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Application (Amended).pdf 2021-10-20 Triton Texas Holdings 13.302

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I. AMENDED PROPOSED TRANSACTION AND REQUESTED ACTION²

Triton Utilities, Inc., a Texas corporation, is the current owner of the Horseshoe Bend Equity and Lone Star Equity. Previously, TUI proposed to execute an agreement to sell and transfer all the Interests to the Interest Holders, and the Interest Holders proposed to execute a separate agreement to contemporaneously sell and transfer the Interests to TTH.³ Both transactions would have occurred simultaneously on the closing date.⁴ A copy of those agreements was confidentially filed with the Commission as part of the Application.⁵

Now, TTH proposes a different transaction agreement for review by the Commission providing for a direct “one step” transfer of the Interests from TUI to TTH. A copy of that transaction document is hereby incorporated as **Exhibit A** (Confidential). If the Commission approves, the new proposed transaction agreement would transfer the Interests directly from TUI to TTH. The Interests Holders hereby seek to withdraw their portion of the Application and as Applicants leaving TTH as the only remaining Applicant. All other information included in the original Application remains the same. While Applicant submits that seeking approval of either the new direct “one step” transaction or the previously contemplated “two step” transaction are equally permissible under TWC § 13.302 and 16 TAC § 24.243 (which do not prohibit or dictate either type), the direct “one step” transaction should only require evaluation of TTH as the sole controlling interest recipient whereas the previously proposed “two step” transaction might have conceivably called for evaluation all the applicants if the Commission found that necessary. This amendment renders consideration of the Interest Holders moot.

² 16 TAC § 22.73(4)-(5).

³ *Application of Triton Texas Holdings LLC, The Kauffman 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* (Sept. 22, 2021).

⁴ *Id.*

⁵ *Id.*

Amended pleadings are freely permitted without leave where no application notice has occurred and no special notice requirements apply here.⁶ Further, parties who initiate a proceeding may withdraw their application without prejudice to refiling any time before they present their direct case.⁷ Therefore, this Application amendment is permissible under applicable Commission rules without requiring leave or other special procedures.

Additionally, TTH submits the following information requested by Commission Staff to complete the amended Application:

- Exhibit A** Transaction Agreement
- Exhibit B** Certificate of Amendment of Potable Products Incorporated to Triton Utilities, Inc.
- Exhibit C** Horseshoe Bend Water Company – 2020 Annual Report
- Exhibit D** Lone Star Water Company – 2019 and 2020 Annual Reports
- Exhibit E** Horseshoe Bend Water Company – Proof of Payment of Regulatory Assessment Fee for 2020
- Exhibit F** Lone Star Water Company – Proof of Payment of Regulatory Assessment Fee for 2018 through 2020

TTH is unable to provide copies of any annual report documents or regulatory assessment fee related documentation or payments that may have been required of Castle Water, Inc. d/b/a Horseshoe Bend Water System prior to 2020 because neither TUI nor TTH owned that system prior to 2020 and as such TUI and TTH do not have the information necessary to complete that information, and are not responsible for any regulatory assessment fees that may have been owed. Neither Applicant, TUI, nor Horseshoe Bend Water Company LLC is affiliated in any way with Castle Water, Inc. d/b/a Horseshoe Bend Water System. Moreover, since July 3, 2019,

⁶ 16 TAC § 22.76(a)(1); *see also* TWC § 13.302(a) and 16 TAC § 24.243(a).

⁷ 16 TAC § 22.181(g)(1).

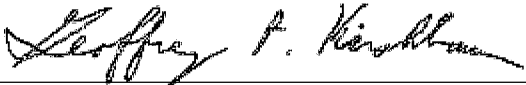
the system was managed by a Commission-appointed temporary manager and records for such prior periods do not exist.

CONCLUSION

Based on the foregoing, Triton Texas Holdings LLC, The Kauffman Family Living Trust, dated April 9, 2015, Disciple Asset Holdings, LP, and Malakoff Family Holdings, LP respectfully request the Commission approve the requested amendments to the Application. Further, TTH requests the Commission approve the proposed amended transaction described herein and authorize TTH to purchase the Horseshoe Bend Equity and Lone Star Equity, *i.e.*, the Interests, currently owned by Triton Utilities, Inc. as proposed.

Respectfully submitted,


TERRILL & WALDROP

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**ATTORNEYS FOR TRITON TEXAS HOLDINGS, LLC,
THE KAUFFMAN FAMILY LIVING TRUST, DATED
APRIL 9, 2015, DISCIPLE ASSET HOLDINGS, LP,
AND MALAKOFF FAMILY HOLDINGS, LP**

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 October 20, 2021, in accordance with the Orders Suspending Rules issued in Project No. 50664.

A handwritten signature in black ink, reading "Geoffrey P. Kirshbaum", written over a horizontal line.

Geoffrey P. Kirshbaum

DOCKET NO. 52628

APPLICATION OF TRITON TEXAS	§	BEFORE THE PUBLIC UTILITY
HOLDINGS LLC, THE KAUFFMAN	§	
FAMILY LIVING TRUST, DATED	§	COMMISSION OF TEXAS
APRIL 9, 2015, DISCIPLE ASSET	§	
HOLDINGS, LP, AND MALAKOFF	§	
FAMILY HOLDINGS, LP, FOR	§	
APPROVAL OF CHANGES IN	§	
OWNERSHIP UNDER TEXAS WATER	§	
CODE § 13.302	§	

STATEMENT OF CONFIDENTIALITY

Triton Texas Holdings LLC, The Kauffman Family Living Trust, dated April 9, 2015, Disciple Asset Holdings, LP, and Malakoff Family Holdings, LP (collectively, the Applicants) have designated as Protected Material certain documents in their Application for Commission approval under Texas Water Code § 13.302 and 16 Texas Administrative Code § 24.243 for a change in ownership of Horseshoe Bend Water Company LLC and Lone Star Water Company. The Applicants consider the information identified below to be competitively-sensitive commercial or financial information that is confidential and exempted from disclosure under the Public Information Act §§ 552.101 and 552.110.

INDEX OF CONFIDENTIAL DOCUMENTS

1. Attachment A
 - a) Designation of Information: Protected Material
 - b) Description of Documents: Transfer and Assignment Agreement
 - c) Applicable Exemptions: Public Information Act of Texas §§ 552.101 and 552.110.
 - d) Explanation of Designation: The Transfer and Assignment Agreement contains competitively-sensitive business operations information, commercial information, or financial information.
 - e) Certification of Counsel: The undersigned counsel has reviewed the information sufficiently to state in good faith that the information is exempt from discovery under the Public Information