



Control Number: 48680



Item Number: 58

Addendum StartPage: 0

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	§	
AND JOHNSON COUNTY	§	

COMMISSION STAFF’S RESPONSE TO ORDER NO. 13

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Response to Order No. 13. In support thereof, Staff shows the following:

I. BACKGROUND

On September 12, 2018, Bluebonnet Hills Water Supply Corporation (Bluebonnet) and the City of Cresson (the City) (collectively, Applicants) filed an application for sale, transfer, or merger of facilities and certificate rights in Parker and Johnson Counties, Texas. Specifically, the City 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.

Order No. 13, issued July 1, 2020, established July 22, 2020, as the deadline for Staff and the Applicants (collectively, the Parties) to provide an agreed-upon tariff and move for its admission in evidence or provide briefing explaining why no tariff is required. Therefore, this pleading is timely filed.

II. STAFF’S RESPONSE

The Commission is not required to provide a tariff in this proceeding because the City qualifies as a municipally-owned utility (MOU),¹ and the Commission does not have original jurisdiction over the rates charged by a municipally-owned utility. A MOU is defined as “any utility owned, operated, and controlled by a municipality or by a nonprofit corporation whose

¹ Application for Sale, Transfer, or Merger of a Retail Public Utility at 4, Question No. 7 (Sep. 12, 2018).

directors are appointed by one or more municipalities.”² Under the Texas Water Code (TWC) § 13.043(b)(4), the Commission is granted appellate jurisdiction over the decision of the governing body of a MOU affecting water, drainage, or sewer rates if an appeal is filed by the ratepayers that reside outside the corporate limits of the municipality.

The Commission rules addressing the filing of tariffs with CCN applications also support the conclusion that a Commission-approved tariff is not required for this docket. Under 16 TAC § 24.25(b)(1)(A)(ii), a utility under the original rate jurisdiction of a municipality that applies to obtain or amend a CCN must file a copy of its tariff that is approved by the municipality. The term utility is defined to exclude municipal corporations, water supply or sewer service corporations, or political subdivisions of the state.³ Therefore, this tariff filing requirement is not applicable to a MOU. If it was applicable, then it would not require a tariff approved by the City and not a Commission-approved tariff.

III. CONCLUSION

As detailed above, Staff respectfully requests a finding that a Commission-approved tariff for the City of Cresson was not required in this proceeding.

² Tex. Water Code (TWC) § 13.002(3).

³ *Id.* § 13.002(23).

Dated: July 22, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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DOCKET NO. 48680

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on July 22, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

s/ Kourtnee Jinks
Kourtnee Jinks