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DOCKET NO. 52628

APPLICATION OF TRITON TEXAS	§	PUBLIC UTILITY
HOLDINGS LLC FOR APPROVAL OF	§	
CHANGES IN OWNERSHIP UNDER	§	COMMISSION OF TEXAS
TEXAS WATER CODE § 13.302	§	

JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED ORDER
APPROVING TRANSACTION TO PROCEED

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

Pursuant to Order No. 4, Triton Texas Holdings LLC (TTH) and Commission Staff (collectively, the Parties) jointly submit this Motion to Admit Evidence along with the attached Proposed Order Approving Transaction to Proceed. In support of the same, the parties respectfully show the following:

I. BACKGROUND

Triton Texas Holdings, LLC filed an application to acquire 100% of the issued and outstanding limited liability company interests of Horseshoe Bend Water Company LLC (Horseshoe Bend) and 100% of the issued and outstanding shares of Lone Star Water Company (Lone Star). On December 8, 2021, the ALJ filed Corrected Order No. 5, which provided a deadline of December 30, 2021, for a Joint Motion to Admit Evidence and Proposed Order to be timely filed, allowing the transaction to proceed. This pleading is therefore timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

The Parties move to admit the following evidence into the record of this proceeding: (a) Application of Triton Texas Holdings LLC, the Kaufman Family Living Trust, dated April 9, 2015, Disciple Asset Holdings, LP, and Malakoff Family Holdings, LP for Approval of Changes in Ownership under Texas Water Code (TWC) § 13.302 (filed September 22, 2021); (b) Confidential filing – Attachment A to Application (filed September 23, 2021); (c) Commission

Staff's Recommendation on Sufficiency of the Application and Request for Extension; (d) Applicants' Amended Application for Approval in Changes in Ownership under Texas Water Code § 13.302 (filed October 20, 2021); (e) Confidential filing – Attachment A to Amended Application (filed on October 20, 2021); (f) Supplemental Information for Applicants' Amended Application for Approval of Changes in Ownership (filed November 3, 2021); (g) Confidential filing – Attachment A to Supplemental Information for Amended Application (filed on November 3, 2021); (h) Commission Staff's Supplemental Recommendation on Administrative Completeness and Notice, Request to Restyle Dockets and Proposed Procedural Schedule; (i) Confidential filing – Attachment A to Supplemental Information for Applicants' Amended Application (filed on November 22, 2021); (j) Supplemental Information for Applicants' Amended Application for Approval of Changes in Ownership (filed on November 29, 2021); (k) Commission Staff's Final Recommendation (filed on December 6, 2021); and (l) Applicants' Response to Commission Staff's Final Recommendation (filed on December 8, 2021)..

III. PROPOSED ORDER APPROVING TRANSACTION TO PROCEED


The Parties move for adoption of the attached Joint Proposed Order Approving Transaction to Proceed, which would approve TTH's application to acquire 100% of the issued and outstanding limited liability company interests of Horseshoe Bend and 100% of the issued and outstanding shares of Lone Star.

IV. CONCLUSION

The Parties respectfully request that the Commission grant this Joint Motion to Admit Evidence and adopt the attached Joint Proposed Order Approving Transaction to Proceed.

Respectfully submitted,

TERRILL & WALDROP

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ATTORNEYS FOR TRITON TEXAS HOLDINGS, LLC

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
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CERTIFICATE OF SERVICE

I hereby CERTIFY that on December 9, 2021, a true and complete copy of the above was sent to the parties of record in accordance with P.U.C. PROC. R. 22.74.


Geoffrey P. Kirshbaum

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PROPOSED ORDER APPROVING TRANSACTION TO PROCEED

This Order addresses the application of Triton Texas Holdings LLC (TTH), a Texas limited liability company, for Commission approval under Texas Water Code (TWC) § 13.302 and 16 Texas Administrative Code (TAC) § 24.243 for changes in ownership of Horseshoe Bend Water Company LLC (Horseshoe Bend) and Lone Star Water Company (Lone Star). TTH seeks to acquire 100% of the issued and outstanding limited liability company interests of Horseshoe Bend (Horseshoe Bend Equity) and 100% of the issued and outstanding shares of Lone Star stock (Lone Star Equity) (collectively, the Interests) from Triton Utilities, Inc. (TUI). The administrative law judge (ALJ) approves the transaction between TUI and TTH and authorizes the transaction to proceed and be consummated.

I. FINDINGS OF FACT

The Commission makes the following findings of fact.

Applicant

1. Triton Texas Holdings LLC is a Texas limited liability company registered with the Texas secretary of state on August 31, 2021, under filing no. 804219628.
2. Horseshoe Bend has a sale, transfer, or merger (STM) application with Castle Water, Inc. d/b/a Horseshoe Bend Water System pending before the Commission to transfer water facilities and service area served under water Certificate of Convenience and Necessity

(CCN) No. 10263 in Parker County to Horseshoe Bend.¹ Horseshoe Bend closed on that acquisition effective October 2, 2020, after receiving Commission approval to proceed with the transaction. Horseshoe Bend has not yet been assigned its own water CCN for that system because the STM application remains pending.

3. Lone Star holds water CCN No. 13279, which includes a water service area in Denton County. A STM application that led to Lone Star's acquisition of its three water systems was approved by the Commission on May 20, 2020.²

Application

4. On September 22, 2021, TTH and certain other applicants filed an application for approval to acquire the Interests from TUI through a proposed two-step transaction that would have involved the other applicants as intermediaries.
5. On October 20, 2021, TTH amended its application so that it would be the sole applicant and proposed a one-step transaction from TUI to TTH instead of the transaction originally proposed.
6. TTH supplemented its application November 3, 2021.
7. On November 10, 2021, Commission Staff recommended that the application as amended be deemed administratively complete.
8. In Order No. 3 filed on November 16, 2021, the ALJ found the application administratively complete.
9. TTH supplemented its application again on November 29, 2021.

¹ *Application of Castle Water, Inc. dba Horseshoe Bend Water System and Horseshoe Bend Water Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Parker County; Docket No. 50085 (pending)*

² *Application of Ponder Enterprises, Inc. dba Longhorn Company and Lone Star Water Company for Sale, Transfer, or Merger of Facilities and Certificate Rights in Denton County; Docket No. 49231; Notice of Approval (May 20, 2020).*

10. On December 6, 2021, Commission Staff recommended that the proposed transaction presented in the application as amended be approved to proceed.

Adequacy of Financial, Managerial, and Technical Capability—Texas Water Code § 13.302; 16 Texas Administrative Code § 24.243

11. The application as supplemented included income statements for Horseshoe Bend and Lone Star, a certification of deposit from Chase Bank for TTH, and a Certificate of Assurance confirming that TTH will cover any operations and maintenance shortages, if any, of Lone Star and Horseshoe Bend over the first five years of operations of each company.
12. TTH, together with Horseshoe Bend and Lone Star, meets the operations test.
13. TTH, together with Horseshoe Bend and Lone Star, meets the operations test because the debt service coverage ratios for Horseshoe Bend and Lone Star are greater than 1.25.
14. Horseshoe Bend and Lone Star personnel, including their licensed water operators, will continue to manage and operate the systems after the closing.
15. The proposed transaction will not change or alter the service provided to existing customers served by Horseshoe Bend and Lone Star or the rates charged for such service within the services areas under CCN No. 10263 and 13279, respectively, but will facilitate compliance with applicable regulatory and taxation requirements for the utilities' parent company.
16. TTH will be an organization dedicated to Texas utilities, while TUI will retain interests in utilities located in other jurisdictions.
17. The change in ownership will be beneficial to the entire TTH, TUI, Horseshoe Bend, and Lone Star organization, and, thus, will benefit Texas utility customers and the public interest.

18. TTH has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the water CCN No. 10263 and 13279 service areas, but Horseshoe Bend and Lone Star have sufficient financing of their own independent from TTH.
19. Additional financial assurance is not necessary for approval of the proposed transaction.

Notice

20. TTH, TUI, Horseshoe Bend, and Lone Star are the only entities affected by the application and are aware of the transaction TTH and TUI would like to enter.
21. In Order No. 3 filed on November 16, 2021, the ALJ found notice was sufficient.

Evidentiary Record

22. On December 9, 2021, the parties filed a joint motion to admit evidence.
23. In Order No. 6 filed on December ___, 2021, the ALJ admitted the following evidence into the record: (a) Application of Triton Texas Holdings LLC, the Kaufman Family Living Trust, dated April 9, 2015, Disciple Asset Holdings, LP, and Malakoff Family Holdings, LP for Approval of Changes in Ownership under Texas Water Code § 13.302 (filed September 22, 2021); (b) Confidential filing – Attachment A to Application (filed September 23, 2021); (c) Commission Staff’s Recommendation on Sufficiency of the Application and Request for Extension; (d) Applicants’ Amended Application for Approval in Changes in Ownership under Texas Water Code § 13.302 (filed October 20, 2021); (e) Confidential filing – Attachment A to Amended Application (filed on October 20, 2021); (f) Supplemental Information for Applicants’ Amended Application for Approval of Changes in Ownership (filed November 3, 2021); (g) Confidential filing – Attachment A to Supplemental Information for Amended Application (filed on November 3, 2021); (h) Commission Staff’s Supplemental Recommendation on Administrative

Completeness and Notice, Request to Restyle Dockets and Proposed Procedural Schedule; (i) Confidential filing – Attachment A to Supplemental Information for Applicants’ Amended Application (filed on November 22, 2021); (j) Supplemental Information for Applicants’ Amended Application for Approval of Changes in Ownership (filed on November 29, 2021); (k) Commission Staff’s Final Recommendation on Application (filed on December 6, 2021); and (l) Applicants’ Response to Commission Staff’s Final Recommendation (filed on December 8, 2021).

Informal Disposition

24. More than 15 days have passed since the completion of notice provided in this docket.
25. No person filed a protest or motion to intervene.
26. The applicant and Commission Staff are the only parties to this proceeding.
27. No party requested a hearing and no hearing is necessary.
28. Commission Staff recommended approval of the application.
29. The decision is not adverse to any party.

II. CONCLUSIONS OF LAW

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over this proceeding under TWC §§ 13.041 and 13.302.
2. Horseshoe Bend and Lone Star are each a “retail public utility” as defined by TWC § 13.002(19) and 16 TAC § 24.3(59).
3. Horseshoe Bend and Lone Star are each a “water utility,” “public utility,” or “utility” as defined by TWC § 13.002(23) and 16 TAC § 24.3(51), (75), and (76).

4. This docket was processed in accordance with the requirements of the TWC, the Texas Administrative Procedure Act,³ and Commission rules.
5. Pursuant to TWC § 13.302 and 16 TAC § 22.55, notice was not required for the application to anyone other than the parties who intend to participate in the proposed transaction.
6. TTH has demonstrated that it has adequate financial, managerial, and technical capability for providing continuous and adequate service to the water CCN No. 10263 and 13279 service areas in accordance with TWC § 13.302(b) and 16 TAC § 24.243(b) and that the TTH acquisition of controlling interests in Horseshoe Bend and Lone Star will serve the public interest.
7. TTH, Horseshoe Bend, and Lone Star have demonstrated that the application meets the requirements in TWC § 13.302(b) and 16 TAC § 24.243(b).
8. The Commission considered the list of potential concerns reflected in TWC § 13.301(e) and 16 TAC § 24.239(h), determined the proposed transaction serves the public interest, and determined no public hearing or contested case hearing on the application and proposed transaction is needed.
9. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

III. ORDERING PARAGRAPHS

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

1. The transaction proposed in TTH's amended application may proceed and be consummated.

³ TEX. GOV'T CODE ch. 2001.

2. Triton Texas Holdings LLC may acquire 100% of the Interests.
3. By July 18, 2022, the applicant must consummate the transaction and file proof that the transaction has been consummated.
4. TTH has 180 days to complete the transaction, but may also complete the transaction before July 18, 2022 as contemplated in Order No. 5.
5. Under 16 TAC § 24.243(i), if the transaction is not consummated within the 180-day period, or an extension has not been granted, this approval is void and TTH will have to reapply for approval.
6. Water CCN Nos. 10263 and 13279 will remain in the name of their current holders.
7. In an effort to finalize this case as soon as possible, TTH must file monthly updates regarding the status of the closing if the transaction has not been consummated within 30 days after a Commission order approving the transaction to proceed and must submit documents evidencing that the transaction was consummated no later than July 18, 2022.
8. Except as otherwise stated herein, the deadlines set forth in Order No. 5 remain effective.
9. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas the _____ day of December, 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

**CHRISTINA DENMARK
ADMINISTRATIVE LAW JUDGE**