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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	§	

ORDER NO. 12
APPROVING SALE AND TRANSFER TO PROCEED

This Order addresses the application of Bastrop West Water Supply and K & K Water Company for the sale, transfer, or merger of facilities and certificate rights in Bastrop County. The applicants seek approval to sell and transfer all of Bastrop West's facilities, customers, and service area under certificate of convenience and necessity (CCN) number 12050 to K & K Water, the cancellation of Bastrop West's CCN number 12050, and the amendment of K & K Water's CCN number 11836 to include the facilities and service area previously included in Bastrop West's CCN number 12050. The administrative law judge (ALJ) grants that the sale is approved and the transaction between Bastrop West and K & K Water may proceed and be consummated.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Bastrop West is a sole proprietorship transferred from Clyde (deceased) and Karen Clardy to Paul and Karen Klaus.
2. Bastrop West is an investor-owned utility that operates, maintains, and controls facilities for providing water service in Bastrop County under CCN number 12050.
3. Bastrop West owns and operates public a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under public water system identification number 0110047.
4. K & K Water is a sole proprietorship owned by Paul and Karen Klaus.

5. K & K Water is an investor-owned utility that operates, maintains, and controls facilities for providing water service in Bastrop County under CCN number 11836.
6. K & K Water owns and operates public a public water system registered with the TCEQ under public water system identification number 0110045.

Application

7. On July 14, 2021, the applicants filed the application at issue in this proceeding.
8. In this application, Bastrop West and K & K Water seek approval of the following transaction: (a) K & K Water will acquire all of Bastrop West's facilities, customers, and certificated service area under CCN number 12050; (b) Bastrop West's CCN number 12050 will be cancelled; and (c) and K & K Water's CCN number 11836 will be amended to include the facilities and area previously included in Bastrop West's CCN number 12050.
9. On July 27, August 11, 27, and 31, September 3, October 25, 2021, and April 26, 2022, applicants filed supplements to the application.
10. The requested area comprises approximately 289 acres and 117 current water connections.
11. The requested areas is located approximately ten miles west of Bastrop, Texas, and is generally bordered north by State Highway 71; on the east by Pope Bend Road South; on the south by Edmonson Lane; and on the west by Triangle Acres Lane.
12. In Order No. 6 filed on January 10, 2022, the ALJ found the application, as supplemented, administratively complete.

Notice

13. On February 2, 2022, Bastrop West filed the affidavit of Paul and Karen Klaus, owners of Bastrop West, attesting that notice was mailed to current customers, neighboring utilities and affected parties on February 1, 2022.
14. On February 17, 2022, Bastrop West filed the affidavit of Paul and Karen Klaus, owners of Bastrop West, attesting that notice was mailed to Bastrop County MUD 2 on February 17, 2022.
15. The deadline to intervene was March 21, 2022.

16. No motions to intervene, protests, or opt-out requests were filed.
17. In Order No. 8 filed on February 28, 2022, the ALJ found the notice sufficient.

Evidentiary Record

18. On June 8, 2022, Commission Staff filed a motion to admit evidence. Commission Staff indicated it had reached out to the applicants regarding the motion but did not receive a response.
19. In Order No. 11 filed on June 13, 2022, the ALJ admitted the following requested evidence into the record of this proceeding: (a) the application and all attachments filed on July 14, 2021; (b) Bastrop West's response to Order No. 1 filed on July 27, 2021; (c) Bastrop West's mapping supplement to the application filed on August 11, 2021; (d) Bastrop West's response to Order No. 2 filed on August 27, 2021; (e) Bastrop West's supplement to the application filed on August 31, 2021; (f) Bastrop West's financial supplements to the application filed on September 3 and October 25, 2021; (g) Commission Staff's recommendation on administrative completeness filed on October 25, 2021; (h) Bastrop West's proof of notice filed on February 2 and 17, 2022; (i) Commission Staff's recommendation on sufficiency of notice filed on February 25, 2022; and (j) Commission Staff's recommendation on the transaction and all attachments filed on May 2, 2022.
20. In Order No. 11 filed on June 13, 2022, the ALJ also admitted, *sua sponte*, the following evidence into the record of this proceeding: (a) Commission Staff's supplemental recommendation on administrative completeness and notice and proposed procedural schedule filed on January 7, 2022; and (b) Bastrop West's supplement to the application filed on April 26, 2022.

System Compliance

21. The last TCEQ compliance investigation of the Bastrop West system was on January 25, 2018.
22. Bastrop West has resolved all violations listed in the TCEQ database.
23. The Commission's complaint records, which date back to 2017, show no complaints against Bastrop West.
24. K & K Water does not have any unresolved violations listed in the TCEQ database.

25. The Commission's complaint records, which date back to 2017, show one complaint against K & K Water.
26. The applicants have demonstrated a compliance status that is adequate for approval of the transaction to proceed.

Need for Additional Service

27. There are 117 existing customers in the requested area that have an ongoing need for water service.
28. This is an application to transfer only existing facilities, customers, and service area. There have been no specific requests for additional service within the requested area.

Effect of Approving the Transaction and Granting the Amendment

29. Approving the sale and transfer to proceed and granting the CCN amendment will obligate K & K Water to provide continuous and adequate water service to current and future customers in the requested area.
30. Because this application is to transfer existing facilities, customers and certificated service area, there will be no effect on any other retail public utility in the proximate area.
31. Existing customers and landowners in the requested area will not be affected because they are in an area that is currently certificated.
32. K & K Water will adopt Bastrop West's current rates upon the consummation of the transaction.

Ability to Serve: Managerial and Technical

33. K & K Water owns and operates a public water system registered with TCEQ and does not have any active violations listed in the TCEQ database. The Commission's complaint records, which date back to 2017, show one complaint against K & K Water.
34. K & K has access to an adequate supply of water and is capable of providing drinking water that meets the requirements of Chapter 341, Health and Safety Code, and the requirements of the TWC.
35. K & K Water will employ or contract with TCEQ-licensed water operators who will operate the public water system.

36. K & K Water has been operating Bastrop West's public water system since February 1, 2012.
37. No additional construction is necessary for K & K Water to provide service to the requested area.
38. K & K Water has the managerial and technical capability to provide continuous and adequate service in the requested area.

Ability to Serve: Financial Ability

39. K & K Water's owners, Paul and Karen Klaus, have a consolidated debt-to-equity ratio of less than one, therefore, through its owners K & K Water satisfies the leverage test.
40. K & K Water's owners, Paul and Karen Klaus, provided a written guarantee of coverage of temporary cash shortages and demonstrated that it has sufficient cash available to cover any projected operations and maintenance shortages in the first year five years of operations after completion of the transaction and possesses the cash and leverage ability to pay for capital improvements and necessary equity investments, therefore through its owners, K & K Water satisfies the operations test.
41. K & K Water has demonstrated the financial capability and stability to provide continuous and adequate service to the requested area.

Regionalization or Consolidation

42. Concerns of regionalization or consolidation with another retail public utility do not apply because construction of a physically separate water system is not needed for K & K Water to provide service to the requested area.

Feasibility of Obtaining Service from Adjacent Retail Public Utility

43. Bastrop West is currently serving customers in the requested area.
44. Obtaining service from an adjacent retail public utility would likely increase costs to customers because new facilities would need to be constructed. At a minimum, an interconnect would need to be installed in order to connect to a neighboring retail public utility.
45. It is not feasible to obtain service from an adjacent retail public utility.

Financial Assurance

46. There is no need to require K & K Water to provide a bond or other financial assurance to ensure continuous and adequate service to the requested area.

Environmental Integrity and Effect on the Land

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

Improvement of Service or Lowering Cost to Consumers

48. K & K Water will continue to provide water service to existing customers in the requested area.
49. The rates charged to customers in the requested area will not change because K & K Water will adopt the tariff for Bastrop West's water system.
50. Reliability and quality of water service is expected to improve under K & K Water's management.

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 Texas Administrative Code (TAC) § 24.239.
2. After consideration of the factors in TWC § 13.246(c), K & K Water demonstrated it is capable of rendering continuous and adequate service to every customer within the requested area, as required by TWC § 13.251.
3. K & K Water demonstrated adequate financial, managerial, and technical capability to provide continuous and adequate service to the requested area as required by TWC §§ 13.241(a) and 13.301(b).
4. The applicants demonstrated that the sale and the transfer of Bastrop West's facilities and water service area held under CCN number 12050 to K & K Water 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 Bastrop West and K & K Water 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, 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 from the date of this Order to complete the transaction.
4. Under 16 TAC § 24.239(m), if the transaction is not consummated within this period, or an extension is not granted, this approval is void and the applicants must reapply for approval.
5. The applicants are advised that Bastrop West's facilities and its corresponding service area will remain under CCN number 12050 and will be held by Bastrop West until the sale and transfer transaction is complete in accordance with Commission rules.
6. In an effort to finalize this case as soon as possible, the applicants 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 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 14th day of June 2022.

PUBLIC UTILITY COMMISSION OF TEXAS



SUSAN E. GOODSON
ADMINISTRATIVE LAW JUDGE