



Control Number: 48103



Item Number: 10

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APPLICATION OF FALL CREEK
UTILITY COMPANY, INC. AND
LGRVR WATER SUPPLY
CORPORATION FOR SALE,
TRANSFER, OR MERGER OF
FACILITIES AND CERTIFICATE
RIGHTS IN HOOD COUNTY

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PUBLIC UTILITY COMMISSION 9:21

OF TEXAS - FALL CREEK

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 in response to Order No. 3. In support thereof, Staff shows the following:

I. BACKGROUND

On February 26, 2018, LGRVR Water Supply Corporation (LGRVR WSC or Purchaser) and Fall Creek Utility Company, Inc. (Fall Creek or Seller) (collectively, Applicants) filed an application for sale, transfer, or merger of facilities and certificate rights in Hood County, Texas. Specifically, LGRVR WSC seeks approval to acquire facilities and to transfer Fall Creek's water and sewer service area under Certificate of Convenience and Necessity (CCN) Nos. 12884 (water) and 20854 (sewer). The requested area includes approximately 22 acres and 71 water and 69 sewer connections.

On April 24, 2018, Order No. 3 was issued, establishing a deadline of June 1, 2018, for Staff to request a hearing or file a recommendation on approval of the sale and issuance of a certificate. This pleading is therefore timely filed.

II. RECOMMENDATION

As detailed in the attached memorandum from Patricia Garcia in the Commission's Water Utility Regulation Division, Staff has reviewed the application and recommends that the Applicants be authorized to proceed with the sale. Specifically, Staff's review indicates that the transaction would satisfy the relevant statutory and regulatory criteria, including the factors

contained in TWC¹ § 13.246(c) and the relevant financial, managerial, and technical criteria. Staff therefore recommends that the Applicants be authorized to proceed with the sale and that a deadline of seven days from the filing of closing documents, documentation regarding the disposition of customer deposits, if any, and a copy of the approval letter from the Texas Commission on Environmental Quality (TCEQ) transferring Seller's wastewater permit to Purchaser be established for Staff to file a recommendation on the sufficiency of the documentation and propose a procedural schedule for further processing of the application.

III. CONCLUSION

For the reasons detailed above, Staff recommends that the Applicants be authorized to proceed with the transaction and that a deadline of seven days from the filing of proof of sale documentation, documentation regarding the disposition of customer deposits, if any, and a copy of the approval letter from the TCEQ transferring Seller's wastewater permit to Purchaser be established for Staff to file a recommendation on the documentation and propose a procedural schedule.

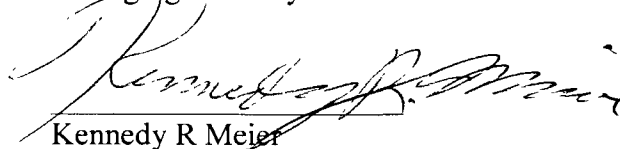
¹ Tex. Water Code Ann. (West 2008 & Supp. 2017) (TWC).

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Katherine Lengieza Gross
Managing Attorney

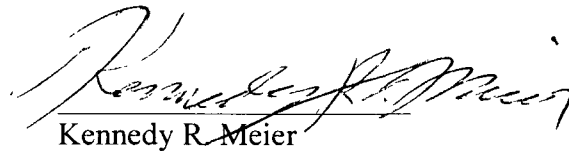


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DOCKET NO. 48103

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on June 1, 2018,
in accordance with 16 TAC § 22.74.



Kennedy R. Meier

PUC Interoffice Memorandum

To: Kennedy Meier, Attorney
Legal Division

Thru: Tammy Benter, Director
Heidi Graham, Manager
Water Utility Regulation Division

From: Patricia Garcia, Engineering Specialist
Water Utility Regulation Division

Date: May 31, 2018

Subject: **Docket No. 48103**, *Application of Fall Creek Utility Company, Inc. and LGRVR Water Supply Corporation for Sale, Transfer, or Merger of Facilities and Certificate Rights in Hood County*

On February 26, 2018, LGRVR Water Supply Corporation (LGRVR WSC or Purchaser) and Fall Creek Utility Company, Inc. (Fall Creek or Seller) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Hood County, Texas, pursuant to Texas Water Code Ann. (TWC) § 13.301 and the 16 Texas Administrative Code (TAC) § 24.109. Specifically, LGRVR WSC seeks approval to acquire facilities and to transfer Fall Creek's water and sewer service area under Certificate of Convenience and Necessity (CCN) Nos. 12884 (water) and 20854 (sewer). The requested area includes approximately 22 acres and 71 water and 69 sewer connections.

Background

The purpose of the transaction is to transfer facilities, service area and existing customers from an investor-owned utility to a non-profit member-owned water supply corporation.

Notice

The comment period ended April 30, 2018, and no protests or opt-out requests were received.

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.

Fall Creek has a Texas Commission on Environmental Quality (TCEQ) approved Public Water System (PWS) Identification No. 1110114 and a TCEQ approved Wastewater Discharge Permit No. WQ0013809001. Fall Creek does not have any violations listed in the TCEQ database under either system. No additional construction is necessary for LGRVR WSC to serve the requested area.

TWC § 13.246(c)(2) requires the Commission to consider the need for additional service in the requested area.

The purpose of the transaction is to transfer facilities, service area and existing customers from an investor-owned utility to a non-profit member-owned water supply corporation. Therefore, there is a 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 public utility of the same kind already servicing the proximate area.

There will be no effect on any retail public utility servicing the proximate area as there are no other water or sewer providers in the area.

TWC § 13.246(c)(4) requires the Commission to consider the ability of the Applicant to provide adequate service.

Fall Creek has a Texas Commission on Environmental Quality (TCEQ) approved public water system (PWS) ID No. 1110114 and a TCEQ approved Wastewater Discharge Permit No. WQ0013809001. Fall Creek does not have any violations listed in the TCEQ database under either system. No additional construction is necessary for LGRVR WSC to serve the requested area. LGRVR WSC will provide water and sewer service to the existing customers in the requested area though the facilities currently used by Fall Creek.

TWC § 13.246(c)(5) requires the Commission to consider the feasibility of obtaining service from an adjacent retail public utility.

Fall Creek is currently serving customers and has sufficient capacity, therefore, the feasibility of obtaining service from another adjacent retail public utility was not considered. This application is only to change the name and type of utility.

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.

Pursuant to TWC § 13.246(c)(6) the Commission is required to consider the financial ability of an applicant to pay for facilities necessary to provide continuous and adequate service and the financial stability of the applicant. The criteria and tests are listed in 16 TAC § 24.11 including leverage tests and an operations test.

- LGRVR WSC meets the leverage test with a debt service coverage ratio of 9.83, which is more than 1.25; and
- LGRVR WSC meets the operations test. 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. LGRVR WSC has \$23,199 of cash available and continuing revenue from the sale of water and sewer service to the homeowners of Lake Granbury RV Ranch. Projections included no negative cash flow. Thus, there are no shortages to cover.

TWC §§ 13.246(c)(7) and (9) require the Commission to consider the environmental integrity and the effect on the land to be included in the certificate.

The environmental integrity of the land will not be affected as no additional construction is needed to provide service to the requested area.

TWC § 13.246(c)(8) requires the Commission to consider the probable improvement in service or lowering of cost to consumers.

LGRVR WSC will provide water and sewer service to the existing customers in the requested area.

The Applicants meet all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations. Approving this application to transfer the water

CCN No. 12884 and sewer CCN No. 20854 to LGRVR WSC is necessary for the service, accommodation, convenience and safety of the public.

Recommendation on approval of sale

Pursuant to 16 TAC § 24.109(i), Staff recommends the Commission find that the transaction will serve the public interest and allow the Applicants to proceed with the proposed transaction. Staff notes there are deposits held by Fall Creek for the existing customers. The deposits will be transferred to LGRVR WSC when the sale is completed. Staff recommends LGRVR WSC provide proof of the sale, proof that the deposits were transferred to LGRVR WSC and a copy of the approval letter from TCEQ transferring the wastewater permit to LGRVR WSC. Staff further recommends that a public hearing is not necessary.

Lastly, the approval of the transfer expires six months from the date of the Commission's written approval. If the transaction is not consummated within that period, and unless the Applicants request and receive an extension from the Commission, the approval is void and the Applicants must re-apply for the approval of the transfer. In addition, the Applicants should be informed that the CCNs will remain in the name of Fall Creek Utility Company, Inc. until the transaction is complete and approved in accordance with the Commission's rules and regulations.