



Control Number: 48448



Item Number: 24

Addendum StartPage: 0

DOCKET NO. 48448

APPLICATION OF PATTON VILLAGE § PUBLIC UTILITY COMMISSION
WATER COMPANY AND THE CITY §
OF PATTON VILLAGE FOR SALE, § OF TEXAS
TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN MONTGOMERY COUNTY §

COMMISSION STAFF'S RECOMMENDATION ON THE TRANSACTION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and in response to Order No. 5, files this Staff's Recommendation on the Transaction. In support thereof, Staff shows the following:

I. BACKGROUND

On June 8, 2018, Patton Village Water Company (Seller) and the City of Patton Village (Purchaser) (collectively, Applicants) filed an application for approval of a sale, transfer, or merger of facilities and Certificate of Convenience and Necessity (CCN) rights in Montgomery County, Texas. Specifically, Purchaser seeks to acquire all of the water system assets and service area of the Seller held under water certificate of convenience and necessity (CCN) No. 11193. The total area being requested includes approximately 1,127 acres and serves approximately 550 current customers.

On October 15, 2018, the Administrative Law Judge (ALJ) issued Order No. 5, finding the Applicants' notice sufficient and requiring Staff to request a hearing or file a recommendation regarding approval of the sale to proceed by December 5, 2018, which was declared a holiday for state agencies. Therefore, this pleading is timely filed.

II. RECOMMENDATION ON THE TRANSACTION TO PROCEED

As detailed in the attached memorandum of Patricia Garcia of the Commission's Water Utility Regulation Division, Staff recommends that the Applicants be approved to proceed with the transaction. Specifically, Staff's review indicates that the transaction would satisfy the relevant statutory and regulatory criteria, including the factors contained in Texas Water Code § 13.246(c) and the relevant financial, managerial, and technical criteria. If the transaction is permitted to

proceed, Staff further requests that the Applicants be required to file documentation that all assets have been transferred to Purchaser.

III. CONCLUSION

Staff respectfully recommends the entry of an order permitting the proposed transaction to proceed.


Dated: December 6, 2018

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Stephen Mack
Managing Attorney

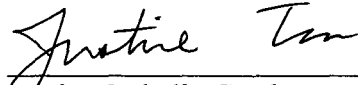


Justine Isabelle Caedo Tan
State Bar No. 24104914
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7163
(512) 936-7268 (facsimile)
Justine.Tan@puc.texas.gov

DOCKET NO. 48448

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on December 6, 2018, in accordance with 16 Texas Administrative Code § 22.74.

A handwritten signature in cursive script that reads "Justine Tan". The signature is written in black ink and is positioned above a horizontal line.

Justine Isabelle Caedo Tan

PUC Interoffice Memorandum

To: Justine Tan, Attorney
Legal Division

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

From: Patricia Garcia, Engineering Specialist
Fred Bednarski III, Financial Analyst
Water Utility Regulation Division

Date: December 05, 2018

Subject: **Docket No. 48448, Application of Patton Village Water Company and City of Patton Village for Sale, Transfer, or Merger of Facilities and Certificate Rights in Montgomery County**

On June 8, 2018, the City of Patton Village (Purchaser) and the Patton Village Water Company (Seller or Patton Co.) (collectively, Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Montgomery County, Texas, pursuant to Texas Water Code Ann. (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239 (formerly 16 TAC § 24.109). Specifically, the Purchaser seeks approval to acquire facilities and to transfer water service area from Patton Co. under water Certificate of Convenience and Necessity (CCN) No. 11193. The requested area includes approximately 1,127 acres and 550 connections.

Background

The Purchaser is seeking to purchase and retain the Seller's water CCN No. 11193 for the service area containing approximately 1,127 acres and 550 existing customers.

Notice

The comment period ended November 5, 2018. The San Jacinto River Authority (SJRA) filed a motion to intervene on November 5, 2018 however SJRA withdrew the motion to intervene on November 6, 2018. No other 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.

The public water systems (PWS) being transferred by this application are Patton Village East Water System, ID No. 1700503, Peach Creek Colony, ID No. 1700055, and Patton Village West Water System, ID No. 1700032. A review of TCEQ's records indicates that the public water systems have several violations. The City has secured a loan and a grant from the United States Department of Agriculture (USDA) in order to make needed improvements to these three water systems and resolve the violations. The loan and grant are contingent upon the approval of this STM application by the Commission.

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

Because there are existing customers being served by Patton Co., there is a need for additional 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 the requested area is already receiving service. Additionally, notice was provided to other retail public utilities in the proximate area and no protests were received.

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

The requested area currently receives water service. The City has secured a loan and a grant from the USDA in order to make needed improvements to three water systems and resolve the existing violations.

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

The requested area currently receives water service; therefore, the feasibility of obtaining service from another adjacent retail public utility was not considered.

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.

16 TAC § 24.11 establishes criteria to demonstrate that an owner or operator of a retail public utility has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and requested utility service area. 16 TAC § 24.11(e) lists the financial tests.

The Applicant meets one out of the five leverage tests with a debt to equity ratio of 0.80, which is less than one. The Applicant is only required to meet one.

16 TAC § 24.11(e)(3) refers to the operations test which 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. The Applicant submitted historical and projected financial statements in its application. The Applicant additionally provided approval by the USDA for a grant and a loan to purchase the water systems and make the necessary improvements to bring them in compliance with the TCEQ's standards. Thus, the Applicant has no projected 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 be minimally affected when the City replaces both water systems with new infrastructure.

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

The approval of this application will allow the City to replace the water systems with new infrastructure in order to improve service to the customers.

The Applicants meet all of the statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules and regulations. Approving this application to transfer water CCN No. 11193 and the facilities to the City of Patton Village is necessary for the service, accommodation, convenience and safety of the public.

Recommendation on approval of sale

Pursuant to 16 TAC § 24.239(i) (formerly 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 the Seller for the customers being served by Patton Co. Staff further recommends that a public hearing is not necessary. Lastly, the approval of the sale expires six months from the date of the Commission's written approval of the sale. If the sale 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 sale. In addition, the Applicants should be informed that the CCN will remain in the name of Patton Village Water Company until the transfer is complete and approved in accordance with the Commission's rules and regulations.