



Filing Receipt

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DOCKET NO. 52632

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| APPLICATION OF THE TOWN OF | § | PUBLIC UTILITY COMMISSION |
| LAKESIDE AND THE CITY OF FORT | § | |
| WORTH FOR SALE, TRANSFER, OR | § | OF TEXAS |
| MERGER OF FACILITIES AND | § | |
| CERTIFICATE RIGHTS IN TARRANT | § | |
| COUNTY | § | |

**COMMISSION STAFF’S RECOMMENDATION ON APPROVAL OF THE
TRANSACTION**

On September 23, 2021, the Town of Lakeside (Lakeside) and the City of Fort Worth (Fort Worth) (collectively, Applicants) filed an application for approval of the sale, transfer, or merger of facilities and certificate rights in Tarrant County. Specifically, Lakeside seeks approval to acquire facilities and to transfer water service area held under Fort Worth’s Certificate of Convenience and Necessity (CCN) No. 12311. Applicants filed supplemental information on September 30, 2021, November 18, 2021, and December 2, 2021.

On April 18, 2022, the administrative law judge (ALJ) filed Order No. 5, establishing a deadline of April 25, 2022, for Staff (Staff) of the Public Utility Commission of Texas (Commission) to request a hearing or file a final recommendation on approval of the sale and CCN amendment. Therefore, this pleading is timely filed.

I. STAFF’S RECOMMENDATION

As described in the attached memoranda of Jolie Mathis of the Commission’s Infrastructure Division, and Fred Bednarski, Rate Regulation Division, Staff recommends that the transaction be approved to proceed, and that the procedural schedule in Order No. 5 be maintained for continued processing of this matter. Staff’s review indicates that the proposed transaction satisfies the relevant statutory and regulatory criteria, including those factors identified in Texas Water Code (TWC) Chapter 13 and 16 Texas Administrative Code (TAC) Chapter 24. Staff further recommends that Lakeside has demonstrated that it possesses the financial, technical, and managerial capability to provide continuous and adequate service to the area subject to the proposed transaction.

II. CONCLUSION

Staff respectfully requests the entry of an order allowing the proposed transaction to proceed.

Dated: April 25, 2022

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Keith Rogas
Division Director

Sneha Patel
Managing Attorney

/s/ Mildred Anaele

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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 April 25, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Mildred Anaele

Mildred Anaele

Public Utility Commission of Texas

Memorandum

TO: Mildred Anaele, Attorney
Legal Division

FROM: Jolie Mathis, Utility Engineering Specialist
Infrastructure Division

DATE: April 25, 2022

RE: Docket No. 52632 – *Application of the Town of Lakeside and the City of Fort Worth for Sale, Transfer, or Merger of Facilities and Certificate Rights in Tarrant County*

1. Application

The City of Fort Worth (Fort Worth) and the Town of Lakeside (Lakeside) (collectively, Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Tarrant County, Texas, under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239.

Specifically, Fort Worth, certificate of convenience and necessity (CCN) No. 12311, seeks approval to acquire facilities and to transfer a portion of the water service area from Lakeside under water certificate of convenience and necessity (CCN) No. 10073; and to decertify a portion of Lakeside's CCN No. 10073 that is dually certificated with Fort Worth's CCN No. 12311.

The requested area includes 71 customer connections and approximately 140 acres, comprised of:

- 69 acres of transferred area (from CCN No. 10073);
- 71 acres of decertified area (from CCN No. 10073).

The application proposes the addition of approximately 69 acres to CCN No. 12311.
The application proposes the subtraction of approximately 140 acres from CCN No. 10073.

The application indicates that the total acreage being requested is approximately 139 acres. Based on the mapping review by Gary Horton, Infrastructure Division, it was determined the requested area is approximately 140 acres.

2. Notice

Fort Worth provided notice consistent with 16 TAC § 24.239(c). The deadline to intervene was February 7, 2022; there were no motions to intervene, protests, or opt-out requests received.

3. Factors Considered

Under TWC §§ 13.241, 13.246, and 13.301 and 16 TAC §§ 24.11(e), 24.227 and 24.239, the Commission must consider certain factors when granting or amending a water or sewer CCN. These factors are addressed below.

3.1. *Consideration of the adequacy of service currently provided to the requested area and system compliance (TWC § 13.246(c)(1), 13.301(e)(3)(A); 16 TAC §§ 24.227(a) and (e)(1), 24.239(h)(3)(A), (h)(5)(A), and (h)(5)(D)).*

Lakeside has a Texas Commission on Environmental Quality (TCEQ) approved public water system (PWS) registered as Town of Lakeside, PWS ID No. 2200028. The last TCEQ compliance investigation of the Town of Lakeside water system was on September 24, 2019. Town of Lakeside has violations listed in the TCEQ database that have since been resolved. The Commission's complaint records, which date back to 2017, show 1 complaint against Lakeside.

3.2. *Consideration of the need for additional service in the requested area (TWC § 13.246(c)(2); 16 TAC §§ 24.227(e)(2) and 24.239(h)(5)(B)).*

There are currently 71 existing customers in the requested area, therefore, there is a need for service. No additional service is needed at this time.

3.3. *Consideration of the effect of granting an amendment on the recipient of the certificate or amendment, on the landowners in the area, and on any other retail public utility of the same kind already servicing the proximate area (TWC § 13.246(c)(3), 16 TAC §§ 24.227(e)(3), 24.239(h)(5)(c)).*

Fort Worth will be the certificated entity for the requested area and be required to provide adequate and continuous service to the requested area.

There will be no effect on landowners as the area is currently certificated.

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.

3.4. *Consideration of the managerial and technical ability of the applicant to provide adequate service (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)).*

Fort Worth will have several licensed operators to run the system operations.

Fort Worth has the ability to provide adequate service in the requested area. Fort Worth has a TCEQ approved PWS registered as City of Fort Worth, PWS ID No. 2200012. City

of Fort Worth has violations listed in the TCEQ database that have since been resolved. In addition, the Commission's complaint records, which date back to 2017, show 80 complaints against Fort Worth.

- 3.5. ***The applicants' demonstration that regionalization or consolidation with another retail public utility is not economically feasible when construction of a physically separate water or sewer system is required to provide service to the requested area. (TWC § 13.241(d); 16 TAC § 24.227(b)).***

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

- 3.6 ***Consideration of the feasibility of obtaining service from an adjacent retail public utility (TWC § 13.246(c)(5); 16 TAC §§ 24.227(e)(5) and 24.239(h)(5)(E)).***

Lakeside is currently serving customers and has sufficient capacity. 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 in order to connect to a neighboring retail public utility. Therefore, it is not feasible to obtain service from an adjacent retail public utility.

- 3.7. ***Consideration of the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service (TWC §§ 13.246(c)(6) and 13.301(b); 16 TAC §§ 24.227(a) and (e)(6), 24.11(e), and 24.239(f) and (h)(5)(F)).***

The Rate Regulation Division will be addressing this criterion in a separate memo.

- 3.8. ***Requirement of the applicant to provide a bond or other financial assurance in a form and amount specified by the Commission to ensure that continuous and adequate utility service is provided (TWC §§ 13.246(d), 13.301(c); 16 TAC §§ 24.227(f), 24.239(f)).***

The Rate Regulation Division will be addressing this criterion in a separate memo.

- 3.9. ***Consideration of the environmental integrity and the effect on the land to be included in the certificated area (TWC § 13.246(c)(7) and (9); and 16 TAC §§ 24.227(e)(7) and (9) and 24.239(h)(5)(G)).***

The environmental integrity of the land will be minimally affected as facilities are constructed to provide service to the requested area.

- 3.10. ***Consideration of the 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)).***

The customers' rates will be lower than the current rates for the Lakeside. Reliability and quality of water service is expected to improve under Fort Worth's management.

The Applicants meet all of the statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules and regulations. Approving this application to transfer water

facilities in the requested area and a portion of the water service area of the water CCN No. 10073 from Lakeside to Fort Worth and amending water CCN No. 10073 of Lakeside and CCN No. 12311 of Fort Worth is necessary for the service, accommodation, convenience and safety of the public.

4. Recommendation

Based on the above information, I recommend that the Commission find that the transaction will serve the public interest and that the Applicants be allowed to proceed with the proposed transaction. There are deposits held by Lakeside for the customers being served by Lakeside. I further recommend that a public hearing is not necessary.

Public Utility Commission of Texas

Memorandum

TO: Mildred Anaele, Attorney
Legal Division

FROM: Fred Bednarski III, Financial Analyst
Rate Regulation Division

DATE: April 25, 2022

RE: Docket No. 52632 – *Application of the Town of Lakeside and the City of Fort Worth for Sale, Transfer, or Merger of Facilities and Certificate Rights in Tarrant County*

On September 23, 2021, the Town of Lakeside (Lakeside) and the City of Fort Worth (Fort Worth) filed an application for the sale, transfer, or merger of facilities and certificate rights in Tarrant County.

I recommend a finding that Fort Worth demonstrates the financial and managerial capability needed to provide continuous and adequate service to the area subject to this application. My conclusions are based on information provided by Fort Worth before the date of this memorandum and may not reflect any changes in Fort Worth's status after this review.

Ability to serve: financial ability and stability (Texas Water Code (TWC) §§ 13.241(a) and 13.246(c)(6))

An owner or operator of a retail public utility must have the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and requested utility service areas, as established by 16 Texas Administrative Code (TAC) § 24.11. Fort Worth must demonstrate that it meets one of the five leverage tests under 16 TAC § 24.11(e)(2) as well as the operations test under 16 TAC § 24.11(e)(3).

Leverage test

My analysis is based on financial statements ending September 30, 2020. Fort Worth's 2020 financial statements report long-term debt of \$1,531,582,000 and equity of \$3,057,968,000. The debt-to-equity ratio is 0.50. Because the ratio is less than 1.0, I recommend a finding that the Applicant meets the leverage test specified in 16 TAC § 24.11(e)(2)(A).

Operations test

An owner or operator must demonstrate sufficient available cash to cover projected cash shortages for operations and maintenance expense during the first five years of operations, as required by 16 TAC § 24.11(e)(3).

Fort Worth's financial budget for FY2022 in attachment FB-2 shows that there are no projected shortages to cover.

Capital improvements needed to provide continuous and adequate service to the requested area will be paid for through Fort Worth's budgeting process that includes Fort Worth's projected net income, cash reserves, ability to issue debt and taxing authority. Sufficient cash and net operating income available to cover possible future shortages provide an indication of financial stability and financial and managerial capability. Therefore, I recommend a finding that Fort Worth meets the operations test specified in 16 TAC § 24.11(e)(3).

Financial assurance (TWC § 13.246(d))

Because Fort Worth meets the financial tests, I do not recommend that the Commission require additional financial assurance.

The following files are not convertible:

52632 Attachment FB-1(for 4.25).pdf

Please see the ZIP file for this Filing on the PUC Interchange in order to access these files.

Contact centralrecords@puc.texas.gov if you have any questions.