

Control Number: 46312



Item Number: 24

Addendum StartPage: 0

DOCKET NO. 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 §

PUBLIC UTILITY COMMISSION

2 of 7
RECEIVED
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OF TEXAS
PUBLIC UTILITY COMMISSION
FILING CLERK

ORDER NO. 6
REQUIRING STATUS REPORTS

“On January 30, 2017, Order No. 5 was issued, approving the proposed sale/transfer transaction to proceed between Rock Creek Water Supply Corporation and Possum Kingdom Water Supply Corporation. Additionally, Order No. 5 required applicants to file status updates beginning January 30, 2017 regarding consummation of the sale/transfer transaction. Presently, no filings have been received.”

On or before August 30, 2017 applicants shall file a status report and continue monthly reports thereafter until the transaction has been consummated.”

The above paragraphs are on the Order No. 6 signed by Susan E. Goodson, but the unsigned Order No. 6 that was faxed reads “.....No updates have been filed since April 11, 2017.”

PK Water Supply Response – August 30, 2017

Attached are copies of all of the monthly filings for Order No. 5. One was not completed for July 30 as all transactions have been approved, signed and filed with an effective date of July 1, 2017. The Possum Kingdom Water Supply Board of Directors has approved all required items for the merger. The merger agreement was signed April 19, 2017. Mark Zeppa, Attorney of Record, filed appropriate documents with PUC. The effective date is July 1, 2017.

Rock Creek Water Supply Response – August 30, 2017

The merger agreement was signed April 18, 2017. The bill of sale and assignment document was signed June 20, 2017. Affidavit of Closing was signed June 28, 2017 with an effective date of July 1, 2017.

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TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS IN PALO PINTO COUNTY	§	

**ORDER NO. 5
APPROVING TRANSACTION TO PROCEED**

“In an effort to finalize this case as soon as possible, Beginning January 30, 2017, and continuing monthly thereafter, applicants shall file an update regarding the status of the efforts to complete the transaction....”

PK Water Supply Response – January 30, 2017

The Possum Kingdom Water Supply Board of Directors has approved the draft of the merger agreement and authorized the necessary changes to the tariff to include the Rock Creek Water Supply area. The attorney is finalizing this document with the attorney for Rock Creek. The next board meeting will be February 15 and any remaining items will be on the agenda for that meeting.

Rock Creek Water Supply Response – January 30, 2017

The Rock Creek Water Supply Board of Directors has approved the draft of the merger agreement and will coordinate the final document with the PK Water Supply attorney. The board prepared and mailed to the members the information regarding the merger and provided a proxy for the members to use to vote that are unable to attend the next meeting February 18th.

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**ORDER NO. 5
FEBRUARY 28, 2017
APPROVING TRANSACTION TO PROCEED**

“In an effort to finalize this case as soon as possible, Beginning January 30, 2017, and continuing monthly thereafter, applicants shall file an update regarding the status of the efforts to complete the transaction....”

PK Water Supply Response – February 28, 2017

The Possum Kingdom Water Supply Board of Directors has approved all required items for the merger. The attorneys are finalizing the final documentation to be signed.

Rock Creek Water Supply Response – January 30, 2017

The Rock Creek Water Supply Board of Directors has approved the merger based on the voting at the annual meeting. There were no dissenting votes and the merger was approved by a quorum of the members. The attorneys are finalizing the finalizing documentation to be signed.

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**ORDER NO. 5
MARCH 31, 2017
APPROVING TRANSACTION TO PROCEED**

“In an effort to finalize this case as soon as possible, Beginning January 30, 2017, and continuing monthly thereafter, applicants shall file an update regarding the status of the efforts to complete the transaction....”

PK Water Supply Response – March 31, 2017

The Possum Kingdom Water Supply Board of Directors has approved all required items for the merger. The attorneys are finalizing the final documentation to be signed. The next board meeting is April 19, 2017, and the merger agreement is to be signed. The bill of sale document has been updated.

Rock Creek Water Supply Response – March 31, 2017

The attorneys are finalizing the documentation to be signed. The next board meeting is April 18, 2017, and the merger agreement is to be signed. The bill of sale document has been updated.

DOCKET NO. 46312

APPLICATION OF ROCK CREEK	§	PUBLIC UTILITY COMMISSION
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**ORDER NO. 5
APRIL 28, 2017
APPROVING TRANSACTION TO PROCEED**

“In an effort to finalize this case as soon as possible, Beginning January 30, 2017, and continuing monthly thereafter, applicants shall file an update regarding the status of the efforts to complete the transaction....”

PK Water Supply Response – April 28, 2017

The Possum Kingdom Water Supply Board of Directors has approved and the president has signed the final agreement for the sale, transfer – merger. Plans have been made for the transition of the billing files to be integrated with the PKWSC files. Additionally, PKWSC Board of Directors has discussed the financial transfer with the auditor, Kathy Williams of Snow, Garret, Williams CPA’s, which has been the firm responsible for the annual audit for both companies. Ms. Williams is prepared to assist with the transactions necessary to complete the merger.

Rock Creek Water Supply Response – April 28, 2017

The Rock Creek Water Supply Board of Directors has approved and the president has signed the final agreement for the sale, transfer – merger. Two matters involving third-party conveyances with Rock Creek WSC (RCWSC) must be completed prior to the merger. RCWSC is working diligently to expedite both transactions, one of which requires Palo Pinto County replat approval and the other which requires third-party execution of an easement. Although RCWSC is uncertain how quickly these third parties will complete their respective tasks, it is anticipated that both matters will be concluded within the next 30 days.

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ORDER NO. 5

MAY 30, 2017

APPROVING TRANSACTION TO PROCEED

“In an effort to finalize this case as soon as possible, Beginning January 30, 2017, and continuing monthly thereafter, applicants shall file an update regarding the status of the efforts to complete the transaction....”

PK Water Supply Response – May 30, 2017

The Possum Kingdom Water Supply Board of Directors has approved all required items for the merger. The attorneys are finalizing the final documentation to be signed. The merger agreement was approved and signed at the April 19, 2017 board meeting. The bill of sale document has been updated. This is the same information that was submitted for the April update.

Rock Creek Water Supply Response – May 30, 2017

The attorneys are finalizing the documentation to be signed. The merger agreement was approved and signed at the April 18, 2017 board meeting. The bill of sale document has been updated. This is the same information that was submitted for the April update.

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ORDER NO. 5

JUNE 30, 2017

APPROVING TRANSACTION TO PROCEED

“In an effort to finalize this case as soon as possible, Beginning January 30, 2017, and continuing monthly thereafter, applicants shall file an update regarding the status of the efforts to complete the transaction...”

PK Water Supply Response – June 30, 2017

The Possum Kingdom Water Supply Board of Directors has approved all required items for the merger. The merger agreement was signed April 19, 2017. Mark Zeppa, Attorney of Record, will file appropriate document with PUC. The effective date is July 1, 2017.

Rock Creek Water Supply Response – June 30, 2017

The merger agreement was signed April 18, 2017. The bill of sale and assignment document was signed June 20, 2017. Affidavit of Closing was signed June 28, 2017 with an effective date of July 1, 2017.

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ORDER NO. 5

JULY 30, 2017

APPROVING TRANSACTION TO PROCEED

“In an effort to finalize this case as soon as possible, Beginning January 30, 2017, and continuing monthly thereafter, applicants shall file an update regarding the status of the efforts to complete the transaction....”

PK Water Supply Response – July 30, 2017

The Possum Kingdom Water Supply assumed full responsibility for Rock Creek Water Supply Corporation effective July 1, 2017. The financial transactions are being processed as normal pending direction from the CPA. All billing and receivables are traceable. Effective August 1, 2017, the billing account will be transferred to the PKWSC billing system. The final transactions to close out RCWS will not take place for several months so that the final bank account can be transferred based on direction from the attorney.

AGREEMENT REGARDING SALE-TRANSFER-MERGER OF TWO
NON-PROFIT WATER SUPPLY CORPORATIONS IN
PALO PINTO COUNTY

This Agreement Regarding Sale-Transfer-Merger (this "Agreement") is entered into between Possum Kingdom Water Supply Corporation ("PK"), a retail public water utility serving portions of Stephens and Palo Pinto Counties under Certificate of Convenience and Necessity ("CCN") No. 12890, and Rock Creek Water Supply Corporation ("RC"), a retail public water utility serving portions of Palo Pinto County under CCN No. 13139 (collectively, the "Parties" and, individually, a "Party"), for the purpose of sale-transfer-merger of the two retail public utility companies, with PK being the surviving utility under CCN No. 12890.

WHEREAS, the Parties desire to adopt and implement this Agreement pursuant to the requirements of the Texas Business Organization Code Chapter 22, the governing documents of each Party, Texas Water Code Chapter 13, and other applicable law;

WHEREAS, PK is a non-profit corporation formed under the laws of the State of Texas, with its principal office for business located at 1170 Willow Road, Possum Kingdom Lake, Graford, Texas, 76449;

WHEREAS, RC is a non-profit corporation formed under the laws of the State of Texas, with its principal office for business located at 1170 Willow Road, Possum Kingdom Lake, Graford, Texas, 76449;

WHEREAS, PK's and RC's respective Boards of Directors deem it advisable that PK acquire RC in the manner contemplated in this Agreement, with PK being the surviving non-profit corporation; and

NOW THEREFORE, PK and RC agree to the following:

1. The Parties agree to schedule a mutually acceptable closing date following receipt of the Public Utility Commission of Texas's ("PUC's") approval of the merger in order to facilitate the merger with the least disruption of customer service and ongoing business operations. On the closing date, the Parties will file RC's Articles of Dissolution with the Texas Secretary of State and the Affidavit of Closing with the PUC. The Parties contemplate the effective date of the sale-transfer-merger will be May 1, 2017 (the "STM Effective Date") although the Parties may coordinate to establish a different STM Effective Date.
2. On the STM Effective Date, RC will cease to exist and PK will be the surviving utility.

3. While PK may continue to operate RC under a contract of operation pending the formal merger, the actual consolidation of the retail public utilities will not occur until the STM Effective Date.
4. The closing will not be held until each Party has approved the merger in accordance with Texas law and each Party's respective governing documents.
5. On or before the closing date, RC will convey, assign, or transfer to PK all of its retail public utility assets, including but not limited to cash, accounts receivable, long-term receivables, and any and all personal property and real property. PK will be responsible for the ownership and management of said assets thereafter and their use to ensure long-term retail public utility service to the current RC service area. RC's CCN No. 13139 will be transferred into and merged with PK's CCN No. 12890. On or before the closing date, RC will assign and PK agrees to be assigned all rights and obligations in the Confidential Settlement Agreement and Release between RC and Southern Lakes & Leisure, LLC, which was effective March 31, 2016.
6. PK will assume the indebtedness and obligations of RC on the STM Effective Date. This will include but not be limited to the obligation to obtain adequate water supplies to serve the long-term needs of the current RC service area.
7. All customers within the current PK and RC service areas will be charged the rates now in effect in the PK service area. These rates will be subject to future modification by the customer-elected PK Board when the PK Board deems it appropriate to modify its tariff. It is recognized that certain customers of the RC service area may be obligated to pay certain impact fees and standby fees pursuant to contractual commitments separate and apart from the PK tariff.
8. All RC members actually receiving service or otherwise holding a corporation membership on the STM Effective Date will automatically become members of PK on the STM Effective Date without the payment of membership or other fees to PK. After the STM Effective Date, the customers of the PK service area and the RC service area will be members in the surviving corporation with equal rights, privileges and obligations. No RC membership interests will be canceled or remain outstanding. Applicants for service in either the PK service area or the RC service area after the STM Effective Date will not have these grandfathered membership rights and must qualify for membership and service under the terms of PK's bylaws and tariff. Future applicants for service in the currently delineated RC service area who require service to a lot whose owners have not paid an impact fee in the amount of \$5,900.00 (five thousand nine hundred and no/100 dollars) to RC must pay an

impact fee in this amount to PK. Upon sale-transfer-merger, the PK Board will amend its tariff as necessary to implement the terms of this Agreement.

EXECUTED IN Palo Pinto County by the following duly authorized representatives in duplicate originals:

POSSUM KINGDOM WATER SUPPLY CORPORATION

By: Ted Lewellen
Ted Lewellen
President, Board of Directors

4-19-2017
Date

ATTEST: Mike Patton
Mike Patton
Secretary, Board of Directors

ROCK CREEK WATER SUPPLY CORPORATION

By: Mel Snyder
Mel Snyder
President, Board of Directors

4-18-17
Date

ATTEST: Lynne Aldrich
Lynne Aldrich
Secretary, Board of Directors

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

BILL OF SALE AND ASSIGNMENT

THE STATE OF TEXAS §
 § **KNOW ALL MEN BY THESE PRESENTS:**
COUNTY OF WASHINGTON §

Rock Creek Water Supply, a corporation ("Grantor"), for and in consideration of the sum of Ten and No/100 (\$10.00) Dollars cash and other good and valuable consideration paid to Grantor by Possum Kingdom Water Supply Corporation, a Texas non-profit corporation ("Grantee"), the receipt and sufficiency of which is hereby acknowledged, has granted, sold, and conveyed, and by these presents does grant, sell, and convey unto Grantee, its successors and assigns, the following:

1. Personal Property. All items of furniture, fixtures, equipment, and miscellaneous tangible personal property owned by Grantor, and located on or within or used in connection with the ownership or operation of the improvements located in Palo Pinto County, Texas consisting of all of the personal property used and/or owned by Grantor in connection with the water distribution system serving The Hills Over PK development, comprised of the parcel more particularly described on Exhibit "1" attached hereto and incorporated herein as the "Project," and all of such items and personal property being collectively referred to herein as the "Personal Property".
2. Property Agreements. All of the Grantor's right, title, and interest as owner of the Project, to the extent Grantor's interest is assignable, in and to any and all agreements that relate solely to the ownership, use, leasing, management, advertising, security, maintenance, construction, or operation of the Project or the Personal Property (the "Property Agreements"). Included, without limitation, shall be all pipeline easements, all sanitary control easements, all public utility easements and all ingress/egress easements to utility facilities. Easements shall also be identified on Exhibit "1".
3. Intangibles. To the extent and relating solely to the ownership, development use, or projected use, maintenance, or operation of the Project, Personal Property, Leases, or Property Agreements, all of Grantor's right, title, and interest in and to all (i) plans, models, drawings, specifications, surveys, engineering reports, and other technical descriptions or materials that are in the possession of Grantor or its representatives (the "Plans"); (ii) warranties, guaranties, indemnities, and claims (the "Warranties"); (iii) licenses, permits, franchises, and similar rights issued by any federal, state, or municipal authority, including, without limitation, any waste, wastewater, storm sewer, or other utility capacity reservations or allocations issued solely for the benefit of the Project or improvements to be constructed on the above described land (the "Permits"); and (iv) all other claims or causes of action (the "Intangibles").

TO HAVE AND TO HOLD THE Personal Property, Property Agreements, Plans, Warranties, Permits, and Intangibles, together with all and singular rights and appurtenances thereto in anywise belonging, unto the said Grantee, its successors and assigns, forever, and Grantor does hereby bind itself and its successors to WARRANT and FOREVER DEFEND title to the Personal Property, Property Agreements, Plans, Warranties, Permits, and Intangibles unto said Grantee, its successors and assigns, against the lawful claims of any and all persons lawfully claiming or to claim the same or any part hereof.

Grantor warrants that there are no liens, encumbrances, or security agreements affecting the Project and/or Grantor's interest in the Project.

IN WITNESS WHEREOF, Grantor has executed this Bill of Sale and Assignment as of the 20 day of June, ~~199~~²⁰¹⁷.

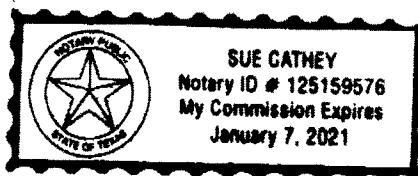
GRANTOR:

By: Melvin Snyder
Name: Melvin Snyder
Title: President, Board of Directors

THE STATE OF TEXAS §
 §
COUNTY OF WASHINGTON §
 Palo Pinto

BEFORE ME, the undersigned authority on this day personally appeared Melvin Snyder, of Rock Creek Water Supply, a non-profit corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed as an individual and corporate officer.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 20th day of June, 2017.



Sue Cathey
Notary Public in and for the State of Texas
Printed Name: Sue Cathey
My Commission Expires: 1-7-21

Exhibit "1"

To Bill of Sale and Assignment

Legal Description of Project

Easements

Rock Creek Water Supply Corporation System Inventory			
	Item Description	Qty.	Unit
Distribution System			
Pressure Plane 1			
	4" PVC	11510	LF
	6" PVC	41818	LF
	8" PVC	2927	LF
	4" Gate Valve	18	EA
	6" Gate Valve	62	EA
	8" Gate Valve	1	EA
	4" Blow-off Valve	17	EA
	6" Blow-off Valve	2	EA
Pressure Plane 2			
	4" PVC	3018	LF
	6" PVC	502	LF
Pressure Plane 3			
	2" PVC	123	LF
	4" PVC	21396	LF
	6" PVC	39674	LF
	4" Gate Valve	13	EA
	6" Gate Valve	41	EA
	4" Blow-off Valve	11	EA
	6" Blow-off Valve	2	EA
Pump Station No. 1			
	Pumps 40 HP	3	EA
	Pump Station Piping, Valves, and Appurtenances	1	EA
	Ground Storage Tank (150,000 gal)	1	EA
	Pressure Tank (8,000 gal)	1	EA
Pump Station No. 2			
	Pumps 7.5 HP	2	EA
	Pump Station Piping, Valves, and Appurtenances	1	EA
	Ground Storage Tank (10,000 gal)	1	EA
	Pressure Tank (1,000 gal)	1	EA
Pump Station No. 3			
	Pumps 30 HP	2	EA
	Pump Station Piping, Valves, and Appurtenances	1	EA
	Ground Storage Tank (65,000 gal)	1	EA
	Pressure Tank (7,500 gal)	1	EA

PUBLIC UTILITY COMMISSION OF TEXAS

Docket No. 46312

Application of Rock Creek Water Supply Corporation and
Possum Kingdom Water Supply Corporation for Sale, Transfer and
Merger of Facilities and Certificate of Convenience and Necessity

STATE OF TEXAS
COUNTY OF PALO PINTO

AFFIDAVIT OF CLOSING

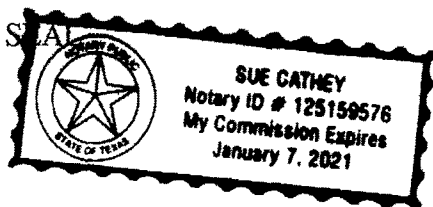
I, Mel Snyder, certify that I serve as Board President of Rock Creek Water Supply Corporation (Transferor), the public utility that will be sold, transferred, and merged in the above-referenced application. This sale-transfer-merger (STM) of the public utility and its assets is scheduled to close on July 1, 2017. Management and control of the utility system is scheduled to transfer on the same day, July 1, 2017. Both events will occur after receipt of the January 13, 2017 letter from the Public Utility Commission of Texas (PUC) authorizing the closing of this STM.

As stated in the STM application, all customer deposits will be refunded before or at closing. The Transferor consents to the transfer of the certificate of convenience and necessity (CCN), which is the subject of this application to be transferred to Transferee Possum Kingdom Water Supply Corporation (PKWSC). By affixing my authorized signature below, Transferor grants to PKWSC its power of attorney to undertake on the Transferor's behalf all actions necessary to effectuate the CCN transfer, including, but not limited to, executing all necessary consent documents on behalf of the Transferor.

Mel Snyder
Affiant

SWORN AND SUBSCRIBED TO under oath by Mel Snyder
on behalf of the above-identified Transferor before the undersigned notary public in
witness of which I place my hand and seal on this ____ day of March, 2017.

Sue Cathey
Print name: Sue Cathey



Notary Public for the State of Texas
Commission expires: 1-7-21