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DOCKET NO. 54629

APPLICATION OF HEARTHSTONE	§	PUBLIC UTILITY COMMISSION
WATER, INC., AND TRITON TEXAS	§	
HOLDINGS LLC FOR APPROVAL OF	§	OF TEXAS
CHANGE IN OWNERSHIP UNDER	§	
TWC § 13.302	§	

COMMISSION STAFF'S FINAL RECOMMENDATION

I. INTRODUCTION

On February 14, 2023, Hearthstone Water, Inc., and Triton Texas Holdings LLC, filed an application for a change in ownership under Texas Water Code (TWC) § 13.302 and 16 Texas Administrative Code (TAC) § 24.243 of the controlling interests in Horseshoe Bend Water Company LLC (Horseshoe), and Lone Star Water Company (Lone Star). Horseshoe Bend provides water service under certificate of convenience and necessity (CCN) number 10263 in Parker County. Lone Star provide water service under CCN number 13279 in Denton County. The applicants seek approval to transfer and assign certain interests in Triton Texas Holdings, to Hearthstone Water immediately, followed by a merger of Triton Texas Holdings into its parent Hearthstone Water. After the merger, Hearthstone Water would be the surviving entity holding 100% of the issued and outstanding shares of stock in Horseshoe and Lone Star.

On March 10, 2023, the administrative law judge (ALJ) filed Order No. 3, establishing a deadline of April 11, 2023 for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a request a hearing or file a final recommendation. Therefore, this pleading is timely filed.

II. FINAL RECOMMENDATION

Staff has reviewed the supplemented application and, as detailed in the attached memorandum from Fred Bednarski III, Rate Regulation Division, recommends that, in accordance with 16 TAC § 24.243(b), Hearthstone has demonstrated that it has the financial, managerial, and technical capability for providing continuous and adequate service after the change in ownership is consummated. As such, Staff recommends that the supplemented application be approved.

III. CONCLUSION

For the reasons specified above, Staff respectfully recommends that the supplemented application be approved. Staff respectfully requests the entry of an order consistent with these recommendations.

Dated: April 4, 2023

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Marisa Lopez Wagley
Interim Division Director

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/s/ John Harrison (with permission)
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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 April 4, 2023, in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ John Harrison (with permission)
Markel Perkins

Public Utility Commission of Texas

Memorandum

TO: Markel Perkins
Legal Division

FROM: Fred Bednarski III
Rate Regulation Division

DATE: April 4, 2023

RE: Docket No. 54629 – *Application of Hearthstone Water, Inc. and Triton Texas Holdings LL for Approval of Change of Ownership Under TWC § 13.302*

On February 7, 2023, Hearthstone Water, Inc. (Hearthstone) and Triton Texas Holdings LLC (Triton) filed an application for a change in ownership under Texas Water Code (TWC) § 13.302 and 16 Texas Administrative Code (TAC) § 24.243 of the controlling interests in Horseshoe Bend Water Company LLC, (Horseshoe Bend) and Lone Star Water Company (Lone Star). Horseshoe Bend provides water service under certificate of convenience and necessity (CCN) number 10263 in Parker County. Lone Star provides water service under CCN number 13279 in Denton County. Triton is the 100% owner of Horseshoe Bend and Lone Star.¹ The applicants seek approval to transfer and assign certain interests in Triton to Hearthstone immediately, followed by a merger of Triton into its parent Hearthstone.² Hearthstone would then be the surviving entity holding 100% of the issued and outstanding shares of stock in Horseshoe Bend and Lone Star Water.

A person acquiring a controlling interest in a utility is required to demonstrate adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and to the person's certificated service area, if any pursuant to 16 § TAC 24.243. As established by 16 TAC § 24.11 an owner or operator of a retail public utility 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) to demonstrate that an owner or operator of a retail public utility

¹ Hearthstone Water, Inc.'s Supplemental Application Information at pdf 5 (Mar. 6, 2023).

² Confidential Attachments for TWC 13.302 Application at pdf 1 thru 97 (Feb. 7, 2023).

has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and proposed utility service area.

Leverage Test

My analysis is based on Hearthstone's, Horseshoe Bend's, and Lone Star's financial statements ending December 31, 2022, which demonstrate each utility has a debt-to-equity ratio of less than one, as calculated in confidential Attachment FB-1. Because the ratios are less than one, I recommend a finding that Hearthstone 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).

Hearthstone's, Horseshoe Bend's, and Lone Star's financial statements provided in confidential attachment FB-1 include operating income and cash flow information that indicate Hearthstone will have sufficient cash to cover projected shortages. Therefore, I recommend a finding that Hearthstone meets the operations test specified in 16 TAC § 24.11(e)(3).

Recommendation

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

Consequently, I recommend a finding that Hearthstone demonstrates the financial and managerial capability needed to provide adequate service to the areas subject to this application as well as that the Commission find that the change of ownership requested in this application is in the public interest and that the Commission approve the transaction.

My conclusions are based on information provided by Hearthstone before the date of this memorandum and may not reflect any changes in Hearthstone's status after this review.