



Control Number: 50969



Item Number: 38

DOCKET NO. 50969

APPLICATION OF JAMES NELSON	§	PUBLIC UTILITY COMMISSION
DBA WATERCO TO OBTAIN A	§	
WATER CERTIFICATE OF	§	OF TEXAS
CONVENIENCE AND NECESSITY IN	§	
MONTAGUE COUNTY	§	

ORDER

This Order addresses the application of James Nelson dba Waterco to obtain a certificate of convenience and necessity (CCN) in Montague County. On May 31, 2022 the administrative law judge (ALJ) filed a proposal for decision recommending that the Commission dismiss the application of James Nelson dba Waterco, with prejudice, because the application has become moot under 16 Texas Administrative Code (TAC) § 22.181(d)(2). The Commission adopts the proposal for decision, including findings of fact and conclusions of law, to the extent provided in this Order.

The Commission makes non-substantive changes for such matters as capitalization, spelling, grammar, punctuation, style, correction of numbering, and readability.

I. Findings of Fact

The Commission adopts the following findings of fact.

1. On June 23, 2020, Waterco filed the application at issue in this proceeding, seeking to obtain a water CCN in Montague County.
2. At the time the application was filed, Waterco owned and controlled facilities for providing water service to an uncertificated area in Montague County but did not hold a CCN.
3. Waterco had previously held CCN number 10130 which was associated with the facilities at issue in this proceeding. CCN number 10130 was, however, cancelled on December 31, 1999.
4. On November 17, 2020, Commission Staff filed a motion to abate this docket to allow Waterco to work with Staff to become compliant with applicable rules and laws.
5. In Order No. 4 filed on January 7, 2021, the ALJ abated this proceeding.

6. During the time when this case was abated, Commission Staff periodically filed status updates.
7. On December 18, 2020, in Docket No. 51642,¹ Waterco and CSWR-Texas Utility Operating Company, LLC filed an application for the sale, transfer, or merger of facilities (the STM application).
8. In the STM application, Waterco and CSWR sought Commission approval of the sale and transfer of all of Waterco's facilities, customers, and service area to CSWR.
9. On April 9, 2021, Commission Staff recommended that this docket should remain abated while the STM application at issue in Docket No. 51642 proceeded.
10. In a Notice of Approval filed on March 15, 2022, the STM application in Docket No. 51642 was approved.²
11. As a result of the transaction approved in Docket No. 51642, Waterco no longer possesses any facilities for providing water service for which to apply for a water CCN.³
12. On April 14, 2022, Commission Staff filed a motion to dismiss this docket as moot under 16 TAC § 22.181(d)(2).
13. In Order No. 11 filed on April 29, 2022, the ALJ addressed the motion to dismiss, giving Waterco until May 20, 2022 to respond to Commission Staff's motion to dismiss.
14. Waterco did not respond to Commission Staff's motion to dismiss.
15. Waterco has filed nothing in this proceeding since it filed its application on June 23, 2020.
16. No hearing was held on the motion to dismiss.
17. In Order No. 12, filed on May 31, 2022, the ALJ lifted the abatement of this proceeding.

¹ *Application of James L. Nelson dba Waterco and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Montague County*, Docket No. 51642, Notice of Approval (Mar. 15, 2022)

² *Id.*

³ *Id.*

II. Conclusions of Law

The Commission adopts the following conclusions of law.

1. The Commission has authority over this matter under Texas Water Code §§ 13.041, 13.241, 13.244, 13.246.
2. Under 16 TAC § 22.181(d)(2), the ALJ may recommend to the Commission that it dismiss a proceeding, with or without prejudice, when the petition is moot or obsolete.
3. Under 16 TAC § 22.181(f)(2), dismissal of a case for reasons other than those specified in 16 TAC § 22.181(g)(1) or (2) requires preparation of a proposal for decision.
4. Because Waterco's application to obtain a water CCN has been rendered moot by Waterco's subsequent sale of its water facilities to CSWR, dismissal of the application in this docket is proper under 16 TAC § 22.181(d)(2).

III. Ordering Paragraphs

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

1. The Commission adopts the proposal for decision, including findings of fact and conclusions of law, to the extent provided in this Order.
2. The Commission dismisses, as moot, the application of Waterco to obtain a water CCN, with prejudice.
3. The Commission denies all other motions and any other requests for general or specific relief if not expressly granted.

Signed at Austin, Texas the 14th day of Aug 2022.

PUBLIC UTILITY COMMISSION OF TEXAS



PETER M. LAKE, CHAIRMAN



WILL MCADAMS, COMMISSIONER



LORI COBOS, COMMISSIONER



JIMMY GLOTFELTY, COMMISSIONER