



Control Number: 47027



Item Number: 27

Addendum StartPage: 0

**PUC DOCKET NO. 47027**

**APPLICATION OF AQUA WATER SUPPLY CORPORATION AND FAYETTE WATER SUPPLY CORPORATION FOR SALE, TRANSFER, MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN BASTROP COUNTY**      § **PUBLIC UTILITY COMMISSION**  
§  
§  
§ **OF TEXAS**  
§  
§

**PROPOSED NOTICE OF APPROVAL**

This Notice of Approval addresses the application of Aqua Water Supply Corporation and Fayette Water Supply Corporation (collectively, the applicants) for the sale, transfer, or merger of certificate rights in Bastrop County, Texas. Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) recommended that the application, as supplemented, be approved. The application, as supplemented, 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 April 4, 2017, Aqua Water Supply Corporation (WSC) and Fayette WSC filed an application for approval of the transfer of certificate rights in Bastrop County, Texas.
2. Aqua WSC holds water Certificate of Convenience and Necessity (CCN) No. 10294 in Bastrop County, Texas.
3. Fayette WSC holds water CCN No. 10726 in Bastrop County, Texas.
4. Approval of the application would transfer a portion of the service area from Aqua WSC in CCN No. 10294 to Fayette WSC in CCN No. 10726.
5. On April 6, 2017, the administrative law judge (ALJ) issued Order No. 1 requiring Staff to file a recommendation regarding the administrative completeness of the application.
6. On May 8, 2017, the ALJ issued Order No. 2: Finding Application Incomplete and Deficient; Establishing Deadline and Opportunity to Cure.
7. On May 19, 2017, Aqua WSC filed a Supplement to the Application regarding application revisions, verified acreage of requested area, attached updated public notices, and a signed copy of the applicants agreement, including a map of the requested area.
8. On May 19, 2017, Staff filed its First Request for Information (RFI) to Fayette WSC

9. On May 22, 2017, Staff filed a revised RFI to Fayette WSC.
10. On June 7, 2017, Fayette WSC filed a response to the Staff's First RFI to Fayette WSC.
11. On July 5, 2017, the ALJ issued Order No. 3: Finding Application Incomplete and Deficient; Establishing Deadline and Opportunity to Cure.
12. On July 6, 2017, Aqua WSC filed a Second Supplement to the Application addressing identified deficiencies.
13. On August 28, 2017, Staff filed its Supplemental Recommendation on Administrative Completeness, recommending that the applicants' application be found administratively complete.
14. On August 29, 2017, the ALJ issued Order No. 4: Finding Application Sufficient and Complete; Finding Proposed Notice Sufficient and Requiring Notice; and Establishing Procedural Schedule.
15. On October 6, 2017, Staff filed its Recommendation on Sufficiency of Notice which recommended that the applicants' notice be found sufficient.
16. On October 10, 2017, the ALJ issued Order No. 5: Finding Notice Sufficient and Establishing Schedule for Continued Processing.
17. On November 15, 2017, Staff filed its Recommendation on the Transaction recommending that the applicants be approved to proceed with the sale and transfer of the certificated service area.
18. On November 16, 2017, the ALJ issued Order No. 6: Approving Sale and Transfer Transaction to Proceed.
19. On December 14, 2017, the applicants filed Closing Documents, including a signed acknowledgement that the transaction has been finalized and confirmation that there were no customer deposits to transfer from Aqua WSC to Fayette WSC at the time of the transaction.
20. On December 19, 2017, Staff filed its Closing Documents Sufficiency Recommendation, recommending that the closing documents filed by the applicants be found sufficient.
21. On December 20, 2017, the ALJ issued Order No. 7: Finding Closing Documents Sufficient and Establishing a Procedural Schedule.
22. On January 23, 2018, Fayette WSC filed a signed consent form agreeing to the final map and certificate, as prepared by Staff. The consented to map and CCN No. 10726 were attached.

23. On January 24, 2018, Aqua WSC filed a signed consent form agreeing to the decertification and transfer of the identified portion of its service area, as well as the final map and certificate prepared by Staff. The consented to map and CCN No. 10294 were attached.
24. On February 7, 2018, Aqua WSC, Fayette WSC, and Staff jointly filed a Motion to Admit Evidence and Proposed Notice of Approval.
25. On February \_\_, 2018, the ALJ issued Order No. \_\_ admitting the requested evidence.

### **Applicants' Transaction**

26. The total area being acquired includes approximately 2,035 acres and 0 current customers.
27. The area subject to this transaction is located approximately 3.5 miles northwest of downtown Cistern, Texas and is generally bounded on the north by County Road 310, on the east by the county line between Bastrop and Fayette Counties, on the south by Janca Shade Road; and on the west by County Road 297.
28. As a result of the application, Aqua WSC will no longer provide service to the transferred area and its CCN No. 10294 will be amended to remove that area. Fayette WSC's CCN No. 10726 will be amended to include the transferred area.

### **Notice**

29. As indicated by the Acknowledgement of Receipt filed on April 10, 2017, the Commission caused notice of the application to be published in the *Texas Register* on April 21, 2017.
30. On September 14, 2017, the applicants mailed notice of the application to certain neighboring utilities, cities, and customers.
31. On September 28, 2017, the applicants filed Proof of Notice.

### **Informal Disposition**

32. More than 15 days have passed since completion of the notice provided in this docket.
33. The applicants and Staff are the only parties to this proceeding.
34. No protests or requests for hearing were filed in this docket.

## **II. Conclusions of Law**

1. The Commission has jurisdiction over these matters pursuant to Texas Water Code (TWC) §§ 13.041, 13.241, 13.251, and 13.301.<sup>1</sup>

---

<sup>1</sup> Tex. Water Code Ann. § 13.041, 13.241, 13.251, and 13.301 (West 2008 and Supp. 2017).

2. Aqua WSC and Fayette WSC are retail public utilities as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. The applicants provided notice of the application in compliance with TWC § 13.301(a)(2).
4. The application was processed in accordance with the requirements of the Administrative Procedure Act,<sup>2</sup>the Texas Water Code, and Commission rules.
5. After considering the factors in TWC § 13.246(c), Fayette WSC demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area.
6. The Commission approved the applicant's transaction prior to the expiration of the 120-day notification period in accordance with 16 TAC §§ 24.109(a) and (j).
7. The applicants completed the transaction within 180 days of the date of the Commission's authorization to proceed with the sale in accordance with 16 TAC § 24.109(o).
8. Aqua WSC and Fayette WSC have demonstrated that the sale and transfer of a portion of service area from water CCN No. 10294 to water CCN No. 10726 requested in this application are necessary for the service, accommodation, convenience, and safety of the public.
9. As required by TWC § 13.257(r) and 16 TAC § 24.106(e), the applicants are required to record a certified copy of the approved certificate and map, 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.
10. The application does not constitute a major rate proceeding, as defined by 16 TAC § 22.2(27).
11. The requirements for informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

---

<sup>2</sup> Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2008 and Supp. 2017).

### **III. Ordering Paragraphs**

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

1. The application, as supplemented, is approved.
2. A portion of the service area in Bastrop County associated with water CCN No. 10294 is transferred to Fayette WSC under water CCN No. 10726.
3. Fayette WSC shall serve every customer and applicant for service within the area certificated under water CCN No. 10726, and such service shall be continuous and adequate.
4. Fayette WSC shall comply with the recording requirements of TWC §§ 13.257(r) and (s) for the area in Bastrop County affected by the transfer and submit to the Commission evidence of the recording no later than 31 days after receipt of this Order.
5. 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 \_\_\_\_\_ day of \_\_\_\_\_, 2018.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

---

**JEFFREY J. HUHN  
ADMINISTRATIVE LAW JUDGE**

**PUC DOCKET NO. 47027**

**APPLICATION OF AQUA WATER SUPPLY CORPORATION AND FAYETTE WATER SUPPLY CORPORATION FOR SALE, TRANSFER, MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN BASTROP COUNTY** §  
§  
§ **BEFORE THE PUBLIC UTILITY COMMISSION** §  
§ **OF TEXAS** §

**JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL**

**COMES NOW** the Fayette Water Supply Corporation (Fayette WSC), Aqua Water Supply Corporation (Aqua WSC), and Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) (collectively, Parties), in accordance with the procedural schedule established in Order No. 7, jointly file this Motion to Admit Evidence and Proposed Notice of Approval. The Proposed Notice of Approval would approve the application, as supplemented and amended. In support thereof, the Parties show the following:

**I. BACKGROUND**

On April 4, 2017, Fayette WSC and Aqua WSC (collectively, Applicants) filed an application for sale, transfer, or merger (STM) of facilities in Bastrop County, Texas. The application proposes the transfer of a portion of Aqua WSC’s service area within water certificate of convenience and necessity (CCN) No. 10294 to Fayette WSC under water CCN No. 10726. There are no associated facilities involved in this transaction. The application has been processed pursuant to the requirements of the Texas Administrative Procedures Act, Tex. Gov’t Code §§ 2001.001-.902, Tex. Water Code (TWC) §§ 13.242, 13.246, 13.254, and 13.301, and 16 Tex. Admin. Code (TAC) §§ 24.101, 24.109, and 24.112. Order No. 7, issued on December 20, 2017, established February 8, 2018 as the deadline for the parties to file a joint proposed notice of approval. Therefore, this pleading is timely filed.

**II. MOTION TO ADMIT EVIDENCE**

The Parties jointly request to admit the following evidence into the record of this proceeding:

- 1) Application of Aqua WSC and Fayette WSC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Bastrop County, including all attachments, filed April 4, 2017;
- 2) Supplement to the Application, filed on May 19, 2017;

- 3) Fayette WSC's Response to Staff First RFI Nos. Staff 1-1 Through Staff 1-7, filed on June 7, 2017;
- 4) Second Supplement to the Application, filed on July 6, 2017;
- 5) Proof of Notice, filed on September 28, 2017;
- 6) Staff's Recommendation on the Transaction, including the attached Staff memorandum, filed on November 15, 2017;
- 7) Closing Documents, filed on December 14, 2017;
- 8) Staff's Closing Documents Sufficiency Recommendation, including the attached Staff memorandum, filed on December 19, 2017;
- 9) Fayette WSC Consent Form, including the attached CCN No. 10726 and map, filed on January 23, 2018; and
- 10) Aqua WSC Consent Form, including the attached CCN No. 10294 and map, filed on January 24, 2017.

### **III. PROPOSED NOTICE OF APPROVAL**

The attached Proposed Notice of Approval would approve the STM application of Aqua WSC and Fayette WSC, as supplemented, and thus would effectuate the transfer of a portion of the certificated service area in Bastrop County, Texas currently held under Aqua WSC's CCN No. 10294 to Fayette WSC's CCN No. 10726. The final map and certificates are attached to the applicants' consent filings. Staff and the Applicants have reviewed and agree to the attached Proposed Notice of Approval.

### **IV. CONCLUSION**

This docket was processed in accordance with applicable statutes and Commission rules. Notice of the application was provided to interested parties. Aqua WSC, Fayette WSC, and Staff are the only parties to this proceeding. Staff has reviewed the application, and the supplements and amendments thereto, and recommends that it be approved.

The Parties respectfully request that the Commission approve the application as supplemented, grant the admittance of the specified evidence, and adopt the attached proposed Notice of Approval.



DATED: February 7, 2017

Respectfully submitted,

**AQUA WATER SUPPLY CORPORATION**



Perry C. Steger  
Engineer of Record, Aqua Water Supply  
Corporation  
Registered Professional Engineer (No. 65772),  
State of Texas

1978 S. Austin Avenue  
Georgetown, Texas 78602  
Phone: (512) 930-9412  
perry.steger@stegerbizzell.com

**FAYETTE WATER SUPPLY CORPORATION**

James Rebeck  
General Manager, Fayette Water Supply  
Corporation  
200 Bordovsky Road  
La Grange, Texas 78945  
(979) 968-6475  
Fax (979) 968-8239

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Katherine Lengieza Gross  
Managing Attorney

Matthew A. Arth  
State Bar No. 24090806  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7021  
(512) 936-7268 (facsimile)  
Matthew.Arth@puc.texas.gov

**PUC DOCKET NO. 47027**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on February  
7, 2018, 2017 in accordance with the requirements of 16 Tex. Admin. Code § 22.74.

  
\_\_\_\_\_  
Perry C. Steger