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DOCKET NO. 51353

**APPLICATION OF KICKAPOO FRESH §
WATER SUPPLY DISTRICT AND §
G&W WATER SUPPLY §
CORPORATION FOR SALE, §
TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN WALLER COUNTY §**

PUBLIC UTILITY COMMISSION

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PUBLIC UTILITY COMMISSION
FILING CLERK

**JOINT MOTION TO ADMIT EVIDENCE
AND PROPOSED ORDER**

COME NOW, G & W Water Supply Corporation (G&W), Kickapoo Fresh Water Supply District (Kickapoo), and the Staff (Staff) of the Public Utility Commission of Texas (Commission), and file this Joint Motion to Admit Evidence and Proposed Order and respectfully show the following:

I. BACKGROUND

On September 21, 2020, Kickapoo Fresh Water Supply District (Kickapoo) and G&W Water Supply Corporation (G&W) (collectively, Applicants) filed an application for approval of the sale, transfer, or merger of facilities and certificate rights in Waller County. The requested area includes approximately 495 acres and 50 connections. Currently, the area is dually certificated under certificate of convenience and necessity (CCN) No. 12391 held by G&W and under CCN No. 13204 held by Kickapoo.

G&W seeks approval to acquire facilities and to transfer the entirety of Kickapoo's water service area to G&W. As a result of the requested transaction, the service area will be under G&W's single certification and Kickapoo's CCN will be cancelled.

Order No. 4 set a deadline of February 23, 2021 for the submittal of a Motion to Admit Evidence and a Proposed Order; therefore, this pleading is timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

The Parties move to admit the following items into the record as evidence of this proceeding:

- (a) The Application filed on September 21, 2020, as supplemented on January 12, 2021 (Interchange Item No. 1 and No. 8);
- (b) Staff's Comments on Administrative Completeness and Proposed Notice, filed on October 21, 2020 (Interchange Item No. 3);
- (c) Applicants' Proof of Notice and Supporting Documentation, filed on November 4, 2020 (Interchange Item No. 5);
- (d) Staff's Recommendation on Notice, filed on December 7, 2020 (Interchange Item No. 6);
- (e) Staff's Recommendation on Approval of the Sale and on the Certificate of Convenience and Necessity (CCN) Amendment including the attached memorandum that the Application be approved, filed on January 28, 2021 (Interchange Item No.9).

III. JOINT PROPOSED ORDER

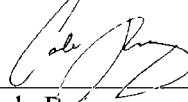
The parties request adoption of the attached Joint Proposed Order approving the sale and transfer to proceed, which will transfer the requested area to G&W's CCN and cancel Kickapoo's CCN No. 13204.

IV. CONCLUSION AND PRAYER

The Parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the Commission adopt the attached Proposed Order.

Dated: February 23, 2021

Respectfully submitted,



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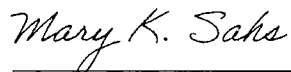
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CERTIFICATE OF SERVICE

I certify that notice of the filing of this document was provided to all parties of record via electronic mail on February 23, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

Mary K. Sahs

Mary K. Sahs

DOCKET NO. 51353

APPLICATION OF KICKAPOO FRESH	§	PUBLIC UTILITY COMMISSION
WATER SUPPLY DISTRICT AND	§	
G&W WATER SUPPLY	§	OF TEXAS
CORPORATION FOR SALE,	§	
TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTS IN WALLER COUNTY	§	

PROPOSED ORDER

This Order addresses the Application of G & W Water Supply Corporation (G&W) and Kickapoo Fresh Water Supply District (Kickapoo) (collectively, Applicants) to for approval of the sale, transfer, or merger of facilities and to cancel Kickapoo's certificate rights in Waller County. The administrative law judge (ALJ) grants that the sale is approved and the transaction between G&W and Kickapoo may proceed and be consummated.

I. Findings of Fact

The Commission makes the following findings of fact:

Applicants

1. G&W is a non-profit water supply corporation registered with the Secretary of State under file number 106049001.
2. G&W is a retail public utility that operates, maintains, and controls facilities for providing water utility service in Waller and Grimes Counties under CCN number 12391.
3. Kickapoo is a retail public utility that operates, maintains, and controls facilities for providing water utility service in Waller County under CCN number 13204.
4. G&W and Kickapoo are dually certificated for Kickapoo's certificated service area.
5. G&W currently provides wholesale water service to Kickapoo's certificated service area through its assigned interest in the Spring Preserve Water Company, LLC wholesale water plant.

Application

6. On September 21, 2020, G&W and Kickapoo filed an application for a sale, transfer, or merger (STM) of facilities and certificate rights in Waller County, Texas.

7. Specifically, G&W, holding CCN number 12391, seeks approval to acquire facilities and to cancel Kickapoo's CCN service area under water CCN number 13204. Kickapoo and G&W currently have dual certification over the entirety of Kickapoo's CCN service area. G&W's current CCN encompasses Kickapoo's CCN area and extends beyond it.
8. The transfer and amendment of CCN number 13204 will result in single certification for G&W's CCN number 12391. The requested area includes approximately 495 acres and 50 connections, which serve approximately 147 current customers.
9. Applicants supplemented the application on January 12, 2021.
10. The ALJ deemed the application sufficient in Order No. 2 filed on October 22, 2010.

Notice

11. On November 4, 2021, G&W filed the affidavit of Jake Marcisz, president of G&W, attesting that notice was provided to all current customers, neighboring utilities, and affected parties on October 29, 2020.
12. In Order No. 3 filed on December 8, 2020, the ALJ deemed the notice sufficient.
13. The deadline to intervene was November 29, 2020; there were no motions to intervene, protests, or opt-out requests received.

Evidentiary Record

14. On February 23, 2021, the Applicants, and Commission Staff filed a joint motion to admit evidence.
15. In Order No. __ filed on _____ the ALJ admitted the following evidence into the record: (a) The Application filed on September 21, 2020, as supplemented on January 12, 2021; (b) Staff's Comments on Administrative Completeness and Proposed Notice, filed on October 21, 2020; (c) Applicant's Proof of Notice and Supporting Documentation, filed on November 4, 2020; (d) Staff's Recommendation on Notice, filed on December 7, 2020; and (e) Staff's Recommendation on Approval of the Sale and on the Certificate of Convenience and Necessity Amendment including the attached memorandum that the Application be approved, filed on January 28, 2021.

Adequacy of Existing Service and 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)

16. Kickapoo has a Texas Commission on Environmental Quality (TCEQ) approved public water system (PWS) registered as Kickapoo Preserve Subdivision, PWS ID number 2370096. Kickapoo has a violation for failure to maintain a service agreement and failure to maintain an up-to-date monitoring plan in the TCEQ database. Both violations are expected to be resolved after the transfer of the area from Kickapoo to G&W.
17. Spring Preserve Water System, PWS ID number 2370095 is the wholesale water supplier for Kickapoo Preserve Subdivision. G&W submitted a revised contract with Spring Preserve Water System, demonstrating that Spring Preserve Water System conveyed its interest to G&W. Therefore, G&W is the current wholesale service provider. The revised service contract is set to expire when the transfer is complete, and G&W owns and operates the facilities providing service to Kickapoo Preserve Subdivision.

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

18. The purpose of the transaction is to transfer Kickapoo Preserve Subdivision to G&W. The customers are currently receiving retail water service from Kickapoo Preserve Subdivision's water system which receives wholesale water service from the Spring Preserve Water System. There are currently about 147 existing customers in the requested area; therefore, there is a need for service. No additional service is needed at this time.

Effect of Approving the STM and Canceling Kickapoo's CCN—TWC § 13.246(c)(3); 16 TAC §§ 24.227(e)(3), 24.239(h)(5)(C).

19. Approving the sale, transfer, or merger to proceed and cancelling Kickapoo's CCN will result in G&W being the sole certificated entity for the requested area and will obligate G&W to provide adequate and continuous service to the requested area.
20. There will be no effect on landowners as the area is currently dual-certificated and does not contain any uncertificated area.
21. There will be no effect on any retail public utility servicing the proximate area. All retail

public utilities in the proximate area were provided notice of the transaction taking place in this application and did not request to intervene.

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

22. G&W has three active TCEQ-approved public water systems registered as G&W WSC, PWS ID: 2370063, G&W WSC Woodland Lakes Water System, PWS ID: 23730085, and G&W WSC Field Store, PWS ID: 0930048.
23. G&W does not have any violations listed in the TCEQ database for the water systems in Waller County. There are some violations for the system in Grimes County, but G&W submitted documentation in the application showing how they are addressing these violations with the TCEQ.
24. G&W is the wholesale water provider for the requested area through its interest in Spring Preserve Water System, and therefore has access to an adequate supply of water and is capable of providing 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.
25. No additional construction is necessary for G&W to serve the requested area.

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

26. The construction of a physically separate system is not necessary for G&W to serve the requested area. Therefore, concerns of regionalization or consolidation do not apply.

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

27. Kickapoo is currently serving customers and has sufficient capacity.
28. Obtaining service from an adjacent retail public utility would likely increase costs to customers because new facilities will need to be constructed. At the minimum, an interconnect would need to be installed to connect to a neighboring retail public utility. Therefore, it is not feasible to obtain service from an adjacent retail public utility.

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).

29. The Application included G&W financial statements ending December 31, 2019. These financial statements contain an unqualified auditor's opinion from McCall Gibson Swedlund Barfoot PLLC stating that the financial statements present fairly, in all material respects, the financial position of G&W as of December 31, 2019.
30. G&W's financial statements report a debt service coverage ratio of 1.57. The debt service coverage ratio is net operating income of \$700,417 before depreciation, amortization, and interest expenses divided by annual debt service of \$447,094. This meets one of the required leverage tests because the ratio is less than 1.25.
31. G&W demonstrates adequate financial and managerial capability to provide continuous and adequate service to the area subject to this application.
32. G&W's and Kickapoo's financial statements include operating income and cash flow information that indicate G&W will have sufficient cash to cover projected shortages.
33. No capital improvements are needed to provide continuous and adequate service to the requested area.
34. Sufficient cash and net operating income available to cover possible future shortages provide an indication of financial stability and financial and managerial capability.

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

35. There is no need to require G&W 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) and (9); and 16 TAC §§ 24.227(e)(7) and (9) and 24.239(h)(5)(G).

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

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

37. G&W will continue to provide water service to the existing customers in the area. There will be an improvement of service as G&W already owns the facilities that provide wholesale water service to the area, meaning the Kickapoo Preserve Subdivision will not have to rely on service from a wholesale provider.
38. The customer costs will increase; however, the benefits in the improvements of service to the customers because of the transfer outweigh the increase in costs to customers.
39. Kickapoo holds deposits for 34 customers.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. G&W and Kickapoo 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), G&W has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested areas as required by TWC § 13.301(b).
3. G&W and Kickapoo demonstrated that the sale of Kickapoo's water facilities and the transfer of the water service area held under CCN number 13204 from Kickapoo to G&W will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.301(d) and (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 G&W and Kickapoo may proceed and be consummated.
2. As soon as possible after the effective date of the transaction, but not later than 30 days after the effective date, G&W and Kickapoo must file proof that the transaction has been consummated and customer deposits, if any, have been addressed.
3. G&W and Kickapoo 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, the approval is void and G&W and Kickapoo will have to reapply for approval.
5. G&W and Kickapoo are advised that the 495-acre requested area and associated facilities will remain under CCN number 13204 and be held by Kickapoo until the sale and transfer transaction is complete, in accordance with Commission rules.
6. To finalize this case as soon as possible, G&W and Kickapoo must continue to 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 applicants' proof that the transaction has been consummated and customer deposits have been addressed, Commission Staff must file a recommendation regarding the sufficiency of the documents and propose a schedule for continued processing of this docket.

Signed at Austin, Texas on the ____ day of _____, 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE