



Control Number: 48897



Item Number: 11

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**DOCKET NO. 48897**

**APPLICATION OF KERRVILLE  
SOUTH WATER COMPANY, INC. AND  
AQUA TEXAS, INC. FOR SALE,  
TRANSFER, OR MERGER OF  
FACILITIES AND CERTIFICATE  
RIGHTS IN KERR COUNTY**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

2019 MAR 12 PM 1:06

FILED CLERK

**COMMISSION STAFF'S FINAL RECOMMENDATION**

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this recommendation. Staff recommends that the transaction be allowed to proceed. In support thereof, Staff would show the following:

**I. BACKGROUND**

On November 20, 2018, Aqua Texas, Inc. filed an application for sale, transfer, or merger of facilities and certificate rights with the Public Utility Commission of Texas (Commission). Aqua Texas stated in its application that it is seeking to acquire facilities and certificate rights from Kerrville South Water Company, Inc., pursuant to § 13.301 of the Texas Water Code and 16 Texas Administrative Code (TAC) § 24.239.

On January 25, 2019, the Commission's administrative law judge issued Order No. 3, which established March 13, 2019 as the deadline for Staff to request a hearing or file a recommendation on approval of the sale and on the certificate of convenience and necessity amendment. Staff's recommendation is therefore timely.

**II. RECOMMENDATION**

As detailed in the attached memorandum of Patricia Garcia of the Commission's Water Utility Regulation Division, Staff recommends approval of the proposed transaction. Staff's review indicates that the application satisfies Texas Water Code (TWC) §§ 13.241, 13.246, and 13.301 and 16 Texas Administrative Code (TAC) §§ 24.227 and 24.239, and that a hearing is not necessary. If the proposed transaction is permitted to proceed, Staff further recommends that the Applicant be required to file evidence that the sale has been completed. Pursuant to 16 TAC § 24.239(o), approval of the sale expires 180 days from the date of the Commission's written approval allowing the sale to proceed. If the sale is not consummated within that period, the approval is void and the Applicant must re-apply

for approval of the sale unless the Applicant requests and receives an extension from the Commission.

### **III. CONCLUSION**

Staff respectfully recommends the entry of an order permitting the proposed transaction to proceed.


Dated: March 12, 2019

Respectfully Submitted,

#### **PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Stephen Mack  
Managing Attorney

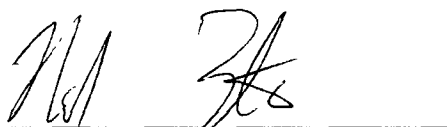


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#### **CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on March 12, 2019, in accordance with 16 TAC § 22.74.



Nick Buratto

## PUC Interoffice Memorandum

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**To:** Nick Buratto, Attorney  
Legal Division

**Thru:** Tammy Benter, Director  
Heidi Graham, Manager  
Water Utility Regulation Division

**From:** Patricia Garcia, Engineering Specialist  
Water Utility Regulation Division

**Date:** March 13, 2019

**Subject:** **Docket No. 48897**, *Application of Aqua Texas, Inc. and Kerrville South Water Company, Inc. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Kerr County*

On November 20, 2018, Aqua Texas, Inc. (Aqua Texas) and Kerrville South Water Company (Kerrville South) (collectively, Applicants) filed an application for Sale, Transfer, or Merger of facilities and certificate rights in Kerr County, Texas, pursuant to Texas Water Code Ann. (TWC) § 13.301 and the 16 Texas Administrative Code (TAC) § 24.239.

### **Background**

Aqua Texas, Certificate of Convenience and Necessity (CCN) No. 13254, seeks approval to acquire facilities, transfer the certificated area held under Kerrville South's water CCN No. 11484 to Aqua Texas, cancel Kerrville South's water CCN No. 11484 and amend Aqua Texas' CCN No. 13254. The requested area includes approximately 3,671 acres and 1,298 connections. The general purpose of the application is to consolidate Aqua Texas's CCN numbers in their Southwest Region – Brushy Bend Park. Kerrville South is a subsidiary of Aqua Texas.

### **Notice**

The comment period ended February 10, 2019, and no protests or opt-out requests were received.

### **Criteria Considered**

TWC § 13.246(c) requires the Commission to consider nine criteria when granting or amending a CCN. Therefore, the following criteria were considered:

#### ***TWC § 13.246(c)(1) requires the Commission to consider the adequacy of service currently provided to the requested area.***

Kerrville South has two public water systems (PWS) within the requested area. These public water systems are registered with the Texas Commission on Environmental Quality (TCEQ) under the Westcreek Estates Water System, PWS No. 1330028, and Loma Vista Water System, PWS No. 1330041. Kerrville South does not have any violations listed in the TCEQ database for either of these public water systems.

#### ***TWC § 13.246(c)(2) requires the Commission to consider the need for additional service in the requested area.***

There are 1,298 existing connections in the requested area. Therefore, there is a need for service in the requested area.

***TWC § 13.246(c)(3) requires the Commission to consider the effect of granting an amendment on the recipient, on the landowners in the area, and on any other retail public utility of the same kind already servicing the proximate area.***

There will be no effect on the recipient, on the landowners, or on any retail public utility servicing the proximate area as the customers will continue to be served after the transaction by Aqua Texas through the facilities currently held by Kerrville South.

***TWC § 13.246(c)(4) requires the Commission to consider the ability of the Applicant to provide adequate service.***

Aqua Texas has one public water system within CCN No. 13254. The public water system is registered with the TCEQ under the Brushy Bend Park Subdivision, PWS ID No. 2460050. Aqua Texas does not have any violations listed in the TCEQ database. No additional construction is necessary for Aqua Texas to serve the requested area.

***TWC § 13.246(c)(5) requires the Commission to consider the feasibility of obtaining service from an adjacent retail public utility.***

The purpose of the application is a consolidation of Aqua Texas's CCN numbers in their Southwest Region – Brushy Bend Park. The customers are currently being served by Kerrville South which is a subsidiary of Aqua Texas, therefore, the feasibility of obtaining service from another adjacent retail public utility was not relevant.

***TWC § 13.246(c)(6) requires the Commission to consider the financial ability of the Applicant to pay for facilities necessary to provide continuous and adequate service.***

The criteria and tests are listed in 16 TAC § 24.11, including leverage tests and an operations test. Aqua Texas's ultimate parent (Aqua America, Inc.) meets the leverage test with a debt service coverage ratio of 2.30, which is greater than the required threshold of 1.25.

The owner or operator must demonstrate sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations. Aqua Texas has not submitted projections in its application; however, based on the 2017 Annual Report of Aqua America, Inc., Aqua America, Inc. had \$19,176,748 in operating income. Thus, there are no shortages to cover.

***TWC § 13.246(7) and (9) require the Commission to consider the environmental integrity and the effect on the land to be included in the certificate.***

The environmental integrity and the land will not be affected as no additional construction is needed to provide service to the requested area.

***TWC § 13.246(8) requires the Commission to consider the probable improvement in service or lowering of cost to consumers.***

The customers will continue to be served after the transaction by Aqua Texas through the facilities currently held by Kerrville South. Service and rates will not change as a result of the proposed transaction.

The Applicants meet all of the statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules and regulations. Approving this application to transfer Kerrville South's water facilities and certificated area held under CCN No. 11484 to Aqua Texas, cancel CCN No. 11484 and amend Aqua Texas' CCN No. 13254 is necessary for the service, accommodation, convenience and safety of the public.

**Recommendation on approval of sale**

Pursuant to 16 TAC § 24.239(i), Staff recommends the Commission find that the transaction will

serve the public interest and allow the Applicants to proceed with the proposed transaction. Staff notes there are deposits held by Kerrville South for 108 of the existing customers. Staff further recommends that a public hearing is not necessary.