

Control Number: 48816



Item Number: 28

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PUBLIC UTILITY COMMISSION  
OF TEXAS

APPLICATION OF BHP WATER §  
SUPPLY CORPORATION AND §  
CITY OF ROYSE CITY FOR SALE, §  
TRANSFER, OR MERGER OF §  
FACILITIES AND CERTIFICATE §  
RIGHTS IN HUNT AND COLLIN §  
COUNTIES §

**JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED ORDER APPROVING SALE/TRANSFER TO PROCEED**

COME NOW, the City of Royse City (Royse City) and BHP Water Supply Corporation (BHP) (collectively, Applicants) together with the Staff of the Public Utility Commission of Texas (Staff), (collectively, the Parties), file this Joint Motion to Admit Evidence and Proposed Order Approving Sale/Transfer to Proceed. In support thereof, the Parties show the following:

**I. BACKGROUND**

On October 29, 2018, Applicants filed an application for Sale, Transfer, or Merger of Facilities and Certificate Rights in Hunt and Collin Counties. Specifically, the Applicants seek to transfer a portion of facilities and customers from BHP’s CCN No. 10064 to Royse City (CCN No. 12827). The requested transfer area includes approximately 33 acres and 52 current customers. Applicants filed supplemental information on November 6, 2018, November 20, 2018, November 29, 2018, and December 17, 2018.

Staff filed a recommendation requesting the entry of an order permitting the proposed transaction to proceed on July 25, 2019. Order No. 8, issued on July 29, 2019, requested the parties to submit a motion to admit evidence and a proposed order approving the sale, by August 26, 2019. This pleading is therefore timely filed.

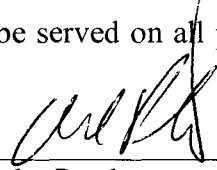
**II. JOINT MOTION TO ADMIT EVIDENCE**

The Parties move to admit the following into the record evidence of this proceeding:

- (a) The Applicants’ application, filed on October 29, 2018, as supplemented on November 6, 2018; November 20, 2018; November 29, 2018; and December 17, 2018;

**PUC DOCKET NO. 48816**

I certify that a copy of this document will be served on all parties of record August 26, 2019, in accordance with 16 TAC § 22.74.



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Alexander Petak

**DOCKET NO. 48816**

<b>APPLICATION OF BHP WATER</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>SUPPLY CORPORATION AND</b>	<b>§</b>	
<b>CITY OF ROYSE CITY FOR SALE,</b>	<b>§</b>	
<b>TRANSFER, OR MERGER OF</b>	<b>§</b>	<b>OF TEXAS</b>
<b>FACILITIES AND CERTIFICATE</b>	<b>§</b>	
<b>RIGHTS IN HUNT AND COLLIN</b>	<b>§</b>	
<b>COUNTIES</b>	<b>§</b>	

**JOINT PROPOSED ORDER APPROVING SALE/TRANSFER TO PROCEED**

This Order addresses the application of the City of Royse City (Royse City) and BHP Water Supply Corporation (BHP) (collectively, applicants) for the sale, transfer, or merger of facilities and certificate rights in Hunt and Collin Counties. The Commission approves the sale and authorizes the transaction proposed in this application to proceed.

**I. Findings of Fact**

The Commission makes the following findings of fact:

**Applicants**

1. Royse City is a municipally-owned utility that operates, maintains, and controls facilities for providing water service in Hunt, Rockwall, and Collin Counties under Certificate of Convenience and Necessity (CCN) No. 12827.
2. Royse City has a public water system (PWS) registered with the Texas Commission on Environmental Quality (TCEQ) under No. 1990002.
3. BHP is a retail public utility that operates, maintains, and controls facilities for providing water service in Hunt and Collin Counties under CCN No. 10064.
4. BHP has a PWS registered with the TCEQ under No. 1160015.

**Application**

5. On October 29, 2018, applicants filed an application for approval of the sale, transfer, or merger of facilities and certificate rights in Hunt and Collin Counties.

6. Applicants seek to transfer a portion of BHP's facilities and service area under water CCN No. 10064 to Royse City, CCN No. 12827, and amend both CCN Nos. 10064 and 12827.
7. The total area requested in this application includes approximately 33 acres and 52 current customers.
8. The CCN transfer is a facilities-only CCN. The facilities are located approximately 0.7 miles northeast of downtown Royse City, and is generally bounded on the north by the intersection of CR 677 and CR 678, on the east by the intersection of SH 66 and CR 2658, on the south by IH-30, and on the west by FM 1777.
9. In Order No. 3 issued on February 12, 2019, the administrative law judge (ALJ) found the application administratively complete.

**Notice**

10. Notice of the application appeared in the *Texas Register* on November 16, 2018.
11. On April 15, 2019, Royse City filed affidavits of the City Secretary, attesting that notice was provided to all current customers, neighboring utilities, and affected parties on April 11, 2019, and April 15, 2019.
12. On May 2, 2019, applicants filed a publisher's affidavit, attesting that notice was published in the Rockwall Herald Banner (Rockwall County).
13. On June 11, 2019, applicants filed supplemental notice of filing of publishers' affidavits, attesting that notice was published in the McKinney Courier Gazette (Collin County) and the Greenville Herald Banner (Hunt County).
14. In Order No. 7, issued June 24, 2019, the ALJ deemed the notice sufficient.

**Evidentiary Record**

15. On August \_\_\_, 2109, the parties filed a Joint Motion to Admit Evidence.
16. In Order No. \_\_ issued on \_\_\_\_\_, 2019, the ALJ admitted the following evidence into the record: (a) the applicants' application, filed on October 29, 2018, as supplemented on November 6, 2018; November 20, 2018; November 29, 2018; and December 17, 2018; (b) the applicants' proof of notice and supporting documentation, filed on April 15, 2019,

as supplemented on May 2, 2019 and June 11, 2019; and (c) Commission Staff's recommendation on the sale to proceed, filed on July 25, 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)**

17. Royse City and BHP have not been subject to any unresolved enforcement action by the Commission, TCEQ, the Texas Department of Health, the Office of Attorney General, or the United States Environmental Protection Agency.
18. Royse City and BHP do not have any violations listed in the TCEQ database.

**Adequacy of Existing Service - § TWC § 13.301(c)(1); 16 TAC §§ 24.227(d)(1), (j)(5)(B)**

19. Royse City is currently providing service to the requested area and plans to make improvements by installing a new distribution system to adequately serve the requested area.

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

20. This application is to transfer only existing facilities and customers.
21. Royse City is not requesting to add additional uncertificated area.

**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)**

22. Royse City and BHP are the only utilities affected by this sale and transfer.
23. All customers will be charged lower rates than they were charged before the transaction.

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

24. Royse City has a sufficient number of licensed operators and the managerial and technical capability to provide adequate and continuous service to the requested service area.
25. Royse City has sufficient capacity to serve the customers and no additional construction is necessary.

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

26. Royse City's long term debt, divided by equity, produces a debt to equity ratio of less than one.
27. Royse City demonstrated that it has the available cash levels to serve the requested service area.
28. Royse City has demonstrated the financial capability and stability to provide continuous and adequate service to the requested area.

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

29. The requested area has existing facilities in place and is currently being served by Royse City.
30. Utilities within a two-mile radius were noticed and no protests or requests to opt out were received regarding the proposed transaction.
31. It is not feasible for an adjacent utility to provide service to the requested area.

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

32. Royse City maintains sufficient cash balances to cover projected operations and maintenance expense for the first five years after the completion of the proposed sale and transfer.
33. There is no need to require Royse City to provide a bond or other financial assurance to ensure continuous and adequate service.

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

34. The proposed transaction will not adversely impact the environmental integrity of the land because the requested area is currently receiving service.

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

35. The requested area will continue to be served by existing systems and facilities and no additional construction is needed; therefore the effect on the land should be minimal.

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

36. The customers in the requested area will receive a 33% decrease in their base water billing rate as well as an improved level of service.

**II. Conclusions of Law**

1. After consideration of the factors in TWC §13.246(c), Royse City has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area. TWC § 13.301(b).
2. Royse City and BHP have demonstrated that the transfer of a portion of BHP's facilities and customers under water CCN No. 10064 to Royse City's CCN No. 12827 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 transactions, but not later than 30 days after the effective date, the applicants shall 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 the area to be transferred will remain under CCN No. 10064 and held by BHP until the sale and transfer transaction is complete in accordance with Commission rules.



6. In an effort to finalize this case as soon as possible, the applicants shall 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 procedural schedule for continued processing of this docket.

**SIGNED AT AUSTIN TEXAS on the \_\_\_ day of \_\_\_\_\_, 2019.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

\_\_\_\_\_  
**ADMINISTRATIVE LAW JUDGE**