

Control Number: 45719



Item Number: 19

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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 §

2016 DEC -1 PM 3:00  
 PUBLIC UTILITY COMMISSION  
 OF TEXAS  
 PUBLIC UTILITY COMMISSION  
 CLERK

### 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 for the sale, transfer, or merger of facilities, customers, and certificated service areas in El Paso County. Commission Staff recommended approval the application. The application is approved.

The Commission adopts the following findings of fact and conclusions of law:

#### I. Findings of Fact

##### Procedural History, Description and Background

1. On March 11, 2016, EPWU and Ponderosa filed an application for the sale, transfer, or merger of the Ponderosa's facilities and certificate rights under certificate of convenience and necessity (CCN) No. 11017 in El Paso County to EPWU.
2. EPWU holds water CCN No. 10211.
3. Ponderosa holds water CCN No. 11017.
4. The applicants requested 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, Order No. 1 was issued, requiring Commission Staff Comments/Recommendation.
7. On May 27, 2016 Order No. 3 was issued, deeming Ponderosa's proof of notice sufficient and adopting a procedural schedule for the remainder of the proceeding.
8. On July 7, 2016, Commission Staff recommend approval of the proposed sale and transfer, stating that the transaction will serve the public interest and meets the relevant statutory and regulatory requirements.
9. On July 12, 2016, Order No. 4 was issued, approving the sale, transfer, merger transaction between EPWU and Ponderosa to proceed and requiring closing documents evidencing consummation within one year of the approval, along with proof that customer deposits have been properly handled.
10. On August 29, 2016, EPWU filed documentation evidencing the transaction had been completed and deposits transferred from Ponderosa.
11. On September 12, 2016, EPWU filed a notice of the disposition of customer deposits and accompanying affidavit of Marcela Navarrete, Vice President for EPWU.
12. On September 30, 2016, Order No. 5 was issued, finding the closing documents sufficient and deposits properly handled. A supplemental procedural schedule was established.
13. On October 17, 2016, EPWU filed signed consent to the proposed amended certificate and map prepared by Commission Staff.
14. Ponderosa authorized EPWU to consent to the proposed amended certificate and map prepared by Commission Staff on Ponderosa's behalf.<sup>1</sup>
15. The certificate and map described in Findings of Fact Nos. 13 and 14 are attached to this Notice.
16. On November 1, 2016, EPWU, Ponderosa, and Commission Staff filed a request to admit evidence and joint proposed notice of approval.

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<sup>1</sup> Proof of Consummation of Transaction, attached Affidavit of Closing at 1-2 (Aug. 29, 2016).

17. On December 1, 2016, Order No. 6 was issued, admitting evidence into the record in this proceeding.

**Notice**

18. Notice of the application was published in the *Texas Register* on April 1, 2016.
19. Notice of the application was published in the El Paso Times, a newspaper of general circulation in El Paso County, on April 13 and 20, 2016.
20. On April 28, 2016, EPWU filed proof of publication and publisher's affidavit.

**Informal Disposition**

21. EPWU, Ponderosa, and Commission Staff are the only parties to this proceeding.
22. More than 15 days have passed since completion of the notice provided in this docket.
23. No protests, motions to intervene, or requests for hearing were filed in this docket; therefore, no hearing was necessary.
24. The requirements of informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

**II. Conclusions of Law**

1. The Commission has jurisdiction over this proceeding pursuant to Texas Water Code §§ 13.041, 13.241, 13.246, 13.251, and 13.301 (TWC).
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. 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 13.301 and 16 Tex. Admin. Code §§ 24.103, 24.109 and 24.112 (TAC).
6. EPWU and Ponderosa completed the sale within one year from the date of the Commission's approval of the sale, consistent with 16 TAC § 24.112(e) (TAC).

7. After considering the factors in TWC § 13.246(c), EPWU has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area, as required by TWC §§ 13.251 and 13.301(b).
8. EPWU and Ponderosa have demonstrated that the facility transfer and certificate cancellation requested in this application are in the public interest, as required by TWC § 13.301(d).
9. EPWU and Ponderosa have demonstrated that the sale and transfer of service area and facilities requested in this application are necessary for the service, accommodation, convenience and safety of the public, as required by TWC § 13.246(c).
10. Ponderosa has consented to cancellation of its CCN No. 11017, consistent with TWC § 13.254.
11. 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.
12. The requirements of informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

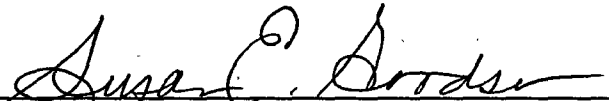
### **III. Ordering Paragraphs**

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

1. The application is approved.
2. EPWU's CCN No. 10211 is amended consistent with this Notice, to include the service areas transferred from Ponderosa.
3. 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.
4. Ponderosa's CCN No. 11017 is hereby cancelled.

5. EPWU shall comply with the recording requirements of TWC § 13.257(r) for the area in El Paso County affected by the transfer and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.
6. 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 7<sup>ST</sup> day of December 2016.

  
SUSAN E. GOODSON  
ADMINISTRATIVE LAW JUDGE

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# Public Utility Commission Of Texas

**By These Presents Be It Known To All That**

## **El Paso Water Utilities Public Service Board**

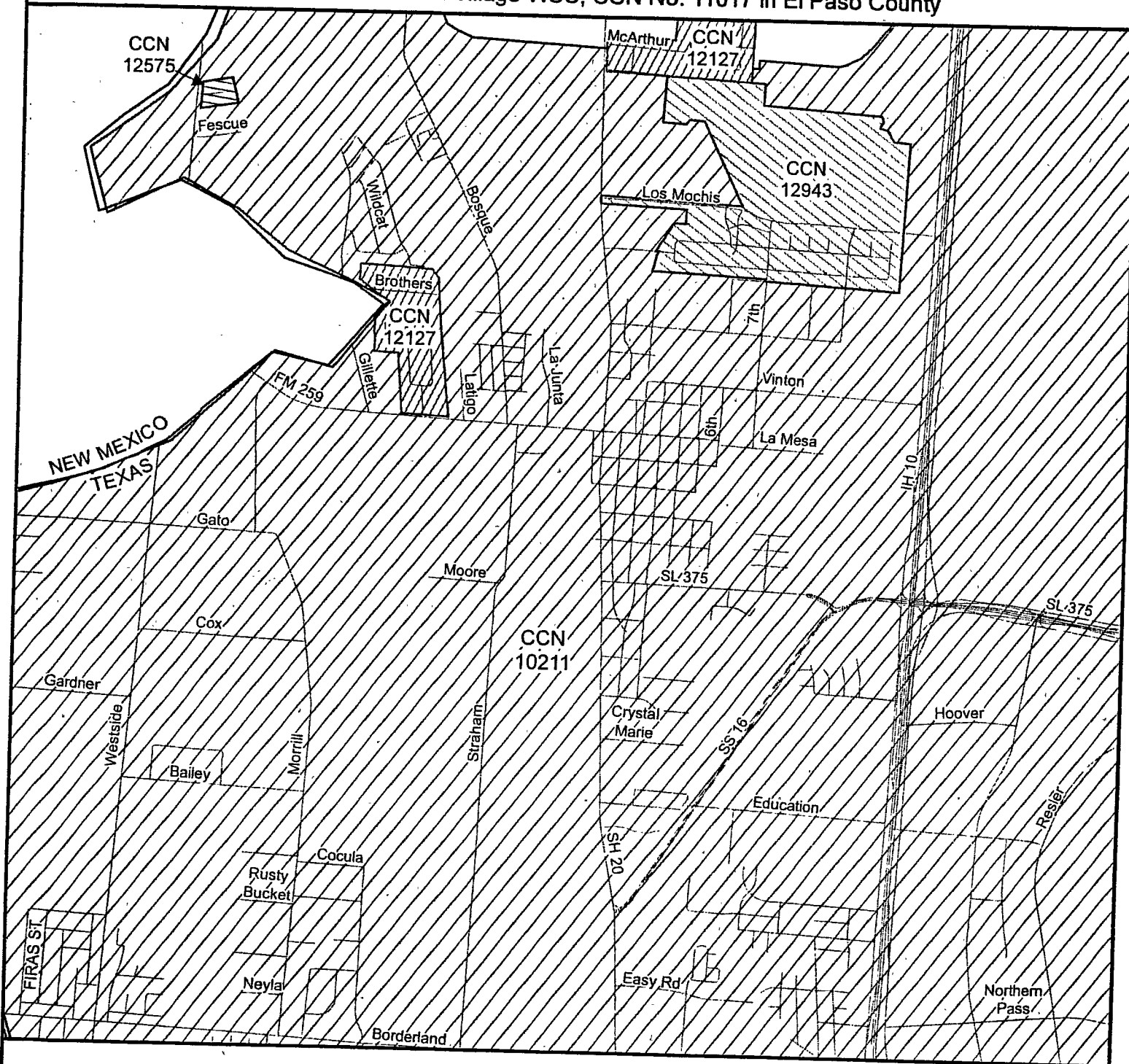
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, the El Paso Water Utilities Public Service 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 7<sup>ST</sup> day of December 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



**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



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