



## Filing Receipt

**Received - 2022-04-25 10:34:35 AM**  
**Control Number - 52759**  
**ItemNumber - 19**

**DOCKET NO. 52759**

|  |          |                                  |
|--|----------|----------------------------------|
| <b>APPLICATION OF IRON HILL WATER</b>    | <b>§</b> | <b>PUBLIC UTILITY COMMISSION</b> |
| <b>SUPPLY CORPORATION AND RUSK</b>       | <b>§</b> |                                  |
| <b>RURAL WATER SUPPLY CORPORATION</b>    | <b>§</b> | <b>OF TEXAS</b>                  |
| <b>FOR SALE, TRANSFER, OR MERGER OF</b>  | <b>§</b> |                                  |
| <b>FACILITIES AND CERTIFICATE RIGHTS</b> | <b>§</b> |                                  |
| <b>IN CHEROKEE COUNTY</b>                | <b>§</b> |                                  |

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

On October 27, 2021, Iron Hill Water Supply Corporation (Iron Hill WSC) and Rusk Rural Water Supply Corporation (Rusk Rural WSC) (jointly, Applicants) filed an application for approval of the sale, transfer, or merger of facilities and certificate of convenience and necessity (CCN) rights in Cherokee County. Applicants seek approval to sell and transfer all of Iron Hill WSC’s certificated area under CCN No. 10784 to Rusk Rural WSC. The application reflects a requested area of 2,080 acres and 155 customers. Applicants filed supplemental information on November 15, 2021, December 1, 2021, and February 10, 2022.

On February 28, 2022, the administrative law judge filed Order No. 4, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to request a hearing or file a recommendation on the approval of the sale transaction by April 25, 2022. Therefore, this pleading is timely filed.

**I. STAFF’S RECOMMENDATION**

As detailed in the attached memoranda of Jolie Mathis of the Infrastructure Division and Fred Bednarski III of the Rate Regulation Division, Staff recommends that the transaction be approved to proceed. Staff’s review indicates that the proposed transaction satisfies the relevant statutory and regulatory criteria, including those factors identified in Texas Water Code Chapter 13 and 16 Texas Administrative Code (TAC) Chapter 24. Staff further contends that Rusk Rural WSC has demonstrated it possesses the financial, technical, and managerial capability to provide continuous and adequate service to the area subject to the proposed transaction. The approval of the sale expires 180 days from the date of the Commission’s written approval of the sale.<sup>1</sup> If the sale is not effectuated within that period, and unless Applicants request and receive an extension

---

<sup>1</sup> 16 TAC § 24.239(m).

form the Commission, the approval is void and Applicants would have to re-apply for approval of the sale.<sup>2</sup>

## 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

Robert Dakota Parish  
Managing Attorney

/s/ Ian Groetsch  
Ian Groetsch  
State Bar No. 24078599  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7465  
(512) 936-7268 (facsimile)  
ian.groetsch@puc.texas.gov

---

<sup>2</sup> *Id.*

**DOCKET NO. 52759**

**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/ Ian Groetsch  
Ian Groetsch

# *Public Utility Commission of Texas*

---

## **Memorandum**

**TO:** Ian Groetsch, Attorney  
Legal Division

**FROM:** Fred Bednarski III, Financial Analyst  
Rate Regulation Division

**DATE:** April 25, 2022

**RE:** Docket No. 52759 – *Application of Iron Hill Water Supply Corporation and Rusk Rural Water Supply Corporation for Sale, Transfer, or Merger of Facilities and Certificate Rights in Cherokee County*

---

On October 27, 2021, Iron Hill Water Supply Corporation (Iron Hill WSC) and Rusk Rural Water Supply Corporation (Rusk Rural WSC) filed an application for the sale and transfer of facilities and certificate rights in Cherokee County.

I recommend a finding that Rusk Rural WSC 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 Rusk Rural WSC before the date of this memorandum and may not reflect any changes in Rusk Rural WSC'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. Rusk Rural WSC 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 December 31, 2020. These financial statements contain an unqualified auditor's opinion from Murrey Paschall & Caperton, P.C. stating that the financial statements present fairly, in all material respects, the financial position of Rusk Rural WSC as of December 31, 2020 and 2019.

Rusk Rural WSC's 2020 financial statements report long-term debt of \$426,708 and equity of \$2,016,230. The debt-to-equity ratio is 0.21. Because the ratio is less than 1.0, I recommend a finding that Rusk Rural WSC 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).

Rusk Rural WSC's 2020 financial statements include \$226,316 in net income excluding depreciation expense and \$310,836 in cash and cash equivalents that indicate Rusk Rural WSC will have sufficient cash to cover projected shortages.

No capital improvements are needed to provide continuous and adequate service to the requested area. 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 Rusk Rural WSC meets the operations test specified in 16 TAC § 24.11(e)(3).

***Financial assurance (TWC § 13.246(d))***

Because Rusk Rural WSC meets the financial tests, I do not recommend that the Commission require additional financial assurance.

# *Public Utility Commission of Texas*

---

## **Memorandum**

**TO:** Ian Groetsch, Attorney  
Legal Division

**FROM:** Jolie Mathis, Utility Engineering Specialist  
Infrastructure Division

**DATE:** April 25, 2022

**RE:** Docket No. 52759 – *Application of Iron Hill Water Supply Corporation and Rusk Rural Water Supply Corporation for Sale, Transfer, or Merger of Facilities and Certificate Rights in Cherokee County*

---

### **1. Application**

On October 27, 2021, Rusk Rural Water Supply Corporation (Rusk Rural WSC) and the Iron Hill Water Supply Corporation (Iron Hill WSC) (collectively Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Cherokee County, Texas, under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239.

Specifically, Rusk Rural WSC, certificate of convenience and necessity (CCN) No. 10785, seeks approval to acquire facilities and to transfer all of the water service area from Iron Hill WSC under water certificate of convenience and necessity (CCN) No. 10784.

The requested area includes 155 customer connections and approximately 2,038 acres of transferred area from Iron Hill WSC (CCN No. 10784) to Rusk Rural WSC (CCN No. 10785). The application proposes the subtraction of approximately 2,038 acres from Iron Hill WSC (CCN No. 10784) and the addition of approximately 2,038 acres to Rusk Rural WSC (CCN No. 10785).

The application indicates that the total acreage being requested is approximately 2,080 acres. Based on the mapping review by Tracy Montes, Infrastructure Division, it was determined the requested area is approximately 2,038 acres.

### **2. Notice**

Rusk Rural WSC provided notice consistent with 16 TAC § 24.239(c). The deadline to intervene was March 13, 2022; there were no motions to intervene, protests, or opt-out requests received.

### **3. Factors Considered**

Under TWC §§ 13.241 and 13.246 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)).***

Iron Hill WSC has a Texas Commission on Environmental Quality (TCEQ) approved public water system (PWS) registered as Iron Hill WSC, PWS ID No. 0370022. Iron Hill WSC has one violation listed in the TCEQ database and has since been resolved. The Commission's complaint records, which date back to 2017, show no complaints against Iron Hill WSC.

**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 155 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)).***

Rusk Rural WSC 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)).***

Rusk Rural WSC will have licensed operators to run the system operations. A Class C operator will be the responsible operator for the system.

Rusk Rural WSC has the ability to provide adequate service in the requested area. Rusk Rural WSC has several Texas Commission on Environmental Quality (TCEQ) approved public water systems registered as Rusk Rural WSC, PWS ID Nos. 0370031, 0370053, and 370054. Rusk Rural WSC has several violations listed in the TCEQ database, that have since been resolved. In addition, the Commission's complaint records, which date back to 2017, show no complaints against Rusk Rural WSC.



- 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 Rusk Rural WSC 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)).***

Iron Hill WSC 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 not be affected as no additional construction is needed 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)).***

Iron Hill WSC charges on a Tier Rate whereas Rusk Rural WSC charges on a flat rate. So the customers' rates will be in some instances slighter higher and in some instance slightly lower than the current rates for the Iron Hill WSC. Reliability and quality of water service is expected to improve under Rusk Rural WSC'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 all of the water service area of the water CCN No. 10784

to Rusk Rural WSC and amending water CCN No. 10785 of Rusk Rural WSC 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 no deposits held by Iron Hill WSC for the customers being served by Iron Hill WSC. I further recommend that a public hearing is not necessary.