

Control Number: 48680



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DOCKET NO. 48680

APPLICATION OF BLUEBONNET	§	PUBLIC UTILITY COMMISSION
HILLS WATER SUPPLY	§	
CORPORATION AND THE CITY OF	§	OF TEXAS
CRESSON FOR SALE, TRANSFER,	§	
OR MERGER OF FACILITIES AND	§	
CERTIFICATE RIGHTS IN PARKER	§	
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 files this Recommendation on the Transaction. In support thereof, Staff shows the following:

I. BACKGROUND

On September 12, 2018, Bluebonnet Hills Water Supply Corporation (Bluebonnet) and the City of Cresson (Cresson) (collectively, Applicants), filed an application for sale, transfer, or merger of facilities and certificate rights in Parker and Johnson Counties, Texas. Specifically, Cresson seeks approval to acquire facilities and to transfer water service area from Bluebonnet under water Certificate of Convenience and Necessity (CCN) No. 12290. The requested area includes approximately 436 acres and 164 connections. The Applicants filed supplemental information on September 27, 2018, and December 7, 2018.

On July 22, 2019, the instant docket was referred to the State Office of Administrative Hearings (SOAH). On September 5, 2019, the SOAH administrative law judge (ALJ) issued SOAH Order No. 2, finding the Applicants' notice sufficient, cancelling the previously scheduled prehearing conference, and ordering Staff to file a status report by October 4, 2019.

On October 4, 2019, Staff filed a Status Report requesting an additional 30 days to complete its review of the application. On October 7, 2019, the SOAH ALJ issued Order No. 3, requiring Staff to file a status report by November 4, 2019. On November 1, 2019, Staff filed a Motion to Remand to allow for continued processing of the Applicants' application. On

November 5, 2019, the SOAH ALJ issued Order No. 4, dismissing the docket from SOAH and remanding it to the Commission.

On December 3, 2019, the Commission ALJ issued Order No. 6, adopting Staff's proposed procedural schedule and directing Staff to request a hearing or file a recommendation on approval of the sale by December 20, 2019. Therefore, this pleading is timely filed.

II. RECOMMENDATION TO ALLOW THE TRANSACTION TO PROCEED

As detailed in the attached memorandum of Patricia Garcia, Infrastructure Division, and Spencer English, Rate Regulation Division, Staff recommends and respectfully requests the entry of an order permitting the proposed transaction to proceed. Staff's review of the application indicates that the proposed transaction satisfies the relevant statutory and regulatory criteria, including those factors identified pursuant to Texas Water Code § 13.246(c). Additionally, Staff recommends that Cresson has demonstrated the financial, technical, and managerial capability to provide continuous and adequate service to the area subject to the proposed transaction and that a public hearing is not necessary. 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 effectuated 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 approval of the sale.

Finally, Staff also recommends that Applicants be ordered to file documentation demonstrating that the transaction has been consummated and that the disposition of any remaining deposits have been addressed as required pursuant to 16 Texas Administrative Code §§ 24.109(m)- (n). The CCN remains in the name of the Seller until the transfer is complete and approved in accordance with the Commission's rules and regulations.

III. CONCLUSION

Staff respectfully requests that the ALJ issue an order permitting the proposed transaction to proceed.

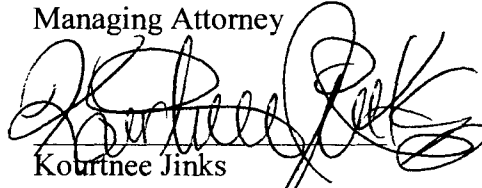
Dated: December 20, 2019

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Thomas S. Hunter
Division Director

Rachelle Nicolette Robles
Managing Attorney

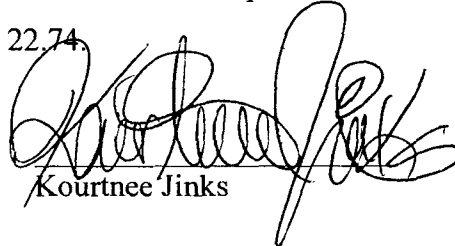


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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this the
December 20, 2019 in accordance with 16 TAC § 22.74



Kourtnee Jinks

PUC Interoffice Memorandum

To: Kourtnee Jinks, Attorney
Legal Division

From: Patricia Garcia, Engineering Specialist
Infrastructure Division

Spencer English, Financial Analyst
Rate Regulation Division

Date: December 5, 2019

Subject: **Docket No. 48680**, *Application of Bluebonnet Hills Water Supply Corporation and City of Cresson for Sale, Transfer, or Merger of Facilities and Certificate Rights in Parker County*

On September 12, 2018, the City of Cresson (City or Purchaser) and Bluebonnet Hills Water Supply Corporation (Bluebonnet or Seller) (collectively, Applicants) filed an application for Sale, Transfer, or Merger (STM) of facilities and certificate rights in Parker County, Texas, and Johnson County, Texas. The STM application was filed pursuant to Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239 (formerly 24.109).

The City seeks to acquire facilities registered with the Texas Commission on Environmental Quality (TCEQ) under public water system (PWS) ID No. 1840086, transfer Bluebonnet's water service area under Certificate of Convenience and Necessity (CCN) No. 12290, cancel CCN No. 12290, and obtain a new CCN. The requested water service area includes approximately 436 acres and 164 existing customers.

Notice

The comment period ended April 4, 2019, 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 water or sewer 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.

There are currently 164 existing customers in the requested area. The customers are currently receiving water from Bluebonnet's public water system. Bluebonnet's public water system has a violation listed in the TCEQ database for insufficient production capacity. The construction of a new well has been approved by the TCEQ for the Bluebonnet public water system. The City has filed documentation demonstrating that the needed improvements to the public water system will be implemented. Additionally, the City has received a grant from the Texas Department of Agriculture which will fund the necessary improvements.

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

No additional service is needed in the requested area.

TWC § 13.246(c)(3) requires the Commission to consider the effect of granting an amendment on the recipient of the certificate or amendment, on the landowners in the area, 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. Any landowners in the area that do not currently receive service from Bluebonnet will need to request service from the City if they will be requiring service after the transaction has been completed.

TWC §§ 13.241(b), 13.246(c)(4) requires the Commission to consider the ability of the applicant to provide adequate service.

The City has a public water system registered with the TCEQ under PWS ID No. 1260053. The City does not have violations listed in the TCEQ database.

TWC § 13.241(d) requires the applicant to demonstrate to the Commission that regionalization or consolidation with another retail public utility is not economically feasible when construction of a physically separate water or sewer system is required to provide service to the requested area.

Construction of a physically separate water system is not required to provide service to the requested area. As a result of the present application, the requested water service area will be consolidated with the City's existing water CCN service area.

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

As a result of the present application, the requested water service area will be consolidated with the City's existing water CCN service area. The area is currently being served by Bluebonnet. There will be no changes to land uses or existing CCN boundaries. It is not feasible to obtain service from another 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.

16 TAC § 24.11 establishes the 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. The financial tests include a leverage test and operations test.

The Purchaser is required to meet one or more of the five leverage tests. It meets two out of the five leverage tests. First, the Purchaser has a debt to equity ratio of less than one. The debt to equity ratio is calculated by dividing long-term debt (\$326,369) by the net position (\$2,012,211),¹ which results in a ratio of 0.16. Second, the Purchaser has cash reserves (\$455,561)² that are greater than two years of debt service (\$96,550).³

The Purchaser also meets the operations test, which states that the owner or operator must demonstrate that sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations. The service area under CCN No. 12290 contains existing facilities which are being transferred to the Purchaser. The City is in a good financial

¹ City of Cresson Audited Financial Statements for the year ended September 30, 2018 at 3 (November 1, 2019).

² *Id.* at 15.

³ *Id.* at 17.

position to pay for facilities or obtain funding if any improvements are required. Additionally, the Purchaser's financial statements for year ending 2018 show cash and equivalents of \$455,561,⁴ an amount sufficient to offset any potential losses.

TWC § 13.246(d) allows the Commission to require an applicant to provide a bond or other financial assurance in a form and amount specified by the Commission to ensure that continuous and adequate utility service is provided.

Staff does not recommend that the Purchaser be required to provide a bond or other financial assurance to ensure continuous and adequate service.

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 certificated area.

TCEQ has rules for construction that protect the environmental integrity of the land. Because TCEQ has approved the construction of the well, Staff has determined that the environmental integrity of the land will be minimally affected by the construction aimed at improving the public water system.

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

The City will continue to provide water service to the existing customers in the requested area. The City will also make improvements to better serve the customers. It is expected that the customers of Bluebonnet will receive lower monthly charges as a result of the transfer to the City.

The Applicants meet all of the statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules and regulations. Staff concludes that the Applicants' application requesting the transfer of water facilities and the water service area under CCN No. 12290, the cancellation of CCN No. 12290, and the issuance of CCN No. 13284 to the City, is necessary for the service, accommodation, convenience and safety of the public.

Recommendation on approval of sale

Staff recommends that the transaction will serve the public interest and that the Applicants be allowed to proceed with the proposed transaction. Staff notes that no deposits are held by Bluebonnet for the customers currently served by Bluebonnet. Staff further recommends that a public hearing is not necessary.

⁴ *Id.* at 15.