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**DOCKET NO. 43138**

2014 OCT 29 PM 4:05  
Public Utility Commission  
of Texas

**APPLICATION OF GREEN VALLEY  
SPECIAL UTILITY DISTRICT AND  
CITY OF SCHERTZ FOR SALE,  
TRANSFER, OR MERGER OF  
CERTIFICATE RIGHTS IN  
GUADALUPE COUNTY (37949-C)** §  
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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**ORDER NO. 2  
REQUIRING RESPONSE**

On October 24, 2014, Public Utility Commission of Texas Staff filed its response to Order No. 2. Commission Staff requested an extension of time until November 14, 2014 to file its comments on this application and asked to have the docket restyled because it was intended to be a certificate of convenience and necessity (CCN) transfer under TEX. WATER CODE § 13.248, not a sale, transfer, merger and CCN amendment under TEX. WATER CODE §§ 13.246, 13.254, and 13.301.<sup>1</sup> According to Commission Staff, the parties are seeking to transfer a portion of Green Valley Special Utility District’s CCN No. 10646 to the city of Schertz and to have Schertz’s CCN No. 10645 amended accordingly.<sup>2</sup> Commission Staff refers to the contract between the parties as a CCN transfer contract agreement.<sup>3</sup>

However, it is not clear that TEX. WATER CODE § 13.248 operates in the manner that it appears is contemplated by Commission Staff and the applicants. This statute states that “[c]ontracts between retail public utilities designating areas to be served and customers to be served by those retail public utilities, when approved by the utility commission after public notice and a hearing, are valid and enforceable and are incorporated into the appropriate areas of public convenience and necessity.” Clearly this statute and implementing rule, P.U.C. SUBST. R. 24.117, authorize a retail public utilities to seek the Commission’s approval of contracts that transfer the authority to serve a certain area or a certain customer(s). And, if the Commission approves the contract, it is valid and enforceable and incorporated into the parties’ CCNs. But

<sup>1</sup> Commission Staff’s Request for Extension of Staff’s Recommendation and Request to Change Style of Docket NO. 43138, at 1 (Oct. 24, 2014).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

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incorporating this transferred authority into a CCN does not necessarily mean the parties' CCNs must be amended. Such a transfer of authority could be an exception to a CCN boundary, without being an actual boundary change.

No later than November 14, 2014, the parties and Commission Staff shall comment on why they believe TEX. WATER CODE § 13.248 authorizes CCN transfers and amendments, not just an agreement on the future division of a service area or customer(s), especially in light of TEX. WATER CODE § 13.241. The parties and Commission Staff shall also comment on whether a hearing is required.

SIGNED AT AUSTIN, TEXAS the 29<sup>th</sup> day of October 2014.

**PUBLIC UTILITY COMMISSION OF TEXAS**



**SUSAN E. GOODSON**

**ADMINISTRATIVE LAW JUDGE**