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DOCKET NO. 45719

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APPLICATION OF PONDEROSA AND §
WESTERN VILLAGE WATER §
SUPPLY CORPORATION AND EL §
PASO WATER UTILITIES PUBLIC §
SERVICE BOARD FOR SALE §
TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN EL PASO COUNTY §

PUBLIC UTILITY COMMISSION
OF TEXAS

**JOINT MOTION FOR ADMISSION OF EVIDENCE AND ADOPTION OF PROPOSED
NOTICE OF APPROVAL**

COMES NOW, the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, on behalf of itself, El Paso Water Utilities Public Service Board (EPWU), and Ponderosa and Western Village Water Supply Corporation (Ponderosa) (collectively, the Parties) and files this Joint Motion for Admission of Evidence and Adoption of Proposed Notice of Approval. In support thereof, the Parties show the following:

I. BACKGROUND

On March 11, 2016, EPWU and Ponderosa filed an application (Application) with the Commission regarding (1) the sale, transfer, or merger of the Ponderosa retail water system and CCN to EPWU; (2) the amendment of EPWU's Certificate of Convenience and Necessity (CCN) No. 10211 to include the area certificated to Ponderosa under CCN No. 11017 in El Paso County, Texas, and (3) cancellation of CCN No. 11017, pursuant to the criteria in Tex. Water Code §§ 13.241, 13.246, and 13.301 (TWC), and 16 Tex. Admin. Code §§ 24.102, 24.104-107, 24.109, and 24.112 (TAC).

On September 30, 2016, the Administrative Law Judge issued Order No. 5 finding the documentation sufficient and complete and establishing a procedural schedule for the remainder

of the proceeding. Order No. 5 directed the Parties to file a request to admit evidence and proposed notice of approval, including findings of fact, conclusions of law, and ordering paragraphs by November 1, 2016. Therefore, this pleading is timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

The Parties move to admit the following evidence into the record of this proceeding:

- a. The Applicants' March 11, 2016 Application (Commission's automated interchange system (AIS) Item 1, filed March 11, 2016);
- b. PUC Notice of Application for Sale, Transfer or Merger (AIS Item 3, filed March 17, 2016);
- c. EPWU's Proof of Publication and Publisher's Affidavit (AIS Item 6, filed April 28, 2016);
- d. Commission Staff's Recommendation on Sale (AIS Item 9, filed July 7, 2016);
- e. Order No. 4, issued July 12, 2016, approving the sale, transfer or merger transaction to proceed;
- f. EPWU's Proof of Consummation of Transaction (AIS Item 12, filed August 29, 2016);
- g. EPWU's Notice of Disposition of Customer Deposits (AIS Item 13, filed September 12, 2016);
- h. EPWU's Consent Form (AIS Item 16, filed October 17, 2016);
- i. Attachment A, which includes map and certificate of EPWU.

III. JOINT MOTION FOR ADOPTION OF PROPOSED NOTICE OF APPROVAL

The attached Proposed Notice of Approval would grant the Applicants' Application to sale, transfer or merge Ponderosa's entire service area served, facilities, and customers under its CCN No. 11017 to EPWU, amend EPWU's CCN No. 10211, and cancel Ponderosa's CCN No. 11017.

IV. CONCLUSION

The Parties have indicated to Staff that Staff is authorized to file this pleading on their behalf. Therefore, the Parties respectfully request that the Commission grant the joint motion to admit the evidence specified above and adopt the attached proposed Notice of Approval.

Dated: November 1, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Karen S. Hubbard
Managing Attorney



Alexander Petak
State Bar No. 24088216
1701 N. Congress Ave.
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7377
(512) 936-7268 (facsimile)

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on November 1, 2016 in accordance with 16 TAC § 22.74.



Alexander Petak

DOCKET NO. 45719

APPLICATION OF PONDEROSA AND	§	PUBLIC UTILITY COMMISSION
WESTERN VILLAGE WATER	§	
SUPPLY CORPORATION AND EL	§	OF TEXAS
PASO WATER UTILITIES PUBLIC	§	
SERVICE BOARD FOR SALE	§	
TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS IN EL PASO COUNTY	§	

NOTICE OF APPROVAL

The Notice addresses the application of El Paso Water Utilities Public Service Board (EPWU) and Ponderosa and Western Village Water Supply Corporation ("Ponderosa") (collectively, the "Applicants") for the sale, transfer, or merger of facilities, customers, and certificated service areas in El Paso County, Texas. The Public Utility Commission of Texas ("Commission") Staff ("Staff") recommends approval the application. The application is approved.

The Commission adopts the following findings of fact, conclusions of law, and ordering paragraphs.

II. FINDINGS OF FACT

Procedural History

1. On March 11, 2016, EPWU and Ponderosa filed an application (Application) with the Commission regarding (1) the sale, transfer, or merger of the Ponderosa retail water system and CCN to EPWU, (2) the amendment of EPWU's Certificate of Convenience and Necessity (CCN) No. 10211 to include the area certificated to Ponderosa under CCN No. 11017 in El Paso County, Texas, and (3) cancellation of CCN No. 11017, pursuant to the criteria in Tex. Water Code

§§ 13.241, 13.246, and 13.301 (TWC), and 16 Tex. Admin. Code §§ 24.102, 24.104-107, 24.109, and 24.112 (TAC).

2. EPWU holds water CCN No. 10211.

3. Ponderosa holds water CCN No. 11017.

4. The Applicants request approval for EPWU to acquire all of the facilities and transfer all of the customers and the entire service area of CCN No. 11017 from Ponderosa to EPWU and to amend EPWU's CCN No. 10211.

5. As a result of the transaction, EPWU's water CCN will be expanded to include the proposed area and Ponderosa's CCN will be cancelled. Ponderosa will no longer be in the retail water utility business.

6. On March 17, 2016, the Administrative Law Judge (ALJ) issued Order No. 1, requiring Commission Staff Comments/Recommendation.

7. On April 14, 2016, the ALJ issued Order No. 2, finding that the Application was sufficient and complete, waiving mailed notice, requiring published notice, and establishing a procedural schedule.

8. On April 28, 2016, EPWU filed proof of publication and publisher's affidavit indicating that notice of the Application was published in the El Paso Times, a newspaper of general circulation in El Paso County, Texas, on April 13 and 20, 2016.

9. No person requested a public hearing on the Application.

10. On May 25, 2016, the Staff responded to Order No. 2 recommending that the notice provided by EPWU was proper.

11. On May 27, 2016, the ALJ issued Order No. 3, finding notice to be proper and establishing a further procedural schedule.

12. On July 7, 2016, the Staff filed a response to Order No. 3 recommending that the Applicants be allowed to proceed with the proposed transaction because the Staff has determined that the proposed transaction meets the relevant statutory and regulatory requirements, including Texas Water Code §§ 13.246 and 13.301 and 16 TAC §§ 24.109 ad 24.112.
13. On July 12, 2016, the ALJ issued Order No. 4 approving the sale, transfer, merger transaction to proceed and instructing the Applicants to provide monthly status reports and documents evidencing that the transaction has been consummated and customer deposits (if any) have been addressed.
14. On August 29, 2016, EPWU filed proof of consummation of the transaction in the form of a Contract Closing Certification and Affidavit of Closing.
15. On September 12, 2016, EPWU filed a notice of the disposition of customer deposits and accompanying affidavit of Marcela Navarrete, Vice President for EPWU. The affidavit states that neither Ponderosa nor EPWU has collected customer deposits from Ponderosa customers and neither entity has customer deposits for any of the Ponderosa customer accounts.
16. On September 28, 2016, Staff filed its Response to Order No. 4, in which Staff recommended that the closing documents be found sufficient and complete, that the documentation submitted on September 12, 2016 by EPWU be found sufficient evidence of the disposition of customer deposits, and the closing documents be found to demonstrate that the closing occurred within one year of the Commission's written approval of the transaction.
17. On September 30, 2016, the ALJ issued Order No. 5 finding the documentation sufficient and complete and establishing a procedural schedule for the remainder of the proceeding.
18. On October 17, 2016, EPWU filed its consent form reflecting its consent to the maps and certificate transmitted to the Applicants.

19. In Ponderosa's Affidavit of Closing submitted with the Proof of Consummation of Transaction, filed on August 29, 2016, Ponderosa certified that it authorized the Commission to effectuate the transfer upon receipt of EPWU's signed consent form without further involvement of Ponderosa. Based on this Affidavit, and EPWU's consent, Ponderosa has consented to the map and certificate.

Notice

20. The Commission caused notice of this application to be published in the *Texas Register* on March 17, 2016.

21. Notice of the Application was published in the El Paso Times, a newspaper of general circulation in El Paso County, Texas, on April 13 and 20, 2016.

22. On April 28, 2016, EPWU filed proof of publication and publisher's affidavit.

Informal Disposition

23. More than 15 days have passed since completion of all notice required for this docket.

24. No person has requested a public hearing on the Application.

25. EPWU, Ponderosa, and Staff are the only parties to this proceeding.

Evidence

26. The Applicants' March 11, 2016 Application (Commission's automated interchange system (AIS) Item 1, filed March 11, 2016); PUC Notice of Application for Sale, Transfer or Merger (ALS Item 3, filed March 17, 2016); EPWU's Proof of Publication and Publisher's Affidavit (ALS Item 6, filed April 28, 2016); Commission Staff's Recommendation on Sale (ALS Item 9, filed July 7, 2016); Order No. 4, issued July 12, 2016, approving the sale, transfer or merger transaction to proceed; EPWU's Proof of Consummation of Transaction (ALS Item 12, filed August 29, 2016); EPWU's Notice of Disposition of Customer Deposits (ALS Item 13, filed September 12, 2016); EPWU's Consent Form (ALS Item 16, filed October 17, 2016); Attachment

A, which includes the consented map and consented certificate of EPWU have been admitted into evidence.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this proceeding pursuant to TWC §§ 13.041, 13.246, 13.251, and 13.301.
2. EPWU and Ponderosa are retail water utilities as defined by TWC § 13.002(19).
3. Ponderosa is a water supply corporation as defined by TWC § 13.002(24).
4. Mailed public notice of the Application was waived for good cause shown as permitted by TWC § 13.301(a)(2).
5. Published notice of the application was provided as required by TWC §§ 13.301(a)(2) and 13.246.
7. EPWU and Ponderosa have completed the sale within one year from the date of the Commission's written approval of the transfer, consistent with 16 TAC § 24.112(e).
8. The Commission notified the Parties that a public hearing on the Application was not requested and would not be held, consistent with TWC § 13.301(f) and 16 TAC § 24.109(f).
9. After consideration of the factors in TWC § 13.246(c), EPWU had demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to every consumer within the proposed service area and approval of the Application serves the public interest.
10. Pursuant to TWC § 13.257(r) and 16 TAC § 24.106(f), EPWU is required to record a certified copy of the approved CCNs and Maps, along with a boundary description of the service area, in the real property records of each county in which the service area or a portion of the service area is located, and submit to the Commission evidence of the recording.

11. EPWU and Ponderosa have demonstrated that the certificate transfer requested in this application is necessary for the service, accommodation, convenience, and safety of the public.

12. The requirements of informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

III. ORDERING PARAGRAPHS

In accordance with these findings of fact and conclusions of law, the Commission issues the following Order:

1. The Application is approved.
2. EPWU's CCN No. 10211 is amended to include the service areas transferred from Ponderosa.
3. Ponderosa's CCN No. 11017 is hereby cancelled.
4. EPWU shall serve every customer and qualified service applicant within the area covered by its CCN No. 10211 and such service shall be continuous and adequate.
5. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.

SIGNED AT AUSTIN, TEXAS the _____ day of _____, 2016.

ADMINISTRATIVE LAW JUDGE

ATTACHMENT A



Public Utility Commission Of Texas

By These Presents Be It Known To All That

El Paso Water Utilities Public Service Board

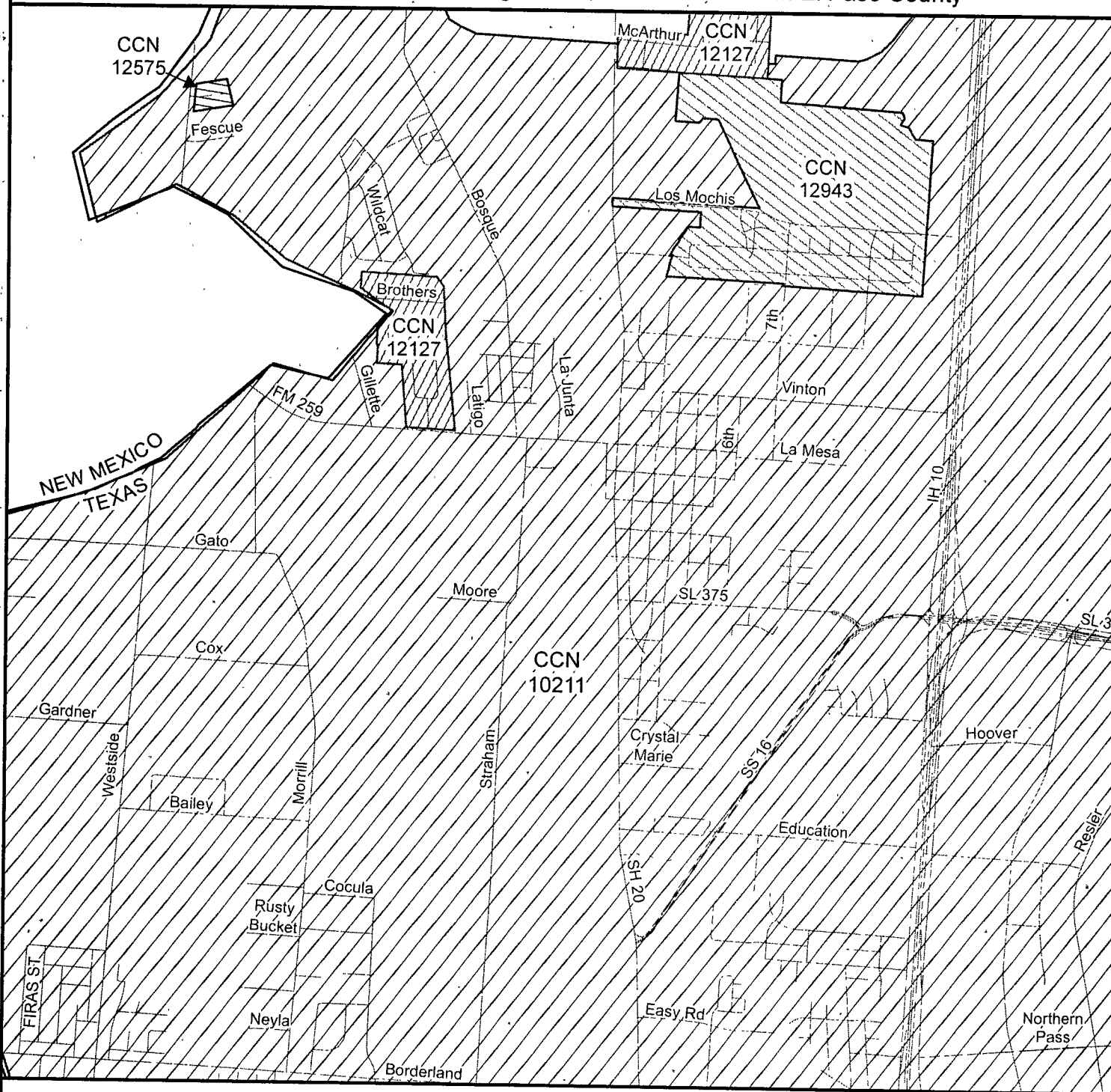
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, the El Paso Water Utilities Public Service Board, is entitled to this

Certificate of Convenience and Necessity No. 10211

to provide continuous and adequate water utility service to that service area or those service areas in El Paso County(ies) as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45719 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the El Paso Water Utilities Public Service Board, to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.





Issued at Austin, Texas, this _____ day of _____ 2016.

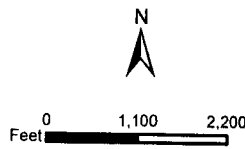
El Paso Water Utilities Public Service Board
 Portion of Water Service Area
 CCN No. 10211
 PUC Docket No. 45719
 Transferred and Cancelled
 Ponderosa & Western Village WSC, CCN No. 11017 in El Paso County



Public Utility Commission of Texas
 1701 N. Congress Ave
 Austin, TX 78701

Water CCN Service Areas

-  10211 - El Paso Water Utilities Public Service Board
-  12127 - East Motana Water System
-  12943 - El Paso East Lake Inc
-  12575 - Valley Acres MHP Water System



Map by: Kristy Ngu
 Date created: September 29, 2011
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