



Control Number: 48816



Item Number: 45

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DOCKET NO. 48816



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

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PUBLIC UTILITY COMMISSION
OF TEXAS

NOTICE OF APPROVAL

This Notice of Approval addresses the October 29, 2018 application of BHP Water Supply Corporation and the City of Royse City for the sale, transfer, or merger of certificate rights in Hunt and Collin counties. The Commission approves the sale and transfer of a portion of BHP's facilities and service area under water certificate of convenience and necessity (CCN) number 10064 to Royse City, and the amendment of BHP's water CCN number 10064 and Royse City's water CCN number 12827 to reflect the area subject to this transaction.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Royse City is a municipality located in Hunt, Collins, and Rockwall Counties, Texas.
2. Royse City operates, maintains, and controls facilities for providing retail water service in Hunt, Collins, and Rockwall counties under water CCN number 12827.
3. Royse City owns and operates a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under identification number 1990002.
4. BHP is a water supply corporation registered with the Texas secretary of state under filing number 21860701.
5. BHP operates, maintains, and controls facilities for providing retail water service in Hunt county under water CCN number 10064.
6. BHP owns and operates a public water system registered with the TCEQ under identification number 1160015.

Application

7. On October 29, 2018, BHP and Royse City filed the application at issue in this docket.
8. The applicants filed supplemental information on November 6, 20, and 29 and December 17, 2018.
9. The applicants seek approval of the sale of a portion of BHP's facilities and transfer of the requested area held under water CCN number 10064 to Royse City to be held under its water CCN number 12827.
10. The requested area is located approximately 0.7 miles northeast of downtown Royse City, and is generally bounded on the north by the intersection of County Road 677 and County Road 678; on the east by the intersection of State Highway 66 and County Road 2658; on the south by Interstate Highway 30; and on the west by Farm-to-Market Road 1777.
11. The requested area includes approximately 33 acres and 52 current customers.
12. In Order No. 3 filed on February 12, 2019, the administrative law judge (ALJ) found the application administratively complete.

Notice

13. On April 15, 2019, Royse City filed affidavits of Deborah Sorensen, the Royse City's city secretary, attesting that notice was provided to all current customers, neighboring utilities, and affected parties on April 11 and 15, 2019.
14. On May 2, 2019, Royse City filed a publisher's affidavit attesting that notice was published in the *Rockwall Herald Banner*, a newspaper of general circulation in Rockwall County, on April 17, 19, 24, and 26, 2019.
15. On June 11, 2019, the applicants filed the following: (1) a publishers' affidavit attesting that notice was published in the *McKinney Courier Gazette*, a newspaper of general circulation in Collin County, on May 19 and May 26, 2019; and (2) a publishers' affidavit attesting that notice was published in the *Greenville Herald Banner*, a newspaper of general circulation in Hunt County, on May 14 and 21, 2019.
16. In Order No. 7 filed on June 24, 2019, the ALJ deemed the notice sufficient.

Evidentiary Record

17. On August 26, 2019, the parties filed a joint motion to admit evidence.
18. In Order No. 9 filed on August 28, 2019, the ALJ admitted the following evidence into the record: (a) the applicants' application filed on October 29, 2018, as supplemented on November 6, 20, and 29 and December 17, 2018; (b) the applicants' proof of notice and supporting documentation filed on April 15, 2019, as supplemented on May 2 and June 11, 2019; and (c) Commission Staff's recommendation on the sale to proceed filed on July 25, 2019.
19. On August 7, 2020, the parties filed a supplement to the joint motion to admit evidence.
20. In Order No. 15 filed on October 13, 2020, the ALJ admitted the following into the record of this proceeding: (a) the applicants' bill of sale filed on February 14, 2020; (b) Commission Staff's recommendation on sufficiency of closing documents filed on May 22, 2020; (c) Royse City's consent form filed on July 1, 2020; (d) BHP's consent form filed on July 15, 2020; and (e) the final map and certificates filed as attachments to the joint motion to admit evidence and proposed notice of approval filed on August 7, 2020.

Sale

21. In Order No. 10 filed on October 18, 2019, the ALJ approved the transaction to proceed and required the applicants to file proof that the transaction had been completed and that customer deposits had been addressed.
22. On February 14, 2020, the applicants filed the signed bill of sale, confirming that the sale had been completed, and an affidavit of Eddy Daniel, P.E., BHP's authorized representative, attesting that there were no customer deposits to be addressed.
23. In Order No. 12 filed on June 3, 2020, the ALJ found the closing documents sufficient.

System Compliance—Texas Water Code (TWC) § 13.301(e)(3)(A); 16 Texas Administrative Code (TAC) §§24.227(a), 24.239(h)(3)(A), (h)(5)(I)

24. Royse City has not been subject to any enforcement action by the Commission, 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.

25. There is no evidence that Royse City has a history of continuing mismanagement or misuse of revenues as a utility service provider.
26. Royse City 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(e)(1), 24.239(h)(5)(A)

27. Many of the facilities being sold and transferred by BHP are dead-end lines, which can experience low water pressure.
28. Royse City plans to make improvements by installing larger water lines to provide improved pressure.

Need for Additional Service—TWC § 13.246(c)(2); 16 TAC §§ 24.227(e)(2), 24.239(h)(5)(B)

29. There are currently 52 existing customer connections in the 33-acre requested area that are receiving water from BHP's public water system number 1160015 and have an ongoing need for service.
30. This application is to transfer only existing facilities, customers, and service area.
31. There is no evidence in the record indicating an immediate need for additional service.

Effect of Approving the Transaction and Granting the Amendment—TWC § 13.246(c)(3); 16 TAC §§ 24.227(e)(3), 24.239(h)(5)(C)

32. The transaction involves only the sale and transfer of existing facilities and certificated area; BHP and Royse City are the only utilities affected by this sale and transfer.
33. Approving the transaction and granting the amendment will obligate Royse City to provide service to current and future customers in the 33-acre requested area. Any landowners in the 33-acre requested area that do not currently receive service from BHP will need to request service from Royse City if they require service after the transaction has been completed.

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

34. Royse City has a public water system registered with the TCEQ under public water system identification number 1990002 and is a wholesale provider of water to BHP.

35. Royse City has a demonstrated history of successfully providing continuous and adequate retail water service and its public water system has a superior rating from the TCEQ.
36. Royse City employs TCEQ-licensed operators to operate its public water system.
37. Royse City has access to an adequate supply of water and is capable of providing drinking water that meets the requirements of chapter 341 of the Texas Health and Safety Code, chapter 13 of the TWC, and the TCEQ's rules.
38. Royse City has the managerial and technical capability to provide continuous and adequate service to the 33-acre requested area being transferred.

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), (e)(6), 24.239(e), (h)(5)(F)

39. Royse City has a debt-to-equity ratio of less than one and an investment-grade credit rating from Standard & Poor's Financial Services LLC, both of which satisfy the leverage test.
40. Royse City demonstrated that it has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations after completion of the proposed transaction, satisfying the operations test.
41. Royse City demonstrated the financial capability and stability to provide continuous and adequate service to the 33-acre requested area.

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

42. There is no need to require Royse City 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)

43. Because the 33-acre requested area will not require construction of a physically separate water system, consideration of regionalization or consolidation is not required.

Feasibility of Obtaining Service from Adjacent Retail Public Utility—TWC § 13.246(c)(5); 16 TAC §§ 24.227(e)(5), 24.239(h)(5)(E)

44. The 33-acre requested area is currently being served by BHP 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 and Effect on the Land—TWC §§ 13.246(c)(7), (c)(9); 16 TAC §§ 24.227(e)(7), (e)(9), 24.239(h)(5)(G)

45. The environmental integrity of the land will be minimally affected by the construction of new water lines aimed at improving the facilities being transferred.
46. The 33-acre 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(e)(8), 24.239(h)(5)(H)

47. Royse City will provide water service to the existing customers in the 33-acre requested area and will make improvements to better serve the customers.
48. The rates charged to customers will change slightly. Specifically, Royse City will charge the same rates in the 33-acre requested area that it charges to its existing customers. However, Royse City's rates are different than BHP's rates and the actual rates paid by the typical customer may vary depending on whether they are located inside or outside the city.

Certificate and Map

49. On June 22, 2020, Commission Staff emailed to the applicants the proposed final map and certificates related to this docket.
50. On July 1, 2020, Royse City filed its consent form concurring with the proposed final map and certificates.
51. On July 15, 2020, BHP filed its consent form concurring with the proposed final map and certificates.
52. BHP has sold and transferred of a portion of its facilities and water service area under CCN number 10064 to Royse City.
53. The final map and certificates were filed as an attachment to the joint motion to admit evidence and proposed notice of approval filed on August 7, 2020.

Informal Disposition

54. More than 15 days have passed since the completion of notice provided in this docket.

- 55. No person filed a protest or motion to intervene.
- 56. Royse City, BHP, and Commission Staff are the only parties to this proceeding.
- 57. No party requested a hearing and no hearing is needed.
- 58. Commission Staff recommended approval of the application.
- 59. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

- 1. The Commission has jurisdiction over this proceeding under TWC §§ 13.041, 13.241, 13.244, 13.246, 13.251, and 13.301.
- 2. Royse City and BHP are retail public utilities as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
- 3. Public notice of the application was provided as required by TWC § 13.301(a) and 16 TAC § 24.239(a) through (c).
- 4. The Commission processed the application in accordance with the requirements of the TWC, the Administrative Procedures Act,¹ and Commission rules.
- 5. Royse City and BHP completed the sale within the time required by 16 TAC § 24.239(m).
- 6. The applicants complied with the requirements of 16 TAC § 24.239(k) with respect to customer deposits.
- 7. After consideration of the factors in TWC § 13.246(c), Royse City demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area as required by TWC § 13.301(b).
- 8. It is not necessary for Royse City to provide a bond or other financial assurance under TWC §§ 13.246(d) and 13.301(c).

¹ Tex. Gov't Code §§ 2001.001–.903.

9. Royse City and BHP demonstrated that the sale of a portion of BHP's facilities and service area under CCN number 10064 to Royse City will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public as required by TWC §§ 13.246(b), 13.301(d), (e).
10. The applicants must record a certified copy of the certificate granted and map approved by this Notice of Approval, along with a boundary description of the service area, in the real property records of Hunt and Collin counties within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording as required by TWC § 13.257(r), (s).
11. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

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

1. The Commission approves the sale and transfer of BHP's systems, facilities, and service areas described in the application and closing documents to Royse City, and the amendment of BHP's water CCN number 10064 and Royse City's water CCN number 12827 to reflect the area subject to this transaction.
2. The Commission issues the certificates attached to this Notice of Approval.
3. The Commission approves the map attached to this Notice of Approval.
4. Royse City must serve every customer and applicant for service within the approved area under water CCN number 12827 that requests service and meets the terms of Royse City's water service, and such service will be continuous and adequate.
5. The applicants must comply with the recording requirements as provided in TWC § 13.257(r) and (s) for the areas in Hunt and Collin counties affected by the application and submit to the Commission evidence of recording no later than 45 days after receipt of this Notice of Approval.

6. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted

Signed at Austin, Texas the 13th day of October 2020.

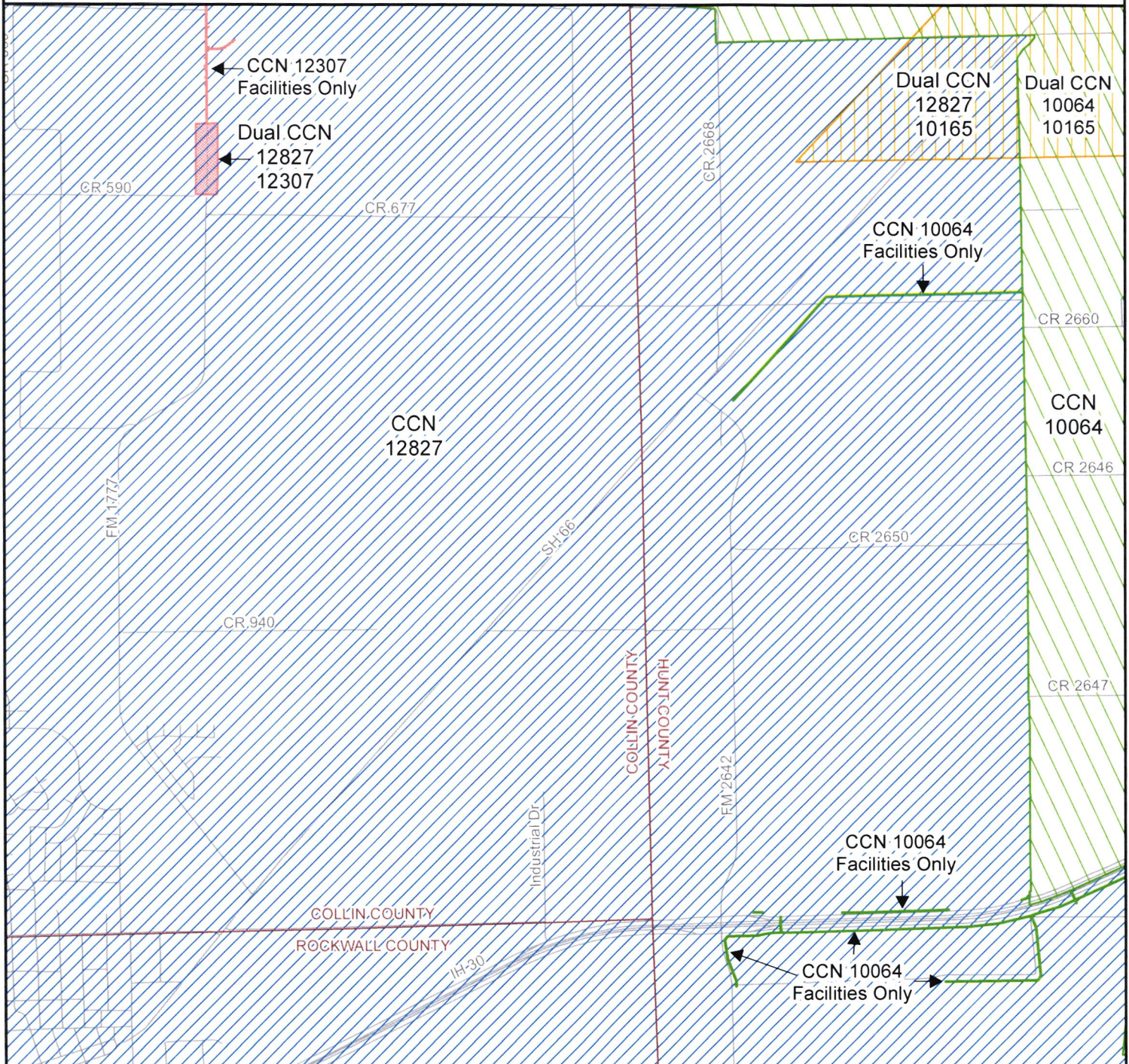
PUBLIC UTILITY COMMISSION OF TEXAS



ISAAC TA
ADMINISTRATIVE LAW JUDGE





City of Royse City
 Portion of CCN No. 12827
 PUC Docket No. 48816

Transferred a Portion of B H P Water Supply Corporation's Facilities Only Line, CCN No. 10064 in
 Collin, Hunt and Rockwall Counties





Public Utility Commission of Texas
 1701 N. Congress Ave
 Austin, TX 78701

Water CCN

-  12827 - City of Royse City
-  12307 - City of Josephine
-  10165 - Caddo Basin SUD
-  10064 - B H P WSC

Facilities Only Water CCN

-  12307 - City of Josephine
-  10064 - B H P WSC



0 1,250 2,500
 Feet

Map by: Komal Patel
 Date created: June 15, 2020
 Project Path: n:\finalmapping\48816CityofRoyseCity.mxd



Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Royse City

having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Royse City is entitled to this

Certificate of Convenience and Necessity No. 12827

to provide continuous and adequate water utility service to that service area or those service areas in Collin, Hunt and Rockwall Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48816 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of Royse City to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this 13th day of October 2020.



Public Utility Commission of Texas

By These Presents Be It Known To All That

BHP Water Supply Corporation

having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, BHP Water Supply Corporation, is entitled to this

Certificate of Convenience and Necessity No. 10064

to provide continuous and adequate water utility service to that service area or those service areas in Collin, Hunt and Rockwall Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48816 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the BHP Water Supply Corporation to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this 13th day of October 2020.