

Control Number: 46312



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APPLICATION OF ROCK CREEK §  
 WATER SUPPLY CORPORATION AND §  
 POSSUM KINGDOM WATER SUPPLY §  
 CORPORATION FOR SALE, §  
 TRANSFER, OR MERGER OF §  
 FACILITIES AND CERTIFICATE §  
 RIGHTS IN PALO PINTO COUNTY §

PUBLIC UTILITY COMMISSION 2017 JAN 13 PM 1:13  
 OF TEXAS PUBLIC UTILITY COMMISSION  
 FILING CLERK

### COMMISSION STAFF'S RECOMMENDATION ON THE APPROVAL OF SALE

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Recommendation on the Approval of Sale. In support thereof, Staff shows the following:

#### I. Background

On August 26, 2016, Rock Creek Water Supply Corporation (Rock Creek) and Possum Kingdom Water Supply Corporation (Possum Kingdom) (collectively, the Applicants) filed an application for the sale, transfer, or merger of facilities and water certificate rights in Palo Pinto County. Possum Kingdom seeks approval to acquire Rock Creek's certificated service area under water certificate of convenience and necessity (CCN) No. 13139, associated facilities and customers. The total area being requested includes approximately 500 acres and serves 98 current customers. The rates for affected customers will be Possum Kingdom's current rates and services will continue as currently provided. The proposed effective date for the transaction is December 1, 2016.

On November 22, 2016, Order No. 4 was issued requiring Staff to request a hearing or file a recommendation on the approval of the sale and on the CCN amendment by January 13, 2017. Accordingly, this pleading is timely filed.

#### II. Recommendation

As supported by the attached memorandum of Ricky Herrera, Staff Engineer and Leila Guerrero, Regulatory Accountant/Auditor of the Commission's Water Utility Regulation Division, Staff recommends that the Applicants be approved to proceed with the proposed transaction. Staff

recommends approval of the Application because it satisfies Tex. Water Code §§ 13.241, 13.246, and 13.301, and 16 Tex. Admin. Code §§ 24.102, 24.109 and 24.112 (TAC). Staff further recommends that a public hearing is not necessary and that the Applicants file documentation as evidence that all assets have been transferred to the acquiring entity and the disposition of any remaining deposits has been addressed as soon as possible.

### **III. Conclusion**

Staff respectfully requests that an order be issued consistent with this Recommendation.


**Dated: January 13, 2017**

Respectfully Submitted,

#### **PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Karen S. Hubbard  
Managing Attorney

  
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Ralph J. Daigneault  
State Bar No. 24040755  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7348  
(512) 936-7268 (facsimile)  
[ralph.daigneault@puc.texas.gov](mailto:ralph.daigneault@puc.texas.gov)

**DOCKET NO. 46312**

#### **CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on January 13, 2017, in accordance with 16 TAC § 22.74.

  
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Ralph J. Daigneault

## PUC Interoffice Memorandum

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**To:** Ralph Daigneault  
Legal Division

**Thru:** Tammy Benter, Director  
Debi Loockerman, Financial Manager  
Heidi Graham, Engineering Manager  
Water Utilities Division

**From:** Ricky Herrera, Staff Engineer  
Leila Guerrero, Regulatory Accountant/Auditor  
Water Utilities Division

**Date:** November 29, 2016

**Subject:** **Docket 46312**, *Application of Rock Creek Water Supply Corporation and Possum Kingdom Water Supply Corporation for Sale, Transfer or Merger of Facilities and Certificate Rights in Palo Pinto County*

On August 26, 2016, Rock Creek Water Supply Corporation (Seller or Rock Creek) and Possum Kingdom Water Supply Corporation (Buyer or Possum Kingdom)(Collectively, Applicants) filed with the Public Utility Commission of Texas (Commission) an application for the sale, transfer, or merger of facilities and certificate rights in Palo Pinto County, Texas. Specifically, Possum Kingdom, Certificate of Convenience and Necessity (CCN) No. 12890, seeks approval to acquire all of the water assets and service area of Rock Creek and to cancel Rock Creek's CCN No. 13139. The total area being requested is approximately 3,096 acres, serves 98 current customers, and includes the Hills above Possum Kingdom Lake.

The application was accepted for filing by the Commission on September 28, 2016. Proper public notice was provided on November 1, 2016, to current customers, neighboring systems, and cities and affected parties in accordance with 16 Texas Admin. Code § 24.112(c)(TAC). The affidavit was received by the Commission on November 7, 2016. The comment period ended December 1, 2016, and no protests or requests for hearing were received.

Staff reviewed the public interest factors and the financial, managerial and technical capability of the Buyer 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 the public water system (PWS) currently owned by the Seller. The PWS is named Rock Creek WSC (PWS 1820080) and the area consists of 3,096 acres, approximately 98 connections and facilities. Review of TCEQ records indicate that the PWS has no unresolved violations or complaints. Therefore, Staff recommends that 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. Possum Kingdom has been providing water utility services to the existing Rock Creek customers via whole sale since 2007. Therefore, Staff recommends this demonstrates the need for service from the customers in this area.
- 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. As a result of this application, the Seller's CCN No. 13139 will be cancelled, and the Buyer will service the proposed area under CCN No. 12890, therefore promoting regionalization in the Palo Pinto County area.
- TWC §13.246(c)(4) requires the Commission to consider the ability of the applicant to provide adequate service. The Applicant currently provides potable water for Rock Creek WSC via a wholesale water contract for a 200 meters since 2007. It is equipped with a complete reverse osmosis and micro-filtration system in the water treatment plant and has been providing potable water since 2004 to the member. Therefore, Staff recommends that the applicant is capable of providing adequate service to the additional 98 proposed connections.
- 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, Staff recommends that 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 and the financial stability of the Applicant.

16 TAC § 24.11(e)(2) refers to the leverage test in which the applicant must meet one or more of the following criteria as applicable to this application:

- The owner or operator must have a debt to equity ratio of less than one, using long term debt and equity or net assets. The Applicant has a debt to equity ratio of 0.87.
- 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 Applicant has a current debt service coverage (DSC) ratio of 1.37.
- The owner must also have a sufficient unrestricted cash available for two years of debt service. At the time of review, the Applicant had sufficient cash and pooled investments, available for the next two years of debt service.
- The operations test requires 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. A cash shortage was not reflected in the Applicant's 2014 and 2015 annual financial reports, and there were no negative projected cash flows for the next five years.

The Buyer meets all of the statutory requirements of TWC § 13.246(c). Staff recommends that approving this application and transferring all of the Seller's water service area, assets and customers under CCN No. 13139 and canceling CCN No. 13139 is necessary for the service, accommodation, convenience and safety of the public. The Buyer is capable of providing continuous and adequate service. Therefore, Staff recommends that the Commission allow the Applicants to proceed with the proposed transaction.

Staff further recommends that the proposed transaction be completed and that the Applicants send documentation as evidence that all assets have been transferred to the acquiring entity and that the disposition of any remaining deposits has been addressed as soon as possible. Pursuant to 16 TAC § 24.112(e), 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 Applicants has requested and received an extension from the Commission, the approval is void and the Applicants must re-apply for the approval of the sale. In addition, I recommend the Applicants be informed that the CCN will remain in the name of the Seller until the transfer is complete and approved in accordance with the PUC rules and regulations.