



Filing Receipt

Received - 2022-09-02 12:36:33 PM
Control Number - 53331
ItemNumber - 19

DOCKET NO. 53331

| | | |
|-------------------------------------|----------|----------------------------------|
| APPLICATION OF CROSS TIMBERS | § | PUBLIC UTILITY COMMISSION |
| WATER SUPPLY CORPORATION AND | § | |
| STONEBRIDGE WATER SUPPLY | § | OF TEXAS |
| CORPORATION FOR SALE, | § | |
| TRANSFER, OR MERGER OF | § | |
| FACILITIES AND CERTIFICATE | § | |
| RIGHTS IN DENTON COUNTY | § | |

COMMISSION STAFF’S RECOMMENDATION ON THE TRANSACTION

On March 10, 2022, Cross Timbers Water Supply Corporation (Cross Timbers WSC) and the Stonebridge Water Supply Corporation (Stonebridge WSC) (collectively, Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Denton County, Texas, under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239

On July 19, 2022, the administrative law judge (ALJ) filed Order No. 4, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a recommendation on approval of the sale by September 2, 2022. Therefore, this pleading is timely filed.

I. RECOMMENDATION ALLOWING TRANSACTION TO PROCEED

Staff has reviewed the application and supplemental information and, as detailed in the attached memoranda of James Harville of the Infrastructure Division and Ethan Blanchard of the Rate Regulation Division, recommends that the proposed transaction satisfies the relevant statutory and regulatory criteria, including those factors identified in Texas Water Code Chapter 13 and under 16 Texas Administrative Code Chapter 24. Additionally, based upon its review, Staff recommends that Cross Timbers WSC 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. Therefore, Staff recommends that the transaction will serve the public interest and should be allowed to proceed without a public hearing. Staff notes that there are no customer deposits held by Stone Bridge WSC that will need to be addressed.

II. CONCLUSION

For the reasons detailed above, Staff respectfully requests that an order be issued allowing the proposed transaction to proceed.

Dated: September 2, 2022

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Keith Rogas
Division Director

Sneha Patel
Managing Attorney

/s/ Forrest Smith
Forrest Smith
State Bar No. 24093643
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7388
(512) 936-7268 (facsimile)
Forrest.Smith@puc.texas.gov

DOCKET NO. 53331

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 September 2, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Forrest Smith
Forrest Smith

Public Utility Commission of Texas

Memorandum

TO: Forrest Smith, Attorney
Legal Division

FROM: James Harville, Infrastructure Analyst
Infrastructure Division

DATE: September 2, 2022

RE: Docket No. 53331 – *Application of Stonebridge Water Supply Corporation and Cross Timbers Water Supply Corporation for Sale, Transfer, or Merger of Facilities and Certificate Rights in Denton County*

1. Application

On March 10, 2022, Cross Timbers Water Supply Corporation (Cross Timbers WSC) and the Stonebridge Water Supply Corporation (Stonebridge WSC) (collectively Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Denton County, Texas, under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239.

Specifically, Cross Timbers WSC, water Certificate of Convenience and Necessity (CCN) No. 10197, seeks approval to acquire facilities and to transfer all of the water service area from Stonebridge WSC under water CCN No. 12415.

Based on the mapping review by Dave Babicki, Infrastructure Division:

- The requested area includes 16 customer connections and approximately 127 acres, comprised of transferred area from Stonebridge WSC (CCN No. 12415) to Cross Timbers WSC (CCN No. 10197).
- The application proposes the subtraction of approximately 127 acres from CCN No. 12415 and the addition of approximately 127 acres to CCN No. 10197.
- 77 acres will have single certification and 50 acres will have dual certification with Argyle WSC (CCN No. 10199).
- The application indicates that the total acreage being requested is approximately 200 acres, however, the mapping review determined the requested area is approximately

127 acres.

2. Notice

Cross Timbers WSC provided notice consistent with 16 TAC § 24.239(c). The deadline to intervene was July 11, 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)(I)).*

Stonebridge WSC has a Texas Commission on Environmental Quality (TCEQ) approved public water system (PWS) registered as Stonebridge Water Supply Corporation, PWS ID No. 0610085. The last TCEQ compliance investigation of the Stonebridge WSC system was on June 1, 2020. Stonebridge WSC does not have any violations listed in the TCEQ database. The Commission's complaint records, which date back to 2017, show zero complaints against Stonebridge 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)).*

The purpose of the transaction is to transfer Stonebridge WSC to Cross Timbers WSC. The customers are currently receiving water service from Stonebridge WSC's water system.

There are currently 16 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)).*

Cross Timbers WSC will be the certificated entity for the requested area and be required to provide continuous and adequate 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)).*

TCEQ rule, 30 TAC § 290.46, Minimum Acceptable Operating Practices for Public Drinking Water Systems, requires the operation of a public water system by trained and licensed personnel. The production, treatment, and distribution facilities at the public water system must be operated at all times under the direct supervision of a water works operator who holds an applicable, valid license issued by the TCEQ executive director. The licensed operator of a public water system may be an employee, contractor, or volunteer. Cross Timbers WSC plans to use a contract operator for plant operations, which would include one or more appropriately qualified and licensed operator(s). The contract operator(s) would be responsible for day-to-day inspections, checks, sampling, reporting, meter reading, and any necessary system repairs.

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

Cross Timbers WSC has the ability to provide adequate service in the requested area. Cross Timbers WSC has a TCEQ approved PWS registered as Cross Timbers WSC, PWS ID No. 0610020. Cross Timbers WSC does not have any violations listed in the TCEQ database. In addition, the Commission's complaint records, which date back to 2017, show zero complaints against Cross Timbers 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 Cross Timbers 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)).*

Stonebridge WSC is currently serving customers, but Stonebridge WSC must limit customer usage during certain periods and has no fire protection available. Cross Timbers WSC has extended a six-inch water line to Stonebridge WSC's service area and added a fire hydrant to the CCN territory. As Cross Timbers WSC has already extended service to the requested area, it is not feasible to obtain service from another 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)).*

The customers' rates will be higher than the current rates for Stonebridge WSC. Reliability and quality of water service is expected to improve under Cross Timbers WSC's management.

The Applicants meet all of the applicable statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules. Approving this application is in the public interest and 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 Stonebridge WSC for the customers being served by Stonebridge WSC. I further recommend that a public hearing is not necessary.

Public Utility Commission of Texas

Memorandum

TO: Forrest Smith
Legal Division

FROM: Ethan Blanchard
Rate Regulation Division

DATE: September 2, 2022

RE: Docket No. 53331 – *Application of Stonebridge Water Supply Corporation and Cross Timbers Water Supply Corporation for Sale, Transfer, or Merger of Facilities and Certificate Rights in Denton County*

On March 10, 2022, Cross Timbers Water Supply Corporation (Cross Timbers), CCN No. 10197, and Stonebridge Water Supply Corporation, CCN No. 12415, filed an application for the merger of facilities and certificate rights in Denton County under the provisions of Texas Water Code § 13.301 and 16 Texas Administrative Code § 24.239.

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. Cross Timbers 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, 2021. These financial statements contain an unqualified auditor's opinion from Hankins, Eastup, Deaton, Tonn & Seay, PC stating that the financial statements present fairly, in all material respects, the financial position of Cross Timbers as of December 31, 2021.¹

Based upon my review of Cross Timbers' financial statements, I calculate the debt-to-

¹ Application, *Sale, Transfer or Merger Application Part C, Question 10 2021 Financial Audit*, at 3 (Mar. 17, 2022).

equity ratio equal to 0. The debt-to-equity ratio is long-term debt of \$0 divided by the equity of \$18,970,965.² Because the ratio is less than one, I recommend a finding that Cross Timbers 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).

Cross Timbers' financial projections show \$888,000 is projected net losses. Cross Timbers currently has more than \$3 million in cash and projects to continue having enough cash over the next five years to cover the projected operating shortages.³ Therefore, I recommend a finding that Cross Timbers meets the operations test specified in 16 TAC § 24.11(e)(3).

Recommendation

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

Consequently, I recommend a finding that Cross Timbers 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 Cross Timbers before the date of this memorandum and may not reflect any changes in Cross Timbers' status after this review.

² *Id.*, at 4.

³ Application, *Application C.10. Appendix B*, item no. 16 at 3 (Jul. 18, 2022).