



Control Number: 50816



Item Number: 14

Addendum StartPage: 0



**DOCKET NO. 50816**

**APPLICATION OF VINTON HILLS  
ALEGRE, LLC AND VILLAGE OF  
VINTON FOR SALE, TRANSFER, OR  
MERGER OF FACILITIES AND  
CERTIFICATE RIGHTS IN EL PASO  
COUNTY**

§  
§  
§  
§  
§  
§

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

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

**COMES NOW** the Village of Vinton (the Village), by and through its undersigned attorneys of record, together with Vinton Hills Alegre, LLC (Vinton Hills) and the Staff (Commission Staff) of the Public Utility Commission of Texas (Commission) (collectively, the parties), and files this Agreed Motion to Admit Evidence and Proposed Order Approving Sale and Transfer to Proceed. In support thereof, the parties would respectfully show as follows:

**I. BACKGROUND**

On May 5, 2020, Vinton Hills and the Village (collectively, the applicants) filed an application for the sale, transfer, or merger of facilities and certificate rights in El Paso County. Specifically, the applicants request approval to sell and transfer all assets, facilities, and service area currently held under Vinton Hills' water Certificate of Convenience and Necessity (CCN) No. 12563 to the Village's water CCN No. 13269 and to subsequently cancel water CCN No. 12563. The requested transfer area includes 310 acres and 299 connections.

On August 18, 2020, Order No. 4 in this proceeding was issued, establishing a deadline of October 20, 2020 for the parties to file a joint motion to admit evidence and proposed order approving sale and allowing the transaction to proceed. Therefore, this pleading is timely filed.

14

## **II. MOTION TO ADMIT EVIDENCE**

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

1. The application and confidential attachments filed on May 5, 2020 (Interchange Item Nos. 1 and 2);
2. The amended application filed on June 11, 2020 (Interchange Item No. 6);
3. Commission Staff's recommendation on administrative completeness and proposed procedural schedule filed on August 17, 2020 (Interchange Item No. 7);
4. Applicants' proof of notice filed on July 17, 2020 (Interchange Item No. 9);
5. Commission Staff's recommendation on sufficiency of notice and proposed procedural schedule filed on August 17, 2020 (Interchange Item No. 10); and
6. Commission Staff's recommendation on approval of the sale filed on September 16, 2020 (Interchange Item No. 12).

The Village has communicated with counsel for Commission Staff and Vinton Hills regarding this motion, and each party's counsel has represented agreement to this Motion.

## **III. PROPOSED ORDER APPROVING SALE AND TRANSFER TO PROCEED**

The Village has communicated with counsel for Commission Staff and Vinton Hills, which have each represented agreement with the attached Proposed Order. If approved, the Proposed Order would grant the application for the sale and transfer of all assets, facilities, and service area currently held under Vinton Hills' water CCN No. 12563 to the Village to be held under its water

CCN No. 13269. The parties request that the Commission adopt the findings of fact, conclusions of law, and ordering paragraphs from the Proposed Order.

#### IV. CONCLUSION

The parties hereby respectfully request that all of the items listed above be admitted into the record of this proceeding as evidence and that the Commission adopt the attached Proposed Order Approving the Sale and Transfer to Proceed.

Respectfully submitted,

**LLOYD GOSSELINK**  
**ROCHELLE & TOWNSEND, P.C.**

816 Congress Ave., Suite 1900  
Austin, Texas 78701  
(512) 322-5800  
(512) 472-0532 (Fax)

DAVID J. KLEIN  
State Bar No. 24041257  
[dklein@lglawfirm.com](mailto:dklein@lglawfirm.com)



---

MARIS M. CHAMBERS  
State Bar No. 24101607  
[mchambers@lglawfirm.com](mailto:mchambers@lglawfirm.com)

**ATTORNEYS FOR VILLAGE OF VINTON**

**CERTIFICATE OF CONFERENCE**

I, the undersigned counsel, certify that I have conferred with legal counsel for Commission Staff and Vinton Hills regarding this Motion and Proposed Order and such counsel agree to the relief requested herein.

  
\_\_\_\_\_  
MARIS M. CHAMBERS

**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 October 20, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

  
\_\_\_\_\_  
MARIS M. CHAMBERS

**DOCKET NO. 50816**

<b>APPLICATION OF VINTON HILLS</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>ALEGRE, LLC AND VILLAGE OF</b>	<b>§</b>	
<b>VINTON FOR SALE, TRANSFER, OR</b>	<b>§</b>	<b>OF TEXAS</b>
<b>MERGER OF FACILITIES AND</b>	<b>§</b>	
<b>CERTIFICATE RIGHTS IN EL PASO</b>	<b>§</b>	
<b>COUNTY</b>	<b>§</b>	

**PROPOSED ORDER APPROVING SALE AND TRANSFER TO PROCEED**

This Order addresses the May 5, 2020 application of Vinton Hills Alegre, LLC and the Village of Vinton for the sale, transfer, or merger of facilities and certificate of convenience and necessity (CCN) rights in El Paso County. The applicants seek to transfer all of Vinton Hills' facilities and service area under water CCN number 12563 to the Village of Vinton and to subsequently cancel water CCN number 12563. This Order addresses only the requested sale and transfer. The administrative law judge (ALJ) grants that the proposed transaction in this application may proceed and be consummated.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicants**

1. Vinton Hills is an investor owned utility that provides water service under CCN number 12563 in El Paso County.
2. Vinton Hills is a domestic limited liability company registered with the Texas secretary of state under file number 800704510.
3. Vinton Hills owns and controls three public water systems (PWS) in El Paso County registered with the Texas Commission on Environmental Quality (TCEQ) under identification numbers 0710151, 0710169, and 0710172.
4. Village of Vinton is a municipality that provides water service under CCN number 13269 in El Paso County.
5. Village of Vinton owns and controls a PWS registered with the TCEQ under identification number 0710050.

**Application**

6. On May 5, 2020, the applicants filed an application for approval to transfer all facilities and service area held under Vinton Hills' CCN number 12563 to Village of Vinton and to subsequently cancel Vinton Hills' CCN number 12563. The application originally requested that Village of Vinton be granted a new CCN as a result of the transfer.
7. On June 11, 2020, the applicants amended the application to clarify that the requested area should be transferred into Village of Vinton's existing CCN number 13269.
8. The requested service area subject to this transaction is located in downtown Village of Vinton, Texas, and is generally bounded on the north by Valley Chile Road; on the east by Lovena Road; on the south by Cap Carter Road; and on the west by State Highway 20.
9. The total area affected by the transaction comprises approximately 310 acres and includes 299 current customers.
10. In Order No. 3 filed on July 6, 2020, the ALJ deemed the application administratively complete.

**Notice**

11. On July 17, 2020, the applicants filed the affidavit of Christina Thompson, paralegal of Lloyd Gosselink Rochelle & Townsend, P.C., attorneys for Village of Vinton, attesting that notice was mailed to all current customers, neighboring utilities, and affected parties on July 13, 2020.
12. In Order No. 4 filed on August 18, 2020, the ALJ deemed the notice sufficient.

**Evidentiary Record**

13. On October 20, 2020, Village of Vinton filed an agreed motion to admit evidence on behalf of the parties.
14. In Order No. 5 filed on \_\_\_\_\_, 2020, the ALJ admitted the following into evidence: (a) The application and confidential attachments filed on May 5, 2020; (b) The amended application filed on June 11, 2020; (c) Commission Staff's recommendation on administrative completeness and proposed procedural schedule filed on July 2, 2020;

(d) the applicants' proof of notice filed on July 17, 2020; (e) Commission Staff's recommendation on sufficiency of notice and proposed procedural schedule filed on August 17, 2020; and (f) Commission Staff's recommendation on approval of the sale filed on September 16, 2020.

**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)**

15. Village of Vinton and Vinton Hills have not been subject to any enforcement action by the Commission, TCEQ, Texas Department of State Health Services, the Office of the Attorney General, or United States Environmental Protection Agency in the past five years.
16. Village of Vinton and Vinton Hills have no outstanding violations listed in the TCEQ database.
17. Village of Vinton and Vinton Hills have demonstrated a compliance status that is adequate for approval of the transaction.

**Adequacy of Existing Service—TWC § 13.246(c)(1); 16 TAC §§ 24.227(e)(1), 24.239(h)(5)(A)**

18. Vinton Hills is currently providing water service to 299 customers in the 310-acre service area through PWS numbers 0710151, 0710169, and 0710172, and such service has been continuous and adequate.

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

19. There is a need for service because Vinton Hills is currently serving approximately 299 customers in the 310-acre requested area.
20. Village of Vinton has received no new requests for service and is not requesting to add additional uncertified area.
21. The application is to transfer only existing facilities, customers, and service area.

**Effect of Approving the Transaction—TWC § 13.245(c)(3); 16 TAC §§ 24.227(e)(3); 24.239(h)(5)(C)**

22. Vinton Hills is already operating and maintaining all PWS subject to the transfer; therefore, there will be no effect on any other retail public utility servicing the proximate area.



23. The 310-acre requested area is already certificated; therefore, there will be no effect on the landowners.
24. Approving the transaction and granting the CCN amendment will allow Village of Vinton to serve the approximately 299 customers to be transferred and obligate Village of Vinton to provide service to any future customers in the 310-acre area.

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

25. PWS numbers 0710151, 0710169, and 0710172, through which Vinton Hills is currently providing service to approximately 299 customers in the 310-acre requested area, have adequate capacity to meet the demands in the requested area.
26. Village of Vinton owns and controls PWS No. 0710050, which has no outstanding violations listed in the TCEQ database.
27. Village of Vinton employs a sufficient number of TCEQ-licensed operators who will operate the water systems.
28. Village of Vinton 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.
29. Village of Vinton has the managerial and technical capability to provide continuous and adequate retail water service to the 310-acre requested area.

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

32. The 310-acre requested area is currently being served by Vinton Hills through existing facilities.
33. Notice was provided to utilities within a two-mile radius and no protests or requests to opt out were received regarding the proposed transaction.
34. It is not feasible for an adjacent utility or retail public utility to provide service to the 310-acre requested area.

**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), and 24.239(e), (h)(5)(D)**

35. Village of Vinton has a debt-to-equity ratio of less than one, satisfying the leverage test.
36. Village of Vinton has sufficient cash available to cover any projected operations and maintenance shortages during the first five years after completion of the proposed transaction, satisfying the operations test.
37. Village of Vinton has demonstrated the financial capability and stability to provide continuous and adequate retail water service the 310-acre requested area.

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

38. There is no need to require Village of Vinton to provide a bond or other financial assurance to ensure continuous and adequate service.

**Environmental Integrity and Effect on the Land—TWC §§ 13.246(c)(7); 16 TAC §§ 24.227(e)7, (e)(9), 24.239(h)(5)(G)**

39. There will be no immediate effect on environmental integrity and on the land because the 310-acre requested area is already receiving service.
40. Some construction will be required at a later date for the installation of a looped drinking water distribution system, water distribution lines, and residential meters in order to obtain a more reliable water supply from El Paso Water Utilities under a wholesale purchase agreement. However, the proposed construction will not impact undisturbed or undeveloped land and Village of Vinton has pledged to restore any impacted land to substantially the same condition that existed prior to the start of construction.

**Improvement in Service or Lowering Cost to Consumers—TWC § 13.246(c)(8); 16 TAC §§ 24.227(e)(8) 24.239(h)(5)(H)**

41. The transaction will improve the current level of service by allowing for the installation of a looped water system, connecting customers to a more reliable water supply provided by El Paso Water Utilities under a wholesale purchase agreement.

**Regionalization or Consolidation—TWC § 13.241(d); 16 TAC § 24.227(b)**

42. Village of Vinton will not require the construction of a physically separate water system in order to serve the requested area. Accordingly, regionalization and consolidation concerns do not apply.

**II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. The applicants provided notice of the application that complies with TWC §§ 13.246 and 13.301(a)(2), and 16 TAC § 24.239.
2. After consideration of the factors in TWC § 13.246(c) and 16 TAC §§ 24.227(e) and 24.239(h)(5), Village of Vinton demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous retail water service to the 310-acre requested area as required by TWC § 13.301(b) and 16 TAC § 24.239(e).
3. Vinton Hills and Village of Vinton have demonstrated that the transfer of PWS numbers 0710151, 0710169, and 0710172 and service area held under CCN number 12563 from Vinton Hills to Village of Vinton 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 transaction, but not later than 30 days after such effective date, the applicants must file proof that the transaction has been consummated and customer deposits, if any, have been addressed.
3. The applicants have 180 days to complete the transaction.

4. Under 16 TAC § 24.239(m), if the transaction is not consummated within this 180-day 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 water CCN number 12563 will be held by Vinton Hills until the sale and transfer transaction is complete in accordance with the Commission's rules.
6. In an effort to finalize this case as soon as possible, the applicants must 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 must file a recommendation regarding the sufficiency of the documents and propose a procedural schedule for continued processing of this docket.

**Signed at Austin, Texas the \_\_\_\_\_ day of \_\_\_\_\_, 2020.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

---

**GREGORY R. SIEMANKOWSKI  
ADMINISTRATIVE LAW JUDGE**