



Control Number: 45627



Item Number: 40

Addendum StartPage: 0

**PUC DOCKET NO. 473-17-1318.WS  
SOAH DOCKET NO. 45627**

RECEIVED  
2017 MAR 31 AM 10:53  
PUBLIC UTILITY COMMISSION  
FILING CLERK

<b>APPLICATION OF CHARLES BRANCH DBA DOUCETTE WATER SYSTEM AND LAKESIDE WATER SUPPLY AND THOMAS AND DANASA RAWLS FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN TYLER COUNTY</b>	<b>§ § § § § § § § §</b>	<b>BEFORE THE STATE OFFICE  OF  ADMINISTRATIVE HEARINGS</b>
---	--	---

**COMMISSION STAFF'S MOTION TO REMAND THE DOCKET BACK TO THE  
COMMISSION FOR ADMINISTRATIVE PROCESSING**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this Motion to Remand the Docket back to the Public Utility Commission of Texas (Commission) for Administrative Processing, and would show the following:

**I. BACKGROUND**

Charles Branch d/b/a Doucette Water System and Lakeside Water Supply (Doucette Water System) and Thomas and Danasa Rawls (the Rawls) request the approval of the sale and transfer of certain water assets and a corresponding water certificate of convenience and necessity (CCN No. 12001) for a certificated service area in Tyler County, Texas. Doucette Water System is the seller, and the Rawls are the purchasers.

On November 21, 2016, the Commission referred this proceeding to State Office of Administrative Hearings (SOAH). On January 24, 2017, SOAH Order No. 2 was issued, cancelling the prehearing conference and ordering the parties to file a status report by February 13, 2017. On February 10, 2017, Staff filed a status report stating that Doucette Water System and the Rawls had filed additional information that would enable Staff to make a recommendation on Doucette Water System and the Rawls' application without the need for an

40

evidentiary hearing.<sup>1</sup> Staff also requested time to prepare certain documents, and requested that it be given until March 31, 2017 to file a status report on its recommendation. Therefore, this pleading is timely filed.

## **II. STAFF REQUEST THAT THE CASE BE REMANDED**

Staff has further reviewed the Applicants' application and supplemental information. Staff confirms that its concerns regarding the financial capability of the purchaser to provide continuous and adequate service have been resolved, and as detailed in the attached memorandum from Leila Guerrero and Jolie Mathis of the Commission's Water Utility Regulation Division, recommends that the transaction and application be approved. Additionally, Staff recommends that the transaction will serve the public interest and that the transfer of the CCN is necessary for the service, accommodation, convenience, and safety of the public. The only parties to this case are the Applicants and Staff. Therefore, as this case is no longer contested, Staff recommends that this proceeding be remanded back to the Commission for administrative processing, and that the Commission administrative law judge subsequently issue an order approving the sale to proceed.

## **III. CONCLUSION**

For the reasons stated above, Staff respectfully requests that the docket be remanded back to the Commission for administrative processing.

---

<sup>1</sup> Commission Staff's Status Report at 2-3 (Feb. 10, 2017).

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF  
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Katherine Lengieza Gross  
Managing Attorney



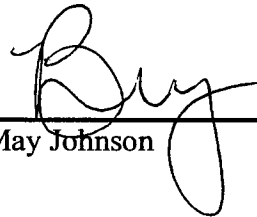
---

Brittany May Johnson  
State Bar No. 24097888  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7235  
(512) 936-7268 (facsimile)  
brittany.johnson@puc.texas.gov

**SOAH DOCKET NO. 45627  
PUC DOCKET NO. 473-17-1318.WS**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on March 31, 2017 in accordance with 16 TAC § 22.74.



---

Brittany May Johnson

## PUC Interoffice Memorandum

---

**To:** Brittany Johnson, Attorney  
Legal Division

**Thru:** Tammy Benter, Director  
Water Utility Regulation

**From:** Leila Guerrero, Regulatory Accountant/Auditor  
Jolie Mathis, Engineering Specialist  
Water Utility Regulation

**Date:** March 31, 2017

**Subject:** *Docket No. 45627, Application of Charles Branch dba Doucette Water System and Lakeside Water Supply and Thomas and Danasa Rawls for Sale, Transfer, or Merger of Facilities and Certificate Rights in Tyler County*

On February 17, 2016, Charles Branch dba Doucette Water System and Lakeside Water Supply (“Doucette WS and Lakeside WS” or “Seller”) and Thomas and Danasa Rawls (“Rawls” or “Buyer”) (collectively, “Applicants”) filed an application with the Commission for the Sale, Transfer, or Merger (STM) of all water system assets and certificated area of Certificate of Convenience and Necessity (CCN) No. 12001 held by Doucette WS and Lakeside WS in Tyler County. The Buyer does not currently hold a CCN. If approved, this application will result in the transfer of water CCN No. 12001, and all the utility’s assets, customers, and service area to the Rawls. The application is being reviewed under 16 Tex. Admin. Code §§ 24.102, 24.109 and 24.112 (TAC) and Tex. Water Code Ann. §§ 13.241, 13.246, and 13.301 (TWC).

The application was deemed sufficient by the Commission on July 5, 2016. Notice to customers, neighboring systems, and affected parties was provided on July 12, 2016. The affidavit of notice was received by the Commission on September 9, 2016. The comment period ended August 11, 2016, and no protests or requests for hearing were received by the Commission. Public notice was proper for the transaction.

Pursuant to TWC § 13.301(e), before the expiration of the 120-day notification period, the Commission is required to notify all known parties to the transaction whether the Commission will hold a hearing to determine if the transaction will serve the public interest. Within the notification period, Staff referred this case to the State Office of Administrative Hearings (SOAH) because the Applicant failed to provide documentation requested by Staff, which would have ensured the Buyer had adequate financial, managerial, and technical capability to provide service to the area subject to this application, as required by TWC § 13.301(b). A prehearing conference was scheduled for January 23, 2017; however, the Applicant provided the required documentation before that date. Staff filed a motion to cancel the prehearing conference, which was granted on January 24, 2017.

Staff now recommends that the Buyer demonstrates adequate financial, managerial, and technical capability to provide service to the area subject to this application, as required by TWC § 13.301(b).

Staff has reviewed the public interest factors, and the financial, managerial, and technical capability of the purchaser pursuant to TWC § 13.246(c). Under this statute, the Commission shall consider the following nine criteria when amending a CCN:

- TWC § 13.241(b) and 16 TAC § 24.102(a)(1) requires the Commission to ensure that the applicant has a Texas Commission on Environmental Quality (TCEQ) approved system that is capable of providing drinking water that meets the requirements of Texas Health and Safety Code, Chapter 341 and TCEQ rules, and has access to an adequate supply of water. The Seller has six (6) TCEQ approved public water systems (PWS) ID Nos. 2290004, 2290021, 2290039, 2290040, 2290041, and 2290042, which will continue to provide service to the proposed area following the approval of the STM. The PWS does not have any major TCEQ violations and provides adequate capacity that meets the requirements of TWC § 13.241(b).
- TWC § 13.246(c)(1) and 16 TAC § 24.102(d)(1) requires the Commission to consider the adequacy of service currently provided to the requested area. The Applicant has a TCEQ approved PWS and is in compliance with TCEQ regulations. Therefore, adequate service will be provided in the requested area.
- TWC § 13.246(c)(2) requires the Commission to consider the need for service in the requested area. In this case, the need for service is demonstrated by the fact there are existing customers in the requested area.
- TWC § 13.246(c)(3) requires the Commission to consider the effect of granting a certificate or an amendment to the recipient and to any other retail water utility servicing the proximate area. Only Doucette WS, Lakeside WS, the Rawls, and the current customers will be affected by this transaction. As a result of the proposed transaction, Doucette WS and Lakeside WS' water CCN No. 12001 will be amended. The facilities, utility service, and customers will be transferred to the Rawls.
- TWC § 13.246(c)(4) and 16 TAC § 24.102(d)(4) requires the Commission to consider the ability of the Buyer 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. The Buyer will provide adequate water service using the existing facilities.
- TWC § 13.246(c)(5) requires the Commission to consider the feasibility of obtaining service from an adjacent retail public utility. In this case, the customers in the proposed area are already receiving water utility service and will subsequently receive service from the Rawls.
- TWC § 13.246(c)(6) requires the Commission to consider the financial ability of the Buyer to pay for facilities necessary to provide continuous and adequate service. The existing systems do not have any major outstanding violations and do not require major capital improvements or repairs to provide service to the area.
- TWC §§ 13.246(c)(7) and (9) require the Commission to consider the environmental integrity and the effect on the land to be included in the certificate. In this situation, there will be no impact to the environment, nor to the land as the water systems are already in place and no repairs or improvements are required at this time.

- TWC § 13.246(c)(8) requires the Commission to consider the probable improvement in service or lowering of cost to consumers. The customers' water rates will not be affected by the transactions as the rates will remain unchanged.

With respect to the Buyer's financial and managerial capability, the Buyer provided projected financial information as of January 31, 2017. As shown on the information provided by the Buyer, the Rawls has the financial capability to meet its annual payments on its long-term debt. Typically, debt service coverage ratio (DSCR) of more than 1.25:1 is preferred using net operating income before depreciation and other non-cash expenses when Staff analyzes financial capability. The DSCR reflects the company's ability to make annual payments on its long-term debt.

16 TAC § 24.11(e)(2)(B) states the owner or operator must have a debt service coverage ratio of more than 1.25 using annual net operating income before depreciation and non-cash expenses divided by annual combined long term debt payments. The financial information provided shows that for FY2017: Annual Net Operating Income before depreciation and non-cash expenses is at least = \$110,457; Annual Long-term debt payments = \$39,290; these financial information shows that for FY2017, DSCR is equal to  $\$110,457/\$39,290 = 2.8:1$ . The Applicant meets this ratio criterion.

16 TAC § 24.11(e)(3) refers to the operations test. This states that the owner or operator must demonstrate that sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations. There are no projected operations and maintenance shortages. Therefore, the Buyer meets this test. Based on the above discussion, the Rawls possess adequate financial and managerial ability.

Moreover, the Buyer is an experienced operator and thoroughly knowledgeable about water operations as well as the requirements for continuous and adequate service. He currently works as the operator of the water system to be purchased. Based on the information provided by the Applicant and my analysis above, it is my opinion that the Rawls have the financial and managerial capability to proceed with this transaction.

Staff recommends the Commission find that the transaction will serve the public interest and allow Charles Branch and the Rawls to proceed with the proposed transaction. Staff also recommends that Charles Branch and the Rawls be ordered to file documentation as evidence that all assets have been transferred from Charles Branch to the Rawls and that the disposition of any remaining deposits have been addressed as soon as possible pursuant to 16 TAC § 24.109(n).