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DOCKET NO. 52317

APPLICATION OF BASTROP WEST	§	PUBLIC UTILITY COMMISSION
WATER SUPPLY AND K & K WATER	§	
COMPANY FOR SALE, TRANSFER,	§	OF TEXAS
OR MERGER OF FACILITIES AND	§	
CERTIFICATE RIGHTS IN BASTROP	§	
COUNTY	§	

COMMISSION STAFF'S RESPONSE TO ORDER NO. 3

On July 14, 2021, Bastrop West Water Supply (Bastrop West) and K & K Water Company (K & K Water) (collectively, Applicants) filed an application for approval for the sale, transfer, or merger (STM) of facilities and certificate rights in Bastrop County. The Applicants seek approval to sell and transfer all of Bastrop West's facilities and certificated service area under water Certificate of Convenience and Necessity (CCN) number 12050 to K & K Water's water CCN number 11836. The requested area consists of approximately 289 acres and 117 customer connections. The Applicants filed supplemental information on July 27, 2021 and August 11, 2021 indicating that they were not requesting to incorporate Bastrop West's CCN to K&K Water's CCN, but rather that they were only requesting to transfer ownership of Bastrop West to Paul and Karen Klaus (Klaus), the individual owners of K&K Water, and to maintain two separate entities with two separate CCN numbers.

On September 1, 2021, the administrative law judge (ALJ) filed Order No. 3, seeking clarifications from the Staff (Staff) of the Public Utility Commission of Texas (Commission) by September 14, 2021. Therefore, this pleading is timely filed.

I. COMMISSION STAFF'S RESPONSE TO ORDER NO. 3

Staff has reviewed the application, letters, and supplements filed by the Applicants, and believes that the requested transfer requires Commission approval and that an STM proceeding is the most appropriate vehicle in which to satisfy that requirement. In Karen Klaus's July 27, 2021 letter, she stated that she would like to transfer the ownership of Bastrop West from Clyde Clardy (deceased) and Karen Clardy to Klaus, who are the current owners of K&K Water. Klaus represents that such a transfer is not an STM. However, under TWC § 13.301, a utility that is acquiring another utility, that is required to possess a CCN, must seek and receive Commission approval for the transaction. Both Bastrop West and K&K Water meet the definition of a utility

under TWC § 13.002(23) and are each holders of a CCN as required by TWC § 13.242. Additionally, the Applicants stated that Klaus would purchase Bastrop West for \$300,000.¹ Therefore, Commission Staff believes Klaus's purchase of Bastrop West is an STM that requires Commission approval under TWC § 13.301 and 16 Texas Administrative Code (TAC) 24.239.

Second, Staff recommends that, upon completion of the STM, Klaus should not possess two separate CCNs. Rather, Bastrop West's existing service area should be transferred to K&K Water's service area and Bastrop West's CCN should be canceled. As a policy matter, the Commission is reluctant to grant an applicant, who is the holder of an existing CCN, an additional CCN.² In these instances, Staff believes it is preferable to add the new area to the existing CCN. Consequently, Staff believes it is appropriate for K&K Water's existing service area to be amended to include Bastrop West's service area. Staff has conferred with the Applicants regarding this approach and is authorized to state that they are unopposed.

II. CONCLUSION

For the reasons detailed above, Staff recommends that Commission approval is necessary for Klaus to purchase Bastrop West and that K&K Water's existing CCN should be amended to include Bastrop West's service area as a result of this transaction.

¹ Application at Question 11.

² See, e.g., *Application of Bluebonnet Hills Water Supply Corporation and the City of Cresson for Sale, Transfer, and Merger of Facilities and Certificate Rights in Parker County*, Docket No. 48680, Chairman Walker Commissioner Memorandum (Sep. 9, 2020).

Dated: September 14, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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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 September 14, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Daniel Moore
Daniel Moore