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DOCKET NO. 48103

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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
PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

NOTICE OF APPROVAL

This Notice of Approval approves the application of Fall Creek Utility Company, Inc. and LGRVR Water Supply Corporation for the sale and transfer of all water and sewer certificate rights in Hood County held under certificates of convenience and necessity numbers 12884 and 20854 by Fall Creek to LGRVR.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Fall Creek is a domestic for-profit corporation registered with the Texas secretary of state under file number 143640400.
2. Fall Creek operates, maintains, and controls facilities for providing water service under certificate of convenience and necessity (CCN) number 12884 in Hood County.
3. Fall Creek operates, maintains, and controls facilities for providing sewer service under CCN number 20854 in Hood County.
4. Fall Creek owns a Texas Commission on Environmental Quality (TCEQ) approved public water system under number 1110114.
5. Fall Creek holds a TCEQ-approved wastewater discharge permit number WQ0013809001.
6. LGRVR is a domestic non-profit corporation registered with the Texas secretary of state under file number 802928362.



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Application

7. On February 26, 2018, Fall Creek and LGRVR requested approval of the sale and transfer of Fall Creek's water (CCN number 12884) and sewer (CCN number 20854) systems to LGRVR.
8. The sale and transfer affects 71 existing customers with water service and 69 existing customers with sewer service in Hood County.
9. The facilities to be sold and transferred were not subject to customer contributions in aid of construction.
10. The applicants agreed to the sale and transfer of all facilities and service area under water CCN number 12884 and sewer CCN number 20854 from Fall Creek to LGRVR.
11. The requested area is located approximately four miles south of downtown Acton and is generally bounded on the north by Gee Road, on the east by Johnson Road, on the south by Rollins Road, and on the west by Rainey Court.
12. In Order No. 2 issued on April 5, 2018, the administrative law judge (ALJ) found the application administratively complete.

Notice

13. Notice of the application appeared in the March 16, 2018 issue of the *Texas Register*.
14. LGRVR mailed notice of the application to neighboring utilities, counties, cities, and affected parties on March 30, 2018.
15. LGRVR filed an affidavit of William Lodol, president of LGRVR on April 12, 2018, attesting to the provision of notice to current customers, landowners, neighboring utilities, and cities.
16. In Order No. 3 issued on April 24, 2018, the ALJ found the notice sufficient.

Sale

17. In Order No. 4 issued June 5, 2018, the ALJ approved the transaction to proceed, required the applicants to file proof that the transaction had closed, and that customer deposits had been addressed.

18. On December 21, 2018, LGRVR filed notice that the sale had closed on November 20, 2018, and also filed a letter from Abel Lara, vice president of LGRVR, who attested that the customer deposits held by Fall Creek had been refunded to Fall Creek's customers.
19. In Order No. 6 issued January 15, 2019, the ALJ found the closing documents sufficient.

Evidentiary Record

20. On February 28, 2019, the parties filed a joint motion to admit evidence and proposed notice of approval.
21. In Order No. 7 issued March 11, 2019, the ALJ admitted the following evidence into the record: (a) the application of Fall Creek and LGRVR, filed February 26, 2018; (b) the applicants' affidavit and proof of notice, filed on April 12, 2018; (c) Commission Staff's recommendation on the sale transaction and all attachments, filed on June 1, 2018; (d) the applicants' information regarding the closing of the proposed transaction, filed on December 21, 2018; (e) the applicants' additional documentation regarding disposition of customer deposits, filed on January 7, 2019; (f) Commission Staff's recommendation on proof of sale, filed on January 10, 2019; (g) the applicants' consent forms to the final maps and certificates, filed on February 21, 2019; and (h) the attached certificates and maps.
22. On May 22, 2019, the parties filed a joint motion to admit into evidence LGRVR's current tariff.
23. In Order No. 10 issued May 28, 2019, the ALJ admitted LGRVR's current tariff into the record.

System Compliance-Texas Water Code (TWC) § 13.301(e)(3)(A); 16 Texas Administrative Code (TAC) §§ 24.227(a), 24.239(j)(3)(A), (j)(5)(A)

24. Fall Creek has no existing violations with the public water system, and the system is in compliance with TCEQ, Texas Health and Safety Code, and Commission rules.
25. Fall Creek has no existing violations with the wastewater system, and the system is in compliance with TCEQ and Commission rules.
26. LGRVR has not been subject to any enforcement action by the Commission, TCEQ, the Texas Department of Health, the Office of the Attorney General, or the United States Environmental Protection Agency.

Adequacy of Existing Service-TWC § 13.246(c)(1); 16 TAC § 24.239(j)(5)(B)

27. LGRVR will use Fall Creek's existing water and sewer systems which have adequate capability to continuously serve their members and no additional construction is necessary.

Need for Additional Service-TWC § 13.246(c)(2); 16 TAC § 24.239(j)(5)(C)

28. The application and transaction is only to transfer existing facilities, customers, certificate rights, and service areas from Fall Creek to LGRVR.
29. LGRVR has not received any new requests for service, and LGRVR is not currently requesting to add additional uncertificated area.
30. Fall Creek's existing customers in the requested areas have a need for service.

Effect of Approving the Transaction and Granting the Amendment-TWC § 13.246(c)(3); 16 TAC § 24.239(j)(5)(D)

31. There are four utilities, cities, or political subdivisions providing water or sewer service within two miles of the requested areas.
32. Fall Creek and LGRVR are the only utilities affected by this sale and transfer.

Ability to Serve: Managerial and Technical-TWC §§ 13.241(a), 13.246(c)(4), 13.301(b); 16 TAC §§ 24.227(a), 24.239(g), (j)(5)(E)

33. LGRVR's management team is comprised of the same people who currently manage Fall Creek.
34. LGRVR will continue to use the licensed operators who currently operate the water and sewer systems for Fall Creek.
35. LGRVR has demonstrated adequate managerial and technical expertise to provide continuous and adequate water and sewer service.

Ability to Serve: Financial Ability and Stability-TWC §§ 13.241(a), 13.246(c)(6), 13.301(b); 16 TAC §§ 24.227(a), 24.239(g), (j)(5)(G)

36. LGRVR's projected operating revenues are sufficient to cover the projected operations and maintenance expense for the first five years after the completion of the proposed sale and transfer.
37. LGRVR meets the debt-service-coverage ratio requirement of more than 1.25.

38. LGRVR has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations.
39. LGRVR has demonstrated the financial capability to provide continuous and adequate water and sewer service.

Financial Assurance-TWC §§ 13.246(d), 13.301(c); 16 TAC § 24.239(h)

40. There is no need to require LGRVR to provide a bond or other financial assurance to ensure continuous and adequate service.

Feasibility of Obtaining Service from Adjacent Retail Public Utility-TWC § 13.246(c)(5); 16 TAC § 24.239(j)(5)(F)

41. Fall Creek is serving the customers in the requested areas, and following the sale and transfer, LGRVR will provide service using existing infrastructure; therefore, it is not feasible to obtain service from another adjacent retail public utility.

Environmental Integrity-TWC § 13.246(c)(7); 16 TAC § 24.239(j)(5)(H)

42. The area will be served with existing infrastructure, and the sale and transfer should have a minimal effect on the environmental integrity of the requested areas.

Effect on Land-TWC § 13.246(c)(9)

43. The area will be served with existing infrastructure, and the sale and transfer should have a minimal effect on the land.

Improvement of Service or Lowering of Costs-TWC § 13.246(c)(8); 16 TAC § 24.239(j)(5)(I)

44. LGRVR will provide service to customers currently served by Fall Creek.
45. Customers in the requested areas will be charged the same rates they were charged before the sale and transfer of Fall Creek's water and sewer systems.

Maps

46. On February 7, 2019, Commission Staff emailed to the applicants proposed maps and certificates related to this docket.
47. On February 21, 2019, the applicants filed consent forms concurring with the maps and certificates.
48. On February 28, 2019, the proposed maps and certificates were filed as an attachment to the joint motion to admit evidence.

Certificate

49. All service area rights held by Fall Creek's water CCN number 12884 and sewer CCN number 20854 have transferred to LGRVR.

Informal Disposition

50. More than 15 days have passed since the completion of the notice provided in this docket.
51. No person filed a protest or motion to intervene.
52. Fall Creek, LGRVR, and Commission Staff are the only parties to this proceeding.
53. No party requested a hearing and no hearing is needed.
54. Commission Staff recommended approval of the application.
55. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction under Texas Water Code (TWC) §§ 13.041, 13.241, 13.244, 13.246, 13.251, and 13.301.
2. Fall Creek is a retail public utility as defined by TWC § 13.002(19) and 16 TAC 24.3(59).
3. LGRVR is a water supply corporation as defined in TWC § 13.002(24) and 16 TAC § 24.3(77).
4. Public notice of the application was provided as required by TWC § 13.301(a)(2) and 16 TAC § 24.239.
5. The Commission processed the application as required by the TWC, the Administrative Procedure Act¹, and Commission rules.
6. Fall Creek and LGRVR have complied with the requirements of 16 TAC § 24.239(m) with respect to customer deposits.
7. Fall Creek and LGRVR completed the sale within the time required by 16 TAC § 24.239(o).

¹ Tex. Gov't Code ch. § 2001.

8. After considering the factors in TWC § 13.246(c), LGRVR has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and its current service area. TWC § 13.301(b).
9. Fall Creek and LGRVR complied with the requirements of 16 TAC § 24.239(m) with respect to customer deposits.
10. The applicants have demonstrated that the sale and transfer of Fall Creek's water and sewer systems and CCNs' to LGRVR will serve the public interest and are necessary for the service, accommodation, convenience, or safety of the public. TWC § 13.301(d), (e).
11. LGRVR must record a certified copy of the approved map for the certificate amendments, along with a boundary description of the service area, in the real property records of Hood County within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording. TWC § 13.257(r), (s).
12. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

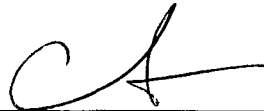
In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission approves the sale and transfer of Fall Creek's water system and CCN number 12884, and sewer system CCN number 20854 to LGRVR.
2. The Commission grants the certificates attached to this Notice of Approval.
3. The Commission approves the maps attached to the joint motion for adoption of notice of approval filed on February 28, 2019.
4. LGRVR must serve every member within the approved area under water CCN number 12884 who requests water service and meet the terms of LGRVR's water service, and such service must be continuous and adequate.
5. LGRVR must serve every member within the approved area under sewer CCN number 20854 who requests sewer service and meet the terms of LGRVR's sewer service, and such service must be continuous and adequate.

6. LGRVR must comply with the recording requirements in TWC § 13.257(r) and (s) for the areas in Hood County affected by the application and submit to the Commission evidence of the recording no later than 45 days after receipt of this Notice of Approval.
7. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 7th day of June 2019.

PUBLIC UTILITY COMMISSION OF TEXAS



CHRISTOPHER OAKLEY
ADMINISTRATIVE LAW JUDGE



Public Utility Commission of Texas

By These Presents Be It Known To All That

LGRVR Water Supply Corporation

having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, LGRVR Water Supply Corporation, is entitled to this

Certificate of Convenience and Necessity No. 20854

to provide continuous and adequate sewer utility service to that service area or those service areas in Hood County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48103 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the LGRVR Water Supply Corporation, to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this 7th day of June 2019.



Public Utility Commission of Texas

By These Presents Be It Known To All That

LGRVR Water Supply Corporation

having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, LGRVR Water Supply Corporation, is entitled to this

Certificate of Convenience and Necessity No. 12884

to provide continuous and adequate water utility service to that service area or those service areas in Hood County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48103 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the LGRVR Water Supply Corporation, to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this 7th day of June 2019.

LGRVR Water Supply Corporation
Sewer CCN No. 20854
PUC Docket No. 48103
Transferred all of Fall Creek Utility Company, Inc., CCN No. 20854 in Hood County

CCN
20889

CCN
20854

CCN
20889



Public Utility Commission of Texas
1701 N. Congress Ave
Austin, TX 78701

Sewer CCN

- ☐ 20854 - LGRVR WSC
- ☐ 20889 - Acton MUD

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Feet



Map by Komal Patel
Date created January 22 2019
Project Path n:\finalmapping
48103LGRVRWSCSewer.mxd

LGRVR Water Supply Corporation

Sewer CCN No. 20854

PUC Docket No. 48103

Transferred all of Fall Creek Utility Company, Inc., CCN No. 20854 in Hood County

CCN
20889

CCN
20854

CCN
20889

Rollins



Public Utility Commission of Texas
1701 N. Congress Ave
Austin, TX 78701

Sewer CCN

20854 - LGRVR WSC

20889 - Acton MUD

0 200 400
Feet



Map by Komal Patel
Date created January 22, 2019
Project Path n:\finalmapping\
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