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DOCKET NO. 46009

APPLICATION OF CRYSTAL SPRINGS WATER COMPANY, INC. TO AMEND CERTIFICATES OF CONVENIENCE AND NECESSITY IN MONTGOMERY COUNTY

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PUBLIC UTILITY COMMISSION OF TEXAS

PUBLIC UTILITY COMMISSION

COMMISSION STAFF'S FINAL RECOMMENDATION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files Staff's Final Recommendation in response to Order No. 5.

I. BACKGROUND

On May 31, 2016, Crystal Springs Water Company, Inc. (Crystal Springs) filed an application with the Public Utility Commission of Texas to amend its water certificate of convenience and necessity (CCN) No. 11373 and sewer CCN No. 20906 in Montgomery County, Texas (TWC). Crystal Springs seeks the amendment to provide water utility service to approximately 121 acres of land. On July 7, 2016, the administrative law judge (ALJ) issued Order No. 2, finding the application administratively complete.

On August 1, 2016, Crystal Springs filed affidavits of notice, copies of mailed notices, and copies of published notice. The Commission deemed notice sufficient on August 15, 2016 in Order No. 3. On December 23, 2016, Crystal Springs filed its consent form for the maps and certificates that Staff transmitted by-email. In Order No. 5, filed on January 20, 2017, the ALJ granted a request for extension to allow Crystal Springs to file a letter from the TCEQ approving its water distribution plans and to allow Staff to send Crystal Springs final tariffs for its consent. The ALJ also ordered Staff to file its final recommendation within 7 days of Crystal Springs filing consent forms for the tariffs. Crystal Springs filed its consent form for the tariffs on June 2, 2017. Therefore, this pleading is timely filed.

II. RECOMMENDATION ON FINAL DISPOSITION

Staff has reviewed Crystal Springs' application to amend its water CCN No. 11373 and sewer CCN No. 20906. As detailed in the attached memorandum of Jolie Mathis, Fred Bednarski, and Kristy Nguyen of the Water Utility Regulation Division, Staff recommends that the application

meets the requirements of Texas Water Code § 13.246 and 16 Tex. Admin. Code § 24.102 and be approved. Consistent with Order No. 5, parties will file joint proposed findings of fact and conclusions of law within 7 days of this pleading.

III. CONCLUSION

Staff respectfully recommends that the application be approved.

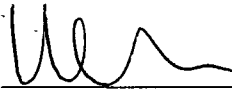
Dated: June 6, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on June 6, 2017,
in accordance with 16 TAC § 22.74.



Vera Dygert

PUC Interoffice Memorandum

To: Vera Dygert
Legal Division

Through: Tammy Benter, Director
Lisa Fuentes, Team Lead
Heidi Graham, Team Lead
Water Utility Regulation

From: Jolie Mathis, Engineering Specialist
Fred Bednarski, Financial Examiner
Kristy Nguyen, GIS Specialist
Water Utility Regulation

Date: May 30, 2017

Re: **Docket 46009**, *Application of Crystal Springs Water Co., Inc. to Amend a Certificate of Convenience and Necessity (CCN) in Montgomery County (Ponderosa Pines)*

On May 31, 2016, Crystal Springs Water Company, Inc., (Applicant or Crystal Springs) filed an application to amend its water Certificate of Convenience and Necessity (CCN) No. 11373 and sewer CCN No. 20906 in Montgomery County pursuant to 16 Tex. Admin. Code §§ 24.8 and 24.102 - 24.106 (TAC) and Tex. Water Code § 13.246(c) (TWC).

Background

Crystal Springs seeks the amendment to provide water and sewer utility service to approximately 121 acres and 0 water current customers. Martin Land Development plans to develop these acres into residential lots. Additionally noted, Crystal Springs has been in the utility business since 1977 and operates approximately 22 public water systems in Montgomery and Walker Counties.

Notice

On July 7, 2016, the application and mapping information was deemed sufficient for filing and found administratively complete by the Commission. On July 15, 2016, and July 22, 2016, Crystal Springs published notice in the Conroe Courier in Montgomery County. On June 21, 2016, individual notice was provided to neighboring systems, landowners and cities in Montgomery County. Affidavits of notice were filed with the Commission on July 1, 2016. The comment period ended August 22, 2016. No protests, requests for hearing, or opt-out requests were received.

Compliance with TCEQ Standards

Crystal Springs has no outstanding violations for their PWS.

Financial Test

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 and the financial stability of the applicant. 16 TAC § 24.11 establishes criteria to demonstrate that an owner or operator of a retail public utility has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and proposed utility service area. 16 TAC §

24.11(e) lists the financial tests. Staff notes that the following discussion shows that the applicant meets one out of four leverage tests in which the Applicant is only required to meet one.

16 TAC § 24.11(e)(2) refers to the leverage test. Below is a summary of all four leverage tests' results:

- a. 16 TAC § 24.11(e)(2)(A) states that the owner or operator must have a **debt to equity ratio of less than one**, using long term debt and equity or net assets. Based on the calculations below the Applicant has a debt to equity ratio of 1.03 which does not meet the debt to equity ratio criterion.
 - i. FY2015 Equity = \$757,744
 - ii. FY 2015 Long-Term Notes Payable = \$778,856
 - iii. FY 2015 Debt to Equity Ratio = $\$778,856 / \$757,744 = 1.03$
- b. 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. Based on the calculations below the applicant has a debt service coverage ratio of 3.60 which meets the debt service criterion.
 - i. FY2015 Total Funds Annual Net Operating Income before depreciation and non-cash expenses = \$720,610
 - ii. FY2015 Annual Long-term Debt Payments = \$200,150
 - iii. FY2015 Debt Service Ratio = $\$720,610 / \$200,150 = 3.60$
- c. 16 TAC § 24.11(e)(2)(C) states the owner or operator must have **sufficient unrestricted cash available as a cushion for two years of debt service**. Based on the calculations below there is not sufficient cash and pooled investments, including restricted cash for debt service, available for two years of debt service which does not meet this criterion.
 - i. FY2015 Total Pooled Investments and Cash Available = \$300,585
 - ii. Two Years Debt Service Payments = \$400,300
 - iii. $< \$99,715$
- d. 16 TAC § 24.11(e)(2)(D) states the owner or operator must have **an investment-grade credit rating** from Standard & Poor's Financial Services LLC, Moody's Investors Service, or Fitch Ratings Inc. Crystal Springs does not have investment grade credit rating. Therefore Crystal Springs does not meet this criterion.

16 TAC § 24.11(e)(3) refers to the operations test. This states that the owner or operator must demonstrate sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations. Crystal Springs currently operates 22 water systems that serve approximately 2,600 connections. Crystal Springs reported net income of \$691,840 and a total cash amount of \$300,585 for the calendar year end of 2015. The Ponderosa Springs Subdivision is planned to serve 351 connections. Crystal Springs has received approval from the Texas Commission on Environmental Quality (TCEQ) to drill a new well and construct a water and wastewater plant to serve the Ponderosa Springs Subdivision. Crystal Springs also provided a letter from Prosperity Bank indicating funds are available to finance the new water and sewer plant to serve the area. Additionally, 5 year projections were provided for the new Ponderosa Springs Subdivision indicating in Year 1 a net loss of (\$41,873), Year 2 net income of \$1,129, Year 3 net income of \$78,020, Year 4 net income of \$132,117, and Year 5 net income of \$192,064. Thus, there are minimal cash shortages to cover which Crystal Springs has the financial ability to do so.

Criteria Considered

TWC § 13.246(c) requires the Commission to consider nine criteria when granting or amending a CCN. Therefore, the following criteria were considered:

- ***TWC §13.246(c)(1) requires the commission to consider the adequacy of service currently provided to the requested area.*** There are currently 0 customers in the proposed area.
- ***TWC §13.246(c)(2) requires the commission to consider the need for service in the requested area.*** Martin Land Development, LLC (Developer) plans to develop approximately 121 acres of land in Montgomery County, Texas into residential lots, and has partnered with Crystal Springs Water Co., Inc. to provide water and sewer service. The tract is not in any other CCN, district or city.
- ***TWC §13.246(c)(3) requires the commission to consider the effect of granting an amendment on the recipient and on any other retail public utility servicing the proximate area.*** The effect of granting amended water and sewer certificates to Chrstal Springs Water Co., Inc. would be to allow the development of a residential area in Montgomery County. There are no other retail utilities in the proximate area that can supply the water or sewer requirements of the proposed development.
- ***TWC §13.246(c)(4) requires the commission to consider the ability of the Applicant to provide adequate service.*** Crystal Springs has been in the utility business since 1977, successfully providing high quality water and wastewater service to over 3200 current customers in 23 different neighborhoods in Montgomery and Walker Counties. Crystal Springs proposes to build and grow the proposed Ponderosa Pines subdivision system in the same way that it has built and grown its other water and sewer systems. Crystal Springs has a good operations, maintenance and performance record with TCEQ and plans to operate this system in the same manner.
- ***TWC §13.246(c)(5) requires the commission to consider the feasibility of obtaining service from an adjacent retail public utility.*** Several entities were contacted, only 3 responded, stating they would not be willing to provide retail utility service.
- ***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.*** Based on the review of the application and information provided, the Crystal Springs has demonstrated adequate financial and managerial capabilities to provide service to the area being requested.
- ***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.*** The land is currently wooded and unoccupied and is in the land planning stage of being developed into a residential neighborhood.
- ***TWC § 13.246(8) requires the commission to consider the probable improvement in service or lowering of cost to consumers.*** There are currently 0 customers in the proposed area.

Crystal Springs Water Co. meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations and is capable of providing continuous and adequate service.

Crystal Springs consented to the attached map and certificate on December 23, 2016. Crystal Springs consented to the attached tariffs June 2, 2017.

Based on the above information, Staff recommends approval of the application and requests the Commission issue an order and provide the attached map, tariffs and certificate to Crystal Springs. Staff also recommends Crystal Springs file a copy of the CCN map along with a written description of the CCN service area in the respective county clerks' offices pursuant to Texas Water Code § 13.257 (r) and (s).