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DOCKET NO. 48863

APPLICATION OF CAMP JOY	§	PUBLIC UTILITY COMMISSION
WATER AND TEXAS WATER	§	
SYSTEMS, INC. FOR SALE,	§	OF TEXAS
TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS IN UPSHUR COUNTY	§	

**COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION ON
SUFFICIENCY OF CLOSING DOCUMENTS**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and in response to Order No. 6, files this Supplemental Recommendation on Sufficiency of Closing Documents. Staff recommends that the closing documents be found sufficient at this time. In support thereof, Staff shows the following:

I. BACKGROUND

On November 9, 2018, Camp Joy Water (Seller) and Texas Water Systems, Inc. (Purchaser) (collectively, Applicants), filed an application for approval of a sale, transfer or merger of facilities and certificate rights in Upshur County. Specifically, Applicants seek approval to transfer all of Seller's facilities and water service area under Certificate of Convenience and Necessity (CCN) No. 12960 to Purchaser (CCN No. 12473). As a product of the transaction, Applicants request the cancellation of Seller's water CCN and the amendment of Purchaser's CCN. The total requested area includes approximately 405 acres and 119 current customers.

On March 25, 2019, the administrative law judge (ALJ) issued Order No. 5, authorizing the Applicants to proceed with the proposed transaction. The order required that Applicants file an update regarding the status of the efforts to conclude the transaction and submit documents evidencing the transaction was consummated, and demonstrate that customer deposits were properly addressed, beginning on April 12, 2019, and continuing monthly thereafter. On April 30, 2019, Applicants filed the first update regarding efforts to conclude the transaction. Subsequently, on May 13, 2019, Applicants' closing documents were filed with the Commission.

On May 22, 2019, Staff filed its Recommendation on Sufficiency of Closing Documents. Staff recommended that the closing documents be deemed deficient and that the Applicants be required to resubmit the Bill of Sale and Assignment, demonstrating that it has been signed by

both the transferor and transferee, as required under 16 TAC § 24.239(n). In addition, Staff recommended that the Applicants be required to submit information related to outstanding customer deposits as described under 16 TAC §§ 24.239(m)-(n).

On May 23, 2019, the ALJ issued Order No. 6, finding the closing documentation insufficient. Additionally, the ALJ required the applicants to resubmit the Bill of Sale and Assignment and to submit outstanding customer deposit information as described in Commission Staff's May 22, 2019 recommendation. On May 28, 2019, Applicants' filed additional closing documentation.

Order No. 6 also required Staff to file a supplemental recommendation on the sufficiency of Applicants' closing documents and to propose a procedural schedule for further processing of the application by July 11, 2019. Therefore, this pleading is timely filed.

II. SUFFICIENCY OF CLOSING DOCUMENTS

Staff has reviewed the closing documents filed by Applicants on May 13, 2019 and May 28, 2019. Based on its review, Staff has determined that, cumulatively, Applicants' filings meet the requirements of 16 Tex. Admin. Code (TAC) §§ 24.239(k)-(n). Specifically, the sale and transfer was completed following the issuance of Order No. 5, wherein the transferee received notice from the Commission that a hearing would not be requested.¹ Additionally, although an update was not provided within thirty (30) days of the ALJ issuing Order No. 5 as required under Commission rules, Purchaser did submit a written update regarding the status of the transaction on April 30, 2019. Further, the closing documents were filed within thirty (30) days after the effective date of the transaction.²

As it relates to one of the previously identified deficiencies, the first set of closing documents did not demonstrate that the Bill of Sale and Assignment was signed by both the transferor and the transferee, as required under the Commission rules.³ Rather, only one person signed the Bill of Sale and Assignment, a representative of the seller. In its supplemental filing, the Purchaser provided a standalone signature page, signed by the president of the purchasing entity. The Purchaser stated in its supplemental filing that the signature page was "left off" the Bill

¹ See 16 Tex. Admin Code § 24.239(k)(2).

² See 16 Tex. Admin Code § 24.239(n).

³ *Id.*

of Sale and Assignment filed with the initial closing documentation. Though Applicants failed to resubmit the Bill of Sale and Assignment, as required by Order No. 6, Staff acknowledges that between Applicants' two closing documentation filings on May 13, 2019 and May 28, 2019, one complete copy of the Bill of Sale and Assignment has been filed in the present docket. Therefore, Staff recommends that Applicants' have fulfilled the mandate that the Bill of Sale be signed by both the transferor and the transferee.⁴

The Applicants also sufficiently addressed outstanding customer deposits as required under Commission rules. Specifically, within thirty (30) days of the actual effective date of the transaction, in their supplemental filing, the Applicants provided the Commission with the following information: (1) the names and addresses of all customers who have a deposit on record with Seller; (2) the date such deposits were made; (3) the amount of the deposit; and (4) the unpaid interest on the deposit.⁵ The Purchaser stated in its supplemental filing that the aforementioned customer deposit information was "left off" of the initial closing documentation filing. The supplemental customer deposit information was not filed under oath, as required by Commission rule, though the initial filing did include an Affidavit of Customer Deposit Transfer. The affidavit evidenced that customer deposits were transferred from Seller to Buyer, along with all accrued interest.⁶ Staff recommends that Applicants' closing documentation filings, cumulatively, demonstrate substantial fulfillment of the requirements as stated in the Commission rules. Therefore, Staff further recommends a finding that the customer deposits have been appropriately addressed and that the closing documents be found sufficient.

III. PROPOSED ADDITIONAL PROCEDURAL SCHEDULE

In accordance with Staff's recommendation that the Applicants' closing documents be found sufficient, Staff proposes the following additional procedural schedule:

Event	Date
Deadline for Staff to provide final maps, certificates, and tariffs (if applicable) to Applicants for review and consent	June 28, 2019

⁴ *Id.*

⁵ *See* 16 Tex. Admin Code § 24.239(m).

⁶ *See* 16 Tex. Admin Code § 24.239(m)-(n).

Deadline for Applicants to file signed consent forms with the Commission	July 12, 2019
Deadline for parties to jointly file a proposed Notice of Approval, including proposed findings of fact, conclusions of law and ordering paragraphs	July 26, 2019

IV. CONCLUSION

For the reasons detailed above, Staff respectfully requests that an order be issued finding that the closing documents filed by Applicants are sufficient and that customer deposits have been properly addressed. Staff further requests that the procedural schedule proposed above be adopted for continued processing of this docket.

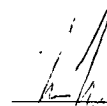
Dated: June 13, 2019

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on June 13, 2019, in accordance with 16 TAC § 22.74.



Richard Nemer