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DOCKET NO. 52890

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

JOINT MOTION TO ADMIT EVIDENCE

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.

On March 16, 2023, the administrative law judge (ALJ) filed Order No. 17, requiring parties to jointly file proposed notice of approval, including findings of fact, conclusions of law, and ordering paragraphs by March 22, 2023. Therefore, this pleading is timely filed.

II. MOTION TO ADMIT EVIDENCE

The parties move to admit the following items into the record of this proceeding:

- 1) The Applicants' bill of sale and assignment, including a request for good-cause exception, filed on December 14, 2022 and January 4, 18, and 26, 2023 (Interchange Item Nos. 34–37);
- 2) Commission Staff's recommendation on sufficiency of closing documents filed on February 10, 2023 (Interchange Item No. 38);
- 3) Center's consent form filed on March 3, 2023 (Interchange Item No. 40); and
- 4) Flat Fork WSC's consent form filed on March 6, 2023 (Interchange Item No. 41).

III. PROPOSED NOTICE OF APPROVAL

The parties respectfully request that the Commission approve the joint motion to admit evidence and the attached Proposed Notice of Approval be adopted.

IV. CONCLUSION

The parties respectfully request that an order be issued granting the above Motion to Admit Evidence and adopting the attached Proposed Notice of Approval.

Dated: March 17, 2023

Respectfully Submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

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**FLAT FORK WATER SUPPLY
CORPORATION**

/s/ Rayford Copelin
Rayford Copelin
Board Member of Flat Fork Water Supply
Corporation
CITY OF CENTER

/s/ Chad Nehring
Chad Nehring
City Manager

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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 March 17, 2023, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Ian Groetsch
Ian Groetsch

DOCKET NO. 52890

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

JOINT PROPOSED ORDER APPROVING THE TRANSFER

This Order addresses the application of Flat Fork Water Supply Corporation (Flat Fork WSC) and the City of Center (Center) (jointly, the Applicants) for the sale, transfer, or merger of facilities in Shelby County. Specifically, Center seeks to acquire facilities and customers from Flat Fork WSC. Neither Center nor Flat Fork WSC is seeking to amend their Certificate of Convenience and Necessity (CCN) nor any CCN boundaries. The administrative law judge (ALJ) grants that the transfer is approved and the transaction between Flat Fork WSC and Center may proceed and be consummated.

I. Findings of Fact

The Commission makes the following findings of fact:

Applicants

1. Flat Fork WSC is a Texas non-profit water supply corporation organized under chapter 67 of the Texas Water Code (TWC).
2. Flat Fork WSC is registered with the Texas secretary of state under file number 21371601.
3. Flat Fork WSC operates, maintains, and controls facilities for providing water service under water CCN number 11711 in Shelby County.
4. Flat Fork WSC owns and operates one public water system registered with the Texas Commission on Environmental Quality (TCEQ) under identification number 2100007.
5. Center is a municipality in Shelby County, Texas.
6. Center operates, maintains, and controls facilities for providing retail water service under CCN number 10397 in Shelby County.

7. Center owns and operates a public water system registered with the TCEQ under identification number 2100001.

Application

8. On November 29, 2021, Flat Fork WSC and Center filed the application at issue in this proceeding.
9. On February 17 and August 31, 2022, the Applicants filed supplements to the application.
10. In the application, the applicants seek approval to transfer 39 meters from Flat Fork WSC's certificated service area under CCN number 11711 to Center.
11. The 39 meters are located approximately one mile north of downtown Center, Texas, and are generally bounded on the north by County Road 3736, on the east by Loop 500, on the south by Henrietta Road, on the west by County Road 3754 and County Road 3780.
12. In Order No. 8 filed on June 6, 2022, the ALJ found the application, as supplemented, administratively complete.

Notice

13. On July 15, 2022, the Applicants filed the affidavit of Glynn Russell, president of Flat Fork WSC, attesting that notice was provided to all current customers on July 14, 2022.
14. In Order No. 9 filed on July 18, 2022, the ALJ found notice sufficient.

Evidentiary Record

15. In Order No. 13 filed on October 19, 2022, the ALJ admitted the following evidence into the record:
 - a. The application and all attachments filed on November 29, 2021;
 - b. The applicants' supplement to the application filed on February 17, 2022;
 - c. Commission Staff's supplemental recommendation on administrative completeness and proposed procedural schedule filed on February 23, 2022;
 - d. Commission Staff's supplemental amended recommendation on administrative completeness and notice and proposed procedural schedule filed on June 3, 2022;
 - e. The applicants' affidavit of notice filed on July 15, 2022;

- f. Commission Staff's recommendation on sufficiency of notice, filed on July 15, 2022;
 - g. The applicants' supplement to the application filed on August 31, 2022, and
 - h. Commission Staff's recommendation on approval of the transaction filed on September 2, 2022.
16. On March 15, 2023, the parties filed a joint supplemental motion to admit evidence.
17. In Order No. __ filed on ____, 2023, the ALJ admitted the following additional evidence into the record:
- a. The Applicants' bill of sale and assignment, including a request for good-cause exception, filed on December 14, 2022 and January 4, 18, and 26, 2023;
 - b. Commission Staff's recommendation on sufficiency of closing documents filed on February 10, 2023;
 - c. Center's consent form filed on March 3, 2023; and
 - d. Flat Fork WSC's consent form filed on March 6, 2023.

Sale

18. In Order No. 14, filed on October 19, 2023, the ALJ approved the sale and transaction to proceed and required the applicants to file proof that the transaction had closed, and the customer deposits had been addressed.
19. On December 14, 2022 and January 4, 18, and 26, 2023, Flat Fork WSC filed notice that the sale had been closed on December 5, 2022, and confirmed that there were no outstanding customer deposits that needed to be addressed. Flat Fork requested a good-cause exception to the 30-day deadline to file proof that the transaction had closed.
20. In Order No. 16, filed on February 13, 2023, the ALJ granted Flat Fork WSC's good-cause exception and found the closing documents sufficient.

Center's Compliance History

21. Center has no unaddressed violations listed in the TCEQ database associated with its public water system, identification number 2100001.
22. The Commission's complaint records, which date back to 2017, show one complaint against Center.
23. Center does not have a history of continuing mismanagement or misuse of revenues as a utility service provider
24. Center demonstrated a compliance status that is adequate for approval of the transfer to proceed.

Adequacy of Existing Service

25. There is no evidence in the record that Flat Fork WSC has failed to comply with any Commission or TCEQ order.
26. Center currently supplies water to the 39 meters under a purchase water agreement with Flat Fork WSC, and such service has been continuous and adequate.

Need for Additional Service

27. There are currently 39 existing meters that are receiving service and have an ongoing need for service.
28. This is an application to transfer only existing meters and customers.
29. There is no evidence in the record indicating a need for additional service.

Effect of Approving the Transaction

30. Approving the transfer will obligate Center to provide continuous and adequate water service to current and future customers served by the 39 meters.
31. Because this application is to transfer only existing meters and customers, there will be no effect on any other retail public utility servicing the proximate area.
32. There will be no adverse effect on the current customers served by the 39 meters because they are already receiving service from Center.

Ability to Serve: Managerial and Technical

33. Center currently serves the 39 meters through its public water system identification number 2100001.
34. Center employs or contracts with TCEQ-licensed water operators who operate its public water system through which it will provide service to the 39 meters.
35. No additional construction is necessary for Center to serve the 39 existing customers.
36. Center 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. Center has the technical and managerial capability to provide adequate and continuous service to the requested area.

Ability to Serve: Financial Ability and Stability

38. Center has a debt-to-equity ratio of less than one, satisfying the leverage test.
39. Center 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.
40. Center demonstrated the financial and managerial ability and stability to provide continuous and adequate service.

Financial Assurance

41. There is no need to require Center to provide additional financial assurance to ensure continuous and adequate service.

Regionalization or Consolidation

42. It will not be necessary for Center to construct a physically separate water system to serve the 39 meters.
43. Because construction of a physically separate water system is unnecessary, consideration of regionalization or consolidation with another retail public utility is not required.

Feasibility of Obtaining Service from Adjacent Retail Public Utility

44. Center is an adjacent utility and is currently serving the 39 meters through a purchase water agreement with Flat Fork WSC, and such service has been continuous and adequate.
45. It is not feasible to obtain service from another adjacent retail public utility.

Environmental Integrity and Effect on the Land

46. The 39 existing meters will continue to be served by Center with existing facilities and no additional construction is necessary.
47. There will be no effects on environmental integrity or the land as a result of the proposed transaction.

Improvement of Service or Lowering Cost to Consumers

48. The rates charged to existing customers will not change as a result of the proposed transaction because Center already provides service to the customers.
49. There will be no change to the reliability and quality of water service from Center, as Center already provides service through existing facilities.

Tariffs, Maps, and Certificates

50. On February 27, 2023, Commission Staff emailed to the Applicants a consent form for this docket.
51. On March 3, 2023, Center filed its consent form.
52. On March 6, 2023, Flat Fork WSC filed its consent form.

Informal Disposition

53. More than 15 days have passed since the completion of notice provided in this docket.
54. No person filed a protest or motion to intervene.
55. Flat Fork WSC, Center, and Commission Staff are the only parties to this proceeding.
56. No party requested a hearing, and no hearing is needed.
57. Commission Staff recommended approval of the application.
58. The decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law:

1. The Commission has authority over the proceeding under TWC §§ 13.241, 13.242, 13.244, 13.246, 13.251, and 13.301.
2. Flat Fork WSC is a retail public utility as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. Center is a municipality as defined by TWC § 13.002(12) and 16 TAC § 24.3(21).
4. The Commission processed the application as required by the TWC, the Administrative Procedure Act,¹ and Commission Rules.
5. The application meets the requirements of TWC § 13.244 and 16 TAC § 24.233.
6. Flat Fork WSC and Center provided notice of the application that complies with TWC § 13.246 and 13.301(a) and 16 TAC § 24.239(a) through (c).
7. Flat Fork WSC and Center have complied with the requirements of 16 TAC § 24.239(k) and (l) with respect to customer deposits.
8. Flat Fork WSC and Center were granted a good-cause exception under 16 TAC § 24.2(b) to the requirement under 16 TAC § 24.239(l) to complete the transaction within 30 days.
9. After consideration of the factors in TWC § 13.246(c), Center demonstrated that it is capable of rendering continuous service to every customer served by the 39 meters, as required by TWC § 13.251.
10. Center demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the 39 meters as required by TWC §§ 13.241(a) and 13.301(b).
11. It is not necessary for Center to provide bond or other financial assurance under TWC §§ 13.246(d) and 13.301(c).

¹ Tex. Gov't Code §§ 2001.001-.903.

12. Regionalization and consolidation concerns under TWC § 13.241(d) do not apply in this proceeding because construction of a physically separate water system is not required.
13. Flat Fork WSC and Center demonstrated that the transfer of facilities and customers from Flat Fork WSC to Center will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public under TWC § 13.301(d) and (e).
14. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with the preceding findings of fact and conclusions of law, the Commission enters the following orders.

1. The Commission approves the transfer of 39 meters held under Flat Fork WSC's water CCN No. 11711.
2. Center must provide service to every customer or applicant for service for any of the 39 meters under CCN No. 10397 that requires service and meets the terms of Center's water service policies, and such service must be continuous and adequate.
3. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the _____ day of _____ 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

ISAAC TA
ADMINISTRATIVE LAW JUDGE