301(a)(2).
5. The Application was processed in accordance with the requirements of the Administrative Procedures Act,<sup>1</sup> TWC, and the Commission's rules.
6. Approval of the transaction serves the public interest.
7. After consideration of the factors in TWC § 13.246(c), Purchaser and Seller have demonstrated that Purchaser has adequate financial, managerial, and technical capability for providing adequate and continuous service to every consumer within the certificated area and any areas certificated to the Purchaser.

## III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Administrative Law Judge issues the following ordering paragraphs:

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<sup>1</sup> Administrative Procedures Act, TEX. GOV'T CODE ANN. §§ 2001.001–.902 (Vernon 2008 & Supp. 2013).

1. Approval is granted to complete the sale, acquisition, lease, rental, merger, or consolidation proposed by Purchaser and Seller pursuant to P.U.C. SUBST. R. 24.109.
2. Approval is granted to transfer Seller's CCN to Purchaser. Seller's Certificate of Convenience and Necessity (CCN) will be transferred to Purchaser pursuant to P.U.C. SUBST. R. 24.112 by operation of this Notice of Approval.
3. At this time, Purchaser may assume control of Seller's facilities, change the name under which Seller does business, and provide service to Seller's customers. Seller's water utility tariff shall be marked "obsolete."
4. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.