

Control Number: 43175



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DOCKET NO. 43175

2014 OCT 23 AM 9:21
FILED

**APPLICATION OF COMMUNITY
WATER SERVICE, INC. AND WALTER
J. CARROLL WATER COMPANY, INC.
FOR SALE, TRASNFER, OR MERGER
OF FACILITIES AND CERTIFICATE
RIGHTS IN ELLIS COUNTY (37981-S)**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

COMMISSION STAFF’S RESPONSE TO ORDER NO. 2

COMES NOW the Staff (“Staff”) of the Public Utility Commission of Texas (“Commission”), representing the public interest and files this Response to Order No. 2 and would show the following:

I. BACKGROUND

On July 11, 2014, Community Water Service, Inc. (“Community”) and Walter J. Carroll Water Company, Inc. (“Purchaser”) filed an application for the sale, transfer, or merger (“STM”) of facilities and certificate rights in Ellis County.

On October 3, 2014, Order No. 2 was entered requiring Staff to provide an update on the status of this proceeding, including a recommendation on the need for a hearing or on final disposition and the proposal of a procedural schedule if necessary.

II. RECOMMENDATION

This proceeding is governed by TEXAS WATER CODE ANN. §§ 13.251 and 13.301, which are implemented by P.U.C. SUBST. Rs. 24.109 and 24.122.

As discussed in the attached memorandum of Fred Bednarski, Water Utilities Division, Staff recommends that the application be deemed to not be administratively complete for the purposes of further review. Staff recommends that Community and Purchaser be required to file additional information to correct the deficiencies identified by Mr. Bednarski. Specifically, Community and Purchaser should be required to correct its notice to customers as discussed in

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Mr. Bednarski's memorandum and to provide documentation showing that Purchaser has paid all necessary Regulatory Assessment Fees, the source of funding for the proposed purchase and any system upgrades or necessary system improvements, and that the City of Red Oak agrees to dual certification with Purchaser for the same service area that is currently dually certificated to the City of Red Oak and Community.

Staff notes that, pursuant to P.U.C. SUBST. R. 24.8(a), a review of the administrative completeness of an STM application must be completed within 10 days. Staff requests that, pursuant to P.U.C. SUBST. R. 24.2, the presiding officer find that good cause exists for Staff to file a recommendation regarding the administrative completeness of the application at this time.

Staff does not file a recommendation on the need for a hearing at this time and does not propose a procedural schedule but will file such recommendations as appropriate after the application is found to be administratively complete.

III. CONCLUSION

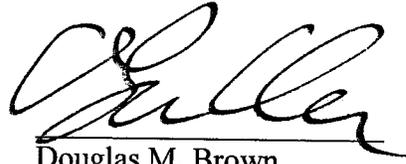
Staff respectfully requests the entry of an order consistent with the above discussion.

Date: October 23, 2014

Respectfully Submitted,

Joseph P. Younger
Division Director
Legal Division

Stephen Mack
Managing Attorney
Legal Division



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DOCKET NO. 43175
CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on October 23, 2014 in accordance with P.U.C. PROC. R. 22.74.



A. J. Smullen

PUC Interoffice Memorandum

To: Douglas Brown
Legal Division

Thru: Tammy Benter, Director *TB*
Water Utilities Division *10/16/14*

From: Fred Bednarski III, Financial & Managerial Review Specialist *B 10/14*
Water Utilities Division

Date: October 14, 2014

Subject: Executive Summary and Staff Recommendation for Commission Approval of Docket No. 43175, Application of Community Water Service Inc. to sell a portion of their water systems (Red Oak Community Water Services (PWS #0700056) and service area Certificate of Convenience and Necessity (CCN) No. #10091 in Ellis County to Walter J. Carroll Water Company, Inc. holding CCN No. 11543

An application was received on 07/11/2014 from Community Water Service Inc. to sell a portion of their water systems (Red Oak Community Water Services (PWS #0700056) and service area Certificate of Convenience and Necessity (CCN) #10091 in Ellis County to Walter J. Carroll Water Company, Inc. holding CCN No. 11543, pursuant to the criteria in the Texas Administrative Code, Title16, Chapter 24, Subchapter G.

Based upon our review of the information in the application, I recommend the Applicant cure the following deficiencies before processing of the application can continue:

1. The notices provided contains the TCEQ mailing address for protest and should contain the PUC address found on our forms posted on the website:
<http://www.puc.texas.gov/industry/water/Forms/Forms.aspx>
The applicant should renotify using these forms.
2. The renotices should be reworded to read “; on the south by W. Red Oak Rd; and on the west by Hillcrest” instead of “; on the south by Baldwin Street; and on the west by Hillcrest”.
3. We identified also that the following affected parties should be noticed additionally when notifying since they are within two miles of Walter J. Carroll Water Company, Inc.'s proposed service area: City of Ellis, City of Oak Leaf, City of Waxahachie, Trinity River Authority of Texas, and Ellis County and not included in the answer to question 15 on the application. Please note, the applicant is responsible for noticing all cities and ETJ's within 2 miles of proposed service area and any other utility, district, county or entity that would be required to receive notice.
4. Regulatory Assessment Fees for Walter J. Carroll Water Company need to be paid up to date before further processing of the application can occur. Please submit proof of payment that the regulatory assessment fees paid are current.

5. Documentation as to how the purchase of the Red Oak Community Water System (PWS ID 0700056) and Community Water Service Inc. certificated service area (CCN No. 10051) will be paid for needs to be provided as well as how any system upgrades or necessary system improvements will be made and financially supported.
6. Documentation needs to be provided that the City of Red Oak (CCN No. 11074) agrees to dual certification with Walter J. Carroll Water Company, Inc. (CCN No. 11543) for the same CCN service area that they agreed to with Community Water Service Inc. (CCN No. 10091).