



Control Number: 45719



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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**

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PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

COMMISSION STAFF'S RECOMMENDATION ON SALE

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this Recommendation on Sale and Response to Order No 3. In support thereof, Staff would show the following:

I. BACKGROUND

On March 11, 2016, El Paso Water Utilities Public Service Board (El Paso) and Ponderosa & Western Village Water Supply Corporation (Ponderosa) (jointly, Applicants) filed an application for sale, transfer, or merger of facilities and certificate rights in El Paso County. Specifically, El Paso seeks approval to acquire all of the customers, facilities and service area of Ponderosa, and Ponderosa will dissolve. El Paso's water certificate of convenience and necessity (CCN) No. 10211 will be amended and Ponderosa's CCN No. 11017 will be cancelled.

Order No. 3, issued on May 27, 2016, set July 7, 2016 as the deadline for Commission Staff to request a hearing or file a final recommendation on the transaction. This pleading is therefore timely filed.

II. RECOMMENDATION

Staff has reviewed the application and, as detailed in the attached memorandum from Jolie Mathis, Mary Lupo, and Gary Horton in the Commission's Water Utility Division, recommends that Applicants be allowed to proceed with the proposed transaction. Staff has reviewed the criteria of Tex. Water Code §§ 13.246 and 13.301 (TWC) and 16 Tex. Admin. Code §§ 24.109 and 24.112 (TAC) and determined that the proposed transaction meets the relevant statutory and regulatory requirements.

III. CONCLUSION

For the reasons outlined above, Staff respectfully requests that an order be issued allowing Applicants to proceed with the transaction. Upon receiving sales documents and documents evidencing the disposition of customer deposits from Applicants, Staff will propose an additional procedural schedule for continued processing of this docket.

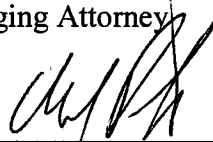
Dated: July 7, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on July 7, 2016
in accordance with 16 TAC § 22.74.

A handwritten signature in black ink, appearing to read 'Ch/Pet', written over a horizontal line.

Alexander Petak

PUC Interoffice Memorandum

To: Alexander Petak, Attorney
Legal Division

Through: Lisa Fuentes, Water Regulation Manager
Heidi Graham, Engineering Manager
Water Utilities Division

From: Jolie Mathis, Engineering Specialist
Mary Lupo, Financial Analyst
Gary Horton, GIS Specialist
Water Utilities Division

SUBJECT: **Docket No. 45719**, *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*

DATE: July 5, 2016

On March 11, 2016, El Paso Water Utilities Public Service Board (EPWU) and Ponderosa and Western Village Water Supply Corporation (Ponderosa) filed an application for sale, transfer, or merger of facilities and certificate rights in El Paso County. Specifically, El Paso seeks approval to acquire all of the customers, facilities and service area of Ponderosa, and Ponderosa will dissolve. El Paso's water certificate of convenience and necessity (CCN) No. 10211 will be amended and Ponderosa's CCN No. 11017 will be cancelled.

El Paso requested waiver of public notice for good cause. Commission Staff noted that there will be no disruption of service or change in quality because El Paso has been operating and maintaining Ponderosa's water system since 2004. Commission Staff recommended waiver of mailed notice. The affidavit was received by the Commission on April 28, 2016. The comment period ended May 25, 2016, and no protests or requests for hearing were received.

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 transaction will serve the public interest. For this case, I do not believe a hearing is necessary because I believe the transaction will serve the public interest based on my review of the information in the application and the criteria listed below. I believe EPWU demonstrates adequate financial, managerial and technical (FMT) capability to provide service to its existing service area plus the area subject to this application. While considering the public interest factors and the FMT capability of EPWU, I reviewed the requested amendment pursuant to TWC § 13.246(c).

Under this statute, the Commission shall consider the following nine criteria when amending a CCN:

- TWC § 13.246(c)(1) requires the Commission to consider the adequacy of service currently provided to the requested area. The requested transaction includes the water utility service from one public water system (PWS) currently owned by the Seller. The system, Ponderosa and Western Village WSC (PWS 0710010), and the area consists of 110 acres, approximately 319 connections and facilities. Review of TCEQ records indicates that the PWS has no unresolved violations or complaints. EPWU has been operating and maintaining the Ponderosa water system on behalf of Ponderosa since 2004. EPWU also provides billing and collection services to Ponderosa. Therefore, I believe adequate service is currently provided in the requested area.
- TWC § 13.246(c)(2) requires the Commission to consider the need for service in the requested area. The fact that there are existing customers in the requested area demonstrates the need for service.
- TWC § 13.246(c)(3) requires the Commission to consider the effect of granting an amendment on the recipient and on any other retail water utility servicing the proximate area. Only the Applicants and the current customers will be affected by this transaction. There will not be any significant impact on the quality of utility service.
- TWC § 13.246(c)(4) requires the Commission to consider the ability of the applicant to provide adequate service. EPWU is financially sound, employs over 100 licensed operators, has access to an adequate water supply, and has developed plans to bring addition water service to the area as growth occurs. EPWU has been operating and maintaining the Ponderosa water system on behalf of Ponderosa since 2004. EPWU also provides billing and collection services to Ponderosa.
- 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 area is already receiving service and no additional service is needed. Therefore, it is not necessary to consider the feasibility of obtaining service from another entity since the area is already being served.
- TWC § 13.246(c)(6) requires the Commission to consider the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service. The source and availability of funds include water rates, impact fees, developer contributions, cash-on-hand, and grants, when available.
- TWC §§ 13.246(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 no impact on the environment and the land as the system is already in place and does not need any repairs or improvements at this time.
- TWC § 13.246(8) requires the Commission to consider the probable improvement in service or lowering of cost to consumers. Once the customers are transferred to EPWU, the customers will be charged EPWU's outside-city water rates, rather than the WSC's water rates. The applicant will maintain this utility in compliance with the rules and regulations of the TCEQ, the PUC, as well as federal and local laws, rules and regulations.

With respect to the Applicant's financial and managerial capability, The Board's audited financial statements for February 28, 2015 were available. The statements include an unqualified auditor's opinion that the financial statements fairly represent the financial position of EPWU as of February 28, 2015. The audited financial reports indicate proper accountability and reporting which reflect positively on the Applicant's management capabilities.

As required by 16 TAC §§ 24.102(c), 24.109(d), and 24.112(c)(5), EPWU's experienced operators are knowledgeable about water operations, as well as the requirements for continuous and adequate service for the operations of the utility systems to the area subject to this application. EPWU currently has 13 Class A licensed water operators, 19 Class C licensed water operators, 72 Class C, and 5 Class D water operators that will be responsible for the system.

Pursuant to 16 TAC § 24.109(f), Staff recommends the Commission find that the transaction will serve the public interest and allow Ponderosa and EPWU to proceed with the proposed transaction. Staff further recommends that a public hearing is not necessary. Staff also recommends that Ponderosa and EPWU be ordered to file documentation as evidence that all assets have been transferred from Ponderosa and EPWU and that the disposition of any remaining deposits have been addressed as soon as possible pursuant to 16 TAC § 24.109(f).

The approval of the sale expires one year from the date of the Commission's written approval of the sale. If the sale has not been consummated within that period and unless the Applicant has requested and received an extension from the Commission, the approval is void and the Applicant must re-apply for the approval of the sale. In addition, the Applicant should be informed that the CCN will remain in the name of Ponderosa and Western Village WSC until the transfer is complete and approved in accordance with the PUC rules and regulations as required by 16 TAC §§ 24.109(g) and 24.112(d).