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PUBLIC UTILITY COMMISSION
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APPLICATION OF BLUEBONNET §
HILLS WATER SUPPLY §
CORPORATION AND THE CITY OF §
CRESSON FOR SALE, TRANSFER, OR §
MERGER OF FACILITIES AND §
CERTIFICATE RIGHTS IN PARKER §
AND JOHNSON COUNTY §

PUBLIC UTILITY COMMISSION
OF TEXAS

ORDER NO. 9
APPROVING SALE AND TRANSFER TO PROCEED

This Order addresses the September 12, 2018, application of Bluebonnet Hills Water Supply Corporation and the City of Cresson for the sale, transfer, or merger of certificate rights in Parker and Johnson counties. Specifically, in the transaction: (1) Cresson will acquire all of Bluebonnet’s facilities and water service area from Bluebonnet’s water certificate of convenience and necessity (CCN) number 12290; (2) CCN number 12290 will be cancelled; and (3) a new water CCN, number 13284, will be issued to Cresson. The area being transferred includes 436 acres and 164 connections. The administrative law judge (ALJ) grants that the transaction proposed in this application may proceed and be consummated.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Bluebonnet is a non-profit corporation registered with the state of Texas on May 9, 1985, under filing number 75104201.
2. Bluebonnet operates, maintains, and controls facilities for providing retail water service in Johnson and Parker counties under CCN number 12290.
3. Bluebonnet controls facilities that are registered with the Texas Commission on Environmental Quality (TCEQ) under public water system (PWS) identification number 1840086.
4. Cresson is a municipality in the state of Texas.

5. Cresson, operating under the name Cresson Water Works, maintains, and controls facilities for providing retail water service under CCN number 11472.

Application

6. On September 12, 2018, Bluebonnet and Cresson filed the application at issue in this proceeding.
7. Applicants filed supplemental information on September 27 and December 7, 2018, and May 21, July 10, November 1, and December 2, 2019.
8. In the application, the applicants seek approval of the following transaction: (a) Cresson will acquire all of Bluebonnet's facilities and water service area from Bluebonnet's water CCN number 12290; (b) CCN number 12290 will be cancelled; and (c) a new water CCN, number 13284, will be issued to Cresson.
9. The requested area is located approximately two miles north of downtown Cresson, and is generally bounded on the north by a line one mile north of the Parker/Johnson county line, on the east by a line three-quarters of a mile east of US Highway 377, on the south by a line 400 feet south of South Skyline Court, and on the west by US Highway 377.
10. The area to be transferred includes 436 acres and 164 current customers.
11. The area to be transferred lies within Cresson's municipal boundaries.
12. In Order No. 3 filed on February 14, 2019, the administrative law judge (ALJ) found the application administratively complete.

Referral to SOAH

13. On July 22, 2019, this matter was referred to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.
14. On November 1, 2019, Commission Staff moved to have the case remanded from SOAH to allow for continued processing of the applicants' application on a non-contested basis.
15. In SOAH Order No. 4 filed on November 5, 2019, the SOAH ALJ remanded this matter to the Commission.

Notice

16. Notice of the application appeared in the September 28, 2018 issue of the *Texas Register*.

17. On July 8, 2019, the applicants filed an affidavit, attesting that notice was provided to all current customers of Bluebonnet, neighboring utilities, and affected parties on March 5, 2019.
18. In SOAH Order No. 2 filed on September 5, 2019, the SOAH ALJ found the applicants' notice sufficient.

Evidentiary Record

19. On January 24, 2020, the parties filed an agreed motion to admit evidence.
20. In Order No. 8 filed on February 10, 2020, the ALJ admitted the following evidence into the record: (a) the application, filed on September 12, 2018; (b) the applicants' supplement to the application, filed on September 27, 2018; (c) the applicants' supplement to the application, filed on December 7, 2018; (d) the applicants' supplement to the application, filed on December 2, 2019; (e) Commission Staff's supplemental recommendation on administrative completeness, filed on February 14, 2019; (f) the applicants' proof of notice and supporting documentation, filed on May 21 and July 10, 2019; (g) Commission Staff's recommendation on notice, filed on July 22, 2019; and (h) Commission Staff's recommendation requesting the entry of an order permitting the proposed transaction to proceed, and attachments thereto, filed on December 20, 2019.

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)

21. Cresson has not been subject to any enforcement action by the Commission, the TCEQ, the Texas Department of State Health Services, the Office of the Attorney General of Texas, or the Environmental Protection Agency in the past five years for non-compliance with rules, orders, or state statutes.
22. Cresson does not have any violations listed in the TCEQ database.
23. There is no evidence that Cresson has a history of continuing mismanagement or misuse of revenues as a utility service provider.
24. The applicants have demonstrated a compliance status that is adequate for approval of the application.

Adequacy of Existing Service—TWC § 13.246(c)(1); 16 TAC §§ 24.227(d)(1), 24.239(j)(5)(B)

25. Bluebonnet's PWS number 1840086 has a violation listed in the TCEQ database for insufficient production capacity.
26. Bluebonnet's PWS number 1840086 needs improvements that will be implemented by Cresson following the transaction. Specifically, Cresson has obtained approval from the TCEQ to construct a new well to ensure sufficient capacity.
27. Additionally, Cresson has received a grant from the Texas Department of Agriculture which will fund the necessary improvements.
28. Other than the capacity problem, Bluebonnet's PWS number 1840086, which will be taken over by Cresson, is TCEQ-approved and is capable of providing drinking water that meets the requirements of Texas Health and Safety Code, chapter 341, TCEQ rules, and the TWC.
29. Once the well is constructed, the PWS will have access to an adequate supply of water.

Need for Additional Service—TWC § 13.246(c)(2); 16 TAC §§ 24.227(d)(2), 24.239(j)(5)(C)

30. There are currently 164 existing customers in the requested area that are receiving water from Bluebonnet's PWS number 1840086 and have an ongoing need for service.
31. This application is to transfer only existing facilities, customers, and service area.
32. There is no evidence in the record indicating a need for additional service.

Effect of Approving the Transaction and Granting the Amendment—TWC § 13.246(c)(3); 16 TAC §§ 24.227(d)(3), 24.239(j)(5)(D)

33. Bluebonnet and Cresson are the only utilities affected by this transfer.
34. Any landowners in the area that do not currently receive service from Bluebonnet will need to request service from Cresson if they require service after the transaction has been completed.
35. The quality of service provided in the area being transferred is expected to improve with the transfer because Cresson is better qualified to maintain and improve the system.

Ability to Serve: Managerial and Technical—TWC §§ 13.241(a), 13.246(c)(4), 13.301(b), (e)(2); 16 TAC §§ 24.227(a), (d)(4), and 24.239(g), (j)(5)(E)

36. Cresson has a public water system registered with the TCEQ under PWS identification number 1260053 and does not have violations listed in the TCEQ database.

37. Cresson has a demonstrated history of successfully providing continuous and adequate retail water service since 2004.
38. Cresson has a TCEQ-licensed operator who will be responsible for the operation of the water utility being transferred.
39. Cresson has filed documentation demonstrating that the needed improvements to the PWS being transferred will be implemented and that construction of the needed new well has been approved by the TCEQ.
40. Cresson has the managerial and technical capability to provide continuous and adequate service to the area being transferred.

Ability to Serve: Financial Ability and Stability—TWC §§ 13.241(a), 13.246(c)(6), 13.301(b) and (e)(4); 16 TAC §§ 24.11(e), 24.227(a), (d)(6), and 24.239(g), (j)(5)(G)

41. Cresson meets at least two out of the five leverage tests: (a) Cresson has a debt to equity ratio of 0.16, which is less than one; and (b), Cresson has unrestricted cash available that is greater than two years of debt service.
42. Cresson demonstrated that it has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations, thus meeting the operations test.
43. Cresson has demonstrated the financial capability and stability to provide continuous and adequate service to the area being transferred.

Financial Assurance—TWC §§ 13.246(d), 13.301(c); 16 TAC §§ 24.227(e), 24.239(h)

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

Regionalization or Consolidation—TWC §§ 13.241(d); 16 TAC § 24.227(b)

45. Because the requested area will not require construction of a physically separate water system, concerns of regionalization or consolidation are not applicable.

Feasibility of Obtaining Service from Adjacent Retail Public Utility—TWC § 13.246(c)(5); 16 TAC §§ 24.227(d)(5), 24.239(j)(5)(F)

46. The area being transferred is currently being served by Bluebonnet and there will be no changes to land uses or existing CCN boundaries. Therefore, it is not feasible to obtain service from another utility.

Environmental Integrity—TWC § 13.246(c)(7); 16 TAC §§ 24.227(d)(7), 24.239(j)(5)(H)

47. The environmental integrity of the land will be minimally affected by the construction of the new well aimed at improving the PWS being transferred.

Effect on Land—TWC § 13.246(c)(9); 16 TAC § 24.227(d)(9)

48. The requested area will continue to be served by existing facilities and only minimal additional construction is needed. Therefore, there will be minimal effect on the land.

Improvement in Service or Lowering Cost to Consumers—TWC § 13.246(c)(8); 16 TAC §§ 24.227(d)(8,) 24.239(j)(5)(I)

49. Cresson will continue to provide water service to the existing customers in the requested area and will make improvements to better serve the customers.
50. The rates charged to customers will change slightly. Specifically, Cresson will charge the same rates in the area being transferred that it charges to its existing customers. However, even though the city's rate formula is slightly different than Bluebonnet's rate formula, the actual rates paid by the typical customer are expected to be roughly equivalent.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. Notice was provided in compliance with TWC §§ 13.246 and 13.301(a)(2), and 16 TAC § 24.239.
2. After consideration of the factors in TWC § 13.246(c), Cresson has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area. TWC § 13.301(b).
3. Bluebonnet and Cresson have demonstrated that the sale of Bluebonnet's water facilities and the transfer of the water service area held under CCN number 12290 from Bluebonnet

to Cresson will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public. TWC § 13.301(d), (e).

III. Ordering Paragraphs

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

1. The sale is approved and the transaction between applicants may proceed and be consummated.
2. As soon as possible after the effective date of the transaction, but not later than 30 days after the effective date, the applicants must file proof that the transaction has been consummated and customer deposits have been addressed.
3. The applicants have 180 days to complete the transaction.
4. Under 16 TAC § 24.109(o), if the transaction is not consummated within this period, or an extension is not granted, this approval is void and the applicants will have to reapply for approval.
5. The applicants are advised that CCN number 12290 will not be canceled until the transaction is complete in accordance with the Commission's rules, at which time CCN number 13284 will take effect.
6. In an effort to finalize this case as soon as possible, the applicants must continue to file monthly updates regarding the status of the closing and submit documents evidencing that the transaction was consummated.
7. Within 15 days following the filing of the applicants' proof that the transaction has been consummated and customer deposits, if any, have been addressed, Commission Staff shall file a recommendation regarding the sufficiency of the documents and propose a schedule for continued processing of this docket.

Signed at Austin, Texas the 12th day of February 2020.

PUBLIC UTILITY COMMISSION OF TEXAS



HUNTER BURKHALTER
ADMINISTRATIVE LAW JUDGE

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