



## Filing Receipt

**Received - 2022-05-17 08:47:56 AM**  
**Control Number - 52759**  
**ItemNumber - 22**

**DOCKET NO. 52759**

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

**ORDER NO. 6**  
**APPROVING SALE AND TRANSFER TO PROCEED**

This Order addresses the application of Iron Hill Water Supply Corporation and Rusk Rural Water Supply Corporation for approval of the sale, transfer, or merger of facilities and certificate rights in Cherokee County. The applicants seek approval to sell and transfer all of Iron Hill WSC's facilities and service area under certificate of convenience and necessity (CCN) number 10784 to Rusk Rural WSC, the cancellation of Iron Hill WSC's CCN number 10784, and the amendment of Rusk Rural WSC's CCN number 10785 to include the area previously included in Iron Hill WSC's CCN number 10784. The administrative law judge (ALJ) approves the sale and transfer and authorizes the transaction between Iron Hill WSC and Rusk Rural WSC to proceed and be consummated.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicants**

1. Iron Hill WSC is a Texas non-profit water supply corporation, organized under chapter 67 of the Texas Water Code (TWC), and registered with the Texas secretary of state under file number 22063501.
2. Iron Hill WSC operates, maintains, and controls facilities for providing retail water service in Cherokee County under water CCN number 10784.
3. Iron Hill WSC owns and operates a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under identification number TX0370022.

4. Rusk Rural WSC is a Texas non-profit water supply corporation, organized under chapter 67 of the TWC, and registered with the Texas Secretary of State under file number 21965001.
5. Rusk Rural WSC operates, maintains, and controls facilities for providing retail water service in Cherokee County under water CCN number 10785.
6. Rusk Rural WSC owns and operates three public water systems registered with the TCEQ as Rusk Rural WSC Crockett St Plant, identification number TX0370031; Rusk Rural WSC US 69 Plant, identification number TX0370053; and Rusk Rural WSC Loop 343 Plant, identification number TX0370054.

**Application**

7. On October 27, 2021, Iron Hill WSC and Rusk Rural WSC filed the application at issue in this proceeding.
8. On November 15 and December 1, 2021 and February 10, 2022, the applicants filed supplemental information.
9. In the application, Iron Hill WSC and Rusk Rural WSC seek approval of the following transaction: (a) Rusk Rural WSC will acquire all of Iron Hill WSC's water facilities and water service area under water CCN number 10784; (b) Iron Hill WSC's CCN number 10784 will be cancelled; and (c) Rusk Rural WSC's CCN number 10785 will be amended to include the area previously included in Iron Hill WSC's CCN number 10784.
10. The requested area includes approximately 2,038 acres and 155 water connections.
11. The requested area is located approximately two miles east of downtown Rusk and is generally bounded on the north by County Roads 1327 and 1322; on the east by US Highway 84 and Farm-to-Market Road 2962; on the south by Cooke Creek and County Road 1201; and on the west by US Highway 84 and Crystal Avenue.
12. In Order No. 3 filed on January 13, 2022, the ALJ found the application, as supplemented, administratively complete.

**Notice**

13. On February 23, 2022, the applicants filed the affidavit of John Banks, vice president of Iron Hill WSC, attesting that notice was provided to all current customers on February 11, 2022.
14. On February 23, 2022, the applicants filed the affidavit of Mike Hamilton, general manager of Rusk Rural WSC, attesting that notice was provided to all neighboring utilities and affected parties on February 11, 2022.
15. In Order No. 4 filed on February 28, 2022, the ALJ found notice sufficient.

**Evidentiary Record**

16. On May 6, 2022, the parties filed a joint motion to admit evidence and proposed order approving the sale and transfer to proceed.
17. In Order No. 5 filed on May 12, 2022, the ALJ granted the motion and admitted the following evidence into the record of this proceeding: (a) the application and all attachments filed on October 27, 2021; (b) the applicant's revised detailed and general location maps filed on November 15, 2021; (c) the applicant's first supplement to the application filed on December 1, 2021; (d) the applicants' second supplement to the application filed on February 10, 2022; (e) Commission Staff's supplemental recommendation on administrative completeness and notice and proposed procedural schedule filed on January 13, 2022; (f) Rusk Rural WSC's affidavit of notice to neighboring utilities and affected parties filed on February 11, 2022; (g) Rusk Rural WSC's affidavit of notice to neighboring utilities and affected parties filed on February 23, 2022; (h) Iron Hill WSC's affidavit of notice to current customers, filed on February 11, 2022; (i) Iron Hill WSC's affidavit of notice to current customers, filed on February 23, 2022; (j) Commission Staff's recommendation on sufficiency of notice filed on February 25, 2022; and (k) Commission Staff's recommendation on approval of the transaction filed on April 25, 2022.

**System Compliance**

18. Iron Hill WSC's public water system is registered with the TCEQ under number TX0370022.
19. Iron Hill WSC has one violation listed in the TCEQ database that has since been resolved.

20. The Commission's complaint records, which date back to 2017, show no complaints against Iron Hill WSC.
21. Rusk Rural WSC has three public water systems registered with the TCEQ.
22. Rusk Rural WSC has several violations listed in the TCEQ database that have all been resolved.
23. The Commission's complaint records, which date back to 2017, show no complaints against Rusk Rural WSC.
24. Rusk Rural WSC demonstrated a compliance history that is adequate for approval of the sale to proceed.

**Adequacy of Existing Service**

25. Iron Hill WSC currently provides retail water service in the requested area and such service has been continuous and adequate.
26. All of Iron Hill WSC's existing water facilities and water customers are being transferred to Rusk Rural WSC.
27. Rusk Rural WSC will continue to use Iron Hill WSC's existing facilities to serve the requested area. No additional construction is necessary for Rusk Rural WSC to serve the requested area.

**Need for Additional Service**

28. There is a continuing need for service because Iron Hill WSC is currently providing service to 155 water connections in the requested area, and those connections will continue to need service after the transaction.
29. There have been no specific requests indicating a need for additional service within the requested area.

**Effect of Approving the Transaction and Granting the Amendment**

30. Approving the sale and transfer to proceed and granting the CCN amendment will obligate Rusk Rural WSC to provide continuous and adequate water service to current and future customers in the requested area.
31. There will be no effect on landowners because the requested area is currently certificated.

32. Because this application is to transfer only existing facilities, customers, and service area, there will be no effect on any other retail public utility servicing the proximate area.
33. All retail public utilities within a two-mile radius of the requested area were provided notice of the transaction proposed in this application. No adjacent retail public utility filed a protest, adverse comment, or motion to intervene.
34. There will be no adverse effect on any landowner in the requested area or retail public utility providing service in the proximate area.

**Ability to Serve: Managerial and Technical**

35. Rural Rusk WSC employs or contracts with a sufficient number of TCEQ-licensed water operators who will operate the public water system being transferred.
36. Rural Rusk WSC has access to an adequate supply of water and is capable of providing drinking water that meets the requirements of chapter 341 of the Texas Health and Safety Code, Chapter 13 of the TWC, and the TCEQ's rules.
37. No additional construction is necessary for Rusk Rural WSC to serve the requested area.
38. Rusk Rural WSC has the technical and managerial capability to provide adequate and continuous service to the requested area.

**Ability to Serve: Financial Ability and Stability**

39. Rusk Rural WSC has a debt-to-equity ratio of less than one, satisfying the leverage test.
40. Rusk Rural WSC has sufficient cash and net operating income available to cover any projected operations and maintenance shortages in the first five years of operations after completion of the transaction, satisfying the operations test.
41. Rusk Rural WSC has demonstrated the financial capability and stability to provide continuous and adequate service to the requested area.

**Financial Assurance**

42. There is no need to require Rusk Rural WSC to provide a bond or other financial assurance to ensure continuous and adequate service to the requested area.

**Regionalization or Consolidation**

43. The construction of physically separate wastewater system is not needed to serve the requested area; therefore, concerns about regionalization or consolidation do not apply.

**Feasibility of Obtaining Service from Adjacent Retail Public Utility**

44. Iron Hill WSC is currently serving the existing customers in the requested area with existing facilities and there will be no changes to land uses or existing CCN boundaries as a result of the transaction.
45. Obtaining service from an adjacent retail public utility would likely increase costs to customers, because new facilities would need to be constructed.
46. It is not feasible to obtain service from an adjacent retail public utility.

**Environmental Integrity and Effect on the Land**

47. The environmental integrity of the land will not be affected, and the effect on the land will be minimal, because no additional construction is needed to provide water service to the requested area.

**Improvement in Service or Lowering Cost to Consumers**

48. Rural Rusk WSC will provide water service to the existing customers in the area, and it is expected that the quality of service will improve.
49. Existing customers of Iron Hill WSC will be charged the rates charged by Rusk Rural WSC. Iron Hill WSC charges on a tiered-rate basis, whereas Rusk Rural WSC charges on a flat rate basis. As a result, some customers' rates may slightly increase, while other customers' rates will likely decrease following the transaction.
50. Reliability and quality of water service is expected to improve under Rusk Rural WSC's management.

**II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. Notice of the application was provided in compliance with TWC §§ 13.246 and 13.301(a)(2), and 16 Texas Administrative Code (TAC) § 24.239(c).

2. After consideration of the factors in TWC § 13.246(c), Rural Rusk WSC demonstrated that it is capable of rendering continuous and adequate water service to every customer within the requested area, as required by TWC § 13.251.
3. Rural Rusk WSC demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area as required by TWC §§ 13.241(a) and 13.301(b).
4. The applicants demonstrated that the sale and transfer of Iron Hill's water facilities and the service area held under CCN number 10784 from Iron Hill WSC to Rural Rusk WSC will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public as required by TWC §§ 13.246(b) and 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 Iron Hill WSC and Rusk Rural WSC may proceed and be consummated.
2. As soon as possible after the effective date of the transaction, but no 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. Iron Hill WSC and Rusk Rural WSC have 180 days to complete the transaction.
4. Under 16 TAC § 24.239(m), if the transaction is not consummated within this period, or an extension has not been granted, this approval is void and Iron Hill WSC and Rusk Rural WSC will have to reapply for approval.
5. The applicants are advised that CCN number 10784 and the associated facilities and service area will continue to be held by Iron Hill WSC until the sale and transfer transaction is completed in accordance with the Commission's 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 schedule for continued processing of this docket.

**Signed at Austin, Texas the 17th day of May 2022.**

**PUBLIC UTILITY COMMISSION OF TEXAS**



---

**HUNTER BURKHALTER**  
**CHIEF ADMINISTRATIVE LAW JUDGE**