



## Filing Receipt

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**DOCKET NO. 52890**

<b>APPLICATION OF FLAT FORK WATER</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>SUPPLY CORPORATION AND CITY OF</b>	<b>§</b>	
<b>CENTER FOR SALE, TRANSFER, OR</b>	<b>§</b>	<b>OF TEXAS</b>
<b>MERGER OF FACILITIES AND</b>	<b>§</b>	
<b>CERTIFICATE RIGHTS IN SHELBY</b>	<b>§</b>	
<b>COUNTY</b>	<b>§</b>	

**COMMISSION STAFF’S RECOMMENDATION ON THE SUFFICIENCY OF  
THE CLOSING DOCUMENTS AND PROPOSED PROCEDURAL SCHEDULE**

**I. INTRODUCTION**

On November 29, 2021, Flat Fork Water Supply Corporation (Flat Fork WSC) and the City of Center (the City) (jointly, Applicants) filed an application for approval of the sale, transfer, or merger of facilities and certificate of convenience and necessity (CCN) rights in Shelby County. Applicants seek approval to sell and transfer a portion of Flat Fork WSC’s water system to the City’s CCN No. 10397. The application reflects a requested area of 500 acres and 39 customers.

On October 19, 2022, the administrative law judge (ALJ) filed Order No. 14 requiring the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a recommendation regarding the sufficiency of the documents and propose a schedule for continued processing of this docket within 15 days following the filing of the applicants’ proof of notice that the transaction has been completed and customer deposits, if any, have been addressed. On January 26, 2023, Applicants completed filing their proof of notice. Fifteen days after January 26, 2023, is February 10, 2023. Therefore, this pleading is timely filed.

**II. RECOMMENDATION ON THE SUFFICIENCY OF CLOSING DOCUMENTS**

Staff has reviewed the Applicants’ proof of closing and recommends that the closing documents satisfy the requirements under 16 Texas Administrative Code (TAC) § 24.239. On December 14, 2022, Applicants filed a letter dated December 5, 2022, from the City of Center that describes the transfer of the meters and customers from Flat Fork WSC to the City. After discussions with the City, the City clarified that the December 5, 2022 letter constitutes the legal document used to effectuate the transfer of the meters and customers; therefore, Staff recommends that the December 5, 2022 letter represents appropriate evidence that the transaction has closed as proposed, as required under 16 TAC § 24.239(*I*). Nevertheless, the December 5, 2022 letter was filed more than 30 day safter the effective date of Order No. 14, as required by Ordering Paragraph

No. 2.<sup>1</sup> However, as Applicants describe in their December 14, 2022 filing, Applicants have not hired counsel to help with the application and were unaware of the deadlines set in the ALJ's Order No. 2. Under 16 TAC § 22.5(b), a presiding officer may grant exceptions to any requirement in the Commission rules for good cause. Although Applicants may not have explicitly requested a good cause exception to the 30-day requirement in 16 TAC § 24.239(*l*), it is Staff's position that a good cause exception is merited.

Staff also recommends that the closing documents satisfy the requirements of 16 TAC § 24.239(k). On December 14, 2022, Applicants filed a spreadsheet with the names and addresses of all customers with a deposit on record, the date each deposit was made, and the amount of each deposit. On January 26, 2023, Applicants filed an affidavit certifying that all customer deposits held by Flat Fork WSC were transferred to the City and that there was no interest attached to the deposits. Although the Applicants did not file these documents within 30 days of the actual effective date of the transfer transaction, Staff contends that a good cause exception is merited in this situation as well. In filings Applicants made on December 14, 2022 and January 18, 2023, Applicants again state that due to a misunderstanding of the rules and the lack of assistance from counsel, Applicants made honest mistakes as to the timing of their filings. Applicants again failed to explicitly request a good cause exception to this 30-day requirement, but it is Staff's position that a good cause exception under 16 TAC § 22.5(b) is merited in this situation as well.

Staff accordingly respectfully recommends that Applicants' closing documents be found sufficient under 16 TAC § 24.239.

### **III. PROPOSED PROCEDURAL SCHEDULE**

Staff recommends that the Applicants' closing documents be found sufficient. Therefore, Staff proposes the following procedural schedule for continued processing of this docket:

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<sup>1</sup> Order No. 14 – Approving Sale and Transfer to Proceed at Ordering Paragraph No. 2 (Oct. 19, 2022).

<b>Event</b>	<b>Date</b>
Deadline for Staff to provide final maps, certificates, and tariffs (if applicable) to Applicants for review and consent	February 27, 2023
Deadline for Applicants to file signed consent forms with the Commission	March 6, 2023
Deadline for parties to file joint proposed findings of fact, conclusions of law, and ordering paragraphs	March 15, 2023

#### **IV. CONCLUSION**

Staff respectfully recommends that the closing documents be found sufficient and that the proposed procedural schedule be adopted.

Dated: February 10, 2023

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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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 February 10, 2023, in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ Ian Groetsch  
Ian Groetsch