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DOCKET NO. 54629

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

JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

Pursuant to Order No. 3, Hearthstone Water, Inc., a Texas corporation (Hearthstone), together with and as authorized by The Kauffman Family Living Trust, Dated April 9, 2015, Disciple Asset Holdings, LP, and Malakoff Family Holdings, LP (Sellers) and Triton Texas Holdings LLC, a Texas limited liability company and the Staff (Staff) of the Public Utility Commission of Texas (Commission) (collectively, the Parties) jointly file this Motion to Admit Evidence along with the attached Proposed Notice of Approval. In support of the same, the parties respectfully show the following:

I. BACKGROUND

On February 7, 2023, Hearthstone filed an application for a change in ownership under Texas Water Code § 13.302 and 16 Texas Administrative Code § 24.243 of the controlling interests in Horseshoe Bend Water Company LLC (Horseshoe Bend) and Lone Star Water Company (Lone Star). On March 10, 2023, the ALJ filed Order No. 3, which provided a deadline of April 11, 2023, for the parties to file a Joint Motion to Admit Evidence and Proposed Notice of Approval. This pleading is therefore timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

The Parties move to admit the following evidence into the record of this proceeding:

(a) Application of Hearthstone Water, Inc. for Approval of Change in Ownership under TWC

§ 13.302 filed on February 7, 2023 (Interchange No. 3); (b) Confidential filing – Attachments to TWC § 13.302 Application filed on February 7, 2023 (Interchange No. 4); (c) Hearthstone Water, Inc.’s Supplemental Application Information filed on March 6, 2023 (Interchange No. 9); (d) Hearthstone Water, Inc.’s Confidential Exhibits to Supplemental Application Information filed on March 6, 2023 (Interchange No. 10); (e) Hearthstone Water, Inc.’s Supplemental Application Information filed on March 8, 2023 (Interchange No. 11); (f) Staff’s Recommendation on Administrative Completeness filed on March 9, 2023 (Interchange No. 13); and (g) Staff’s Final Recommendation and confidential attachment filed on April 4, 2023 (Interchange Nos. 15 and 16).

III. PROPOSED NOTICE OF APPROVAL


The Parties move for adoption of the attached Joint Proposed Notice of Approval, which would approve Hearthstone’s application for a change in ownership of the controlling interests in Horseshoe Bend and Lone Star.

IV. CONCLUSION

The Parties respectfully request that the Commission grant this Joint Motion to Admit Evidence and issue a Notice of Approval consistent with the attached Joint Proposed Notice of Approval.

Respectfully submitted,

TERRILL & WALDROP

By: 
Geoffrey P. Kirshbaum
State Bar No. 24029665
810 West 10th Street
Austin, Texas 78701
Tel: (512) 474-9100
Fax: (512) 474-9888
gkirshbaum@terriwwaldrop.com

ATTORNEYS FOR HEARTHSTONE WATER, INC.

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

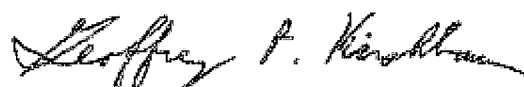
Marisa Lopez Wagley
Interim Division Director

John Harrison
Managing Attorney

By: /s/ Markel Perkins
Markel Perkins
State Bar No. 24126428
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7099
(512) 936-7268 (facsimile)
Markel.Perkins@puc.texas.gov

CERTIFICATE OF SERVICE

I hereby CERTIFY that on April 11, 2023, a true and complete copy of the above was sent to the parties of record in accordance with P.U.C. PROC. R. 22.74.


Geoffrey P. Kirshbaum

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

JOINT PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of Hearthstone Water, Inc., a Texas corporation (Hearthstone), together with and as authorized by The Kauffman Family Living Trust, Dated April 9, 2015, Disciple Asset Holdings, LP, and Malakoff Family Holdings, LP (Sellers) and Triton Texas Holdings LLC, a Texas limited liability company (Triton) (collectively, Applicants), for Commission approval, 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 two utilities doing businesses in Texas— Horseshoe Bend Water Company LLC, a Texas limited liability company (Horseshoe Bend), and Lone Star Water Company, a Texas corporation (Lone Star, and together with Horseshoe Bend, the Texas Companies). Each of the Texas Companies are Texas water utilities. The Applicants seek approval to transfer and assign Sellers' interests in Triton to Hearthstone, immediately followed by a merger of Triton into Hearthstone. Hearthstone would then be the surviving entity holding 100% of the issued and outstanding limited liability company interests of Horseshoe Bend and 100% of the issued and outstanding shares of Lone Star stock. The Commission approves the transfers between Hearthstone, Sellers, and Triton.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant and Other Interested Parties

1. Hearthstone Water, Inc. is a Texas corporation registered with the Texas secretary of state under filing number 0802074645.
2. Hearthstone Water, Inc. is a Texas corporation formed in 2014 that was formerly initially known as Potable Products Incorporated and then Triton Utilities, Inc. before changing its name to Hearthstone Water, Inc. in 2022.

3. Hearthstone Water, Inc. owns 15 water and wastewater utilities in Arizona and Michigan and is part of the Hearthstone family of companies that also owns six natural gas local distribution companies serving over 200,000 residential, commercial, and industrial customers across Indiana, Maine, Montana, North Carolina, Ohio, and West Virginia.
4. Triton Texas Holdings LLC is a Texas limited liability company registered with the Texas secretary of state under filing number 0804219628.
5. The Kauffman Family Living Trust, Dated April 9, 2015, Disciple Asset Holdings, LP, and Malakoff Family Holdings, LP are the sole members of and the record and beneficial owners of all the issued and outstanding interests in Triton.
6. Horseshoe Bend Water Company LLC is a Texas limited liability company registered with the Texas secretary of state under filing number 0803436754.
7. Horseshoe Bend owns, operates, maintains, and controls facilities for providing retail water service in Parker County under Certificate of Convenience and Necessity (CCN) No. 10263.
8. Lone Star Water Company is a Texas corporation registered with the Texas secretary of state under filing number 0803137555.
9. Lone Star owns, operates, maintains, and controls facilities for providing retail water service in Denton County under CCN No. 13279.
10. Triton owns 100% of the issued and outstanding limited liability company interests of Horseshoe Bend, and 100% of the issued and outstanding shares of Lone Star stock.

Application

11. On February 6, 2023, Hearthstone and its co-applicants in this proceeding, Triton, Kauffman Family Living Trust, dated April 9, 2015,¹ Disciple Asset Holdings, LP, and Malakoff Family Holdings, LP, filed the application at issue in this proceeding for approval to transfer and assign Sellers' interests in Triton to Hearthstone, immediately followed by a merger of Triton into Hearthstone, leaving Hearthstone as the surviving

¹ The reference to "dated April 9, 2015" is part of the trust name.

entity holding 100% of the issued and outstanding limited liability company interests of Horseshoe Bend and 100% of the issued and outstanding shares of Lone Star stock.

12. Hearthstone filed supplemental information to its application on March 6, 2023.
13. Hearthstone filed additional supplemental information to its application on March 8, 2023.
14. On March 9, 2023, Commission Staff recommended the Commission find the application administratively complete.
15. In Order No. 3 filed on March 10, 2023, the presiding administrative law judge (ALJ) found the application administratively complete.

Notice

16. Hearthstone, The Kauffman Family Living Trust, Dated April 9, 2015, Disciple Asset Holdings, LP, and Malakoff Family Holdings, LP (Sellers), Triton, Horseshoe Bend, and Lone Star are the only entities affected by the application and are aware of the transaction.
17. There are no specific notice requirements for applications under TWC § 13.302 and 16 TAC § 24.243 other than filing such applications with the Commission and no specific notice was required by the presiding ALJ or the Commission.
18. On March 9, 2023, Commission Staff recommended the Commission find the application administratively complete without comment on notice because none is required.
19. In Order No. 3 filed on March 10, 2023, the presiding ALJ found the application administratively complete.

Evidentiary Record

20. On April 11, 2023, Hearthstone and Commission Staff filed a joint motion to admit evidence.
21. In Order No. 4 filed on April __, 2023, the ALJ admitted the following evidence into the record: (a) Application of Hearthstone Water, Inc. for Approval of Change in Ownership under TWC § 13.302 filed on February 7, 2023 (Interchange No. 3); (b) Confidential filing – Attachments to TWC § 13.302 Application filed on February

7, 2023 (Interchange No. 4); (c) Hearthstone Water, Inc.'s Supplemental Application Information filed on March 6, 2023 (Interchange No. 9); (d) Hearthstone Water, Inc.'s Confidential Exhibits to Supplemental Application Information filed on March 6, 2023 (Interchange No. 10); (e) Hearthstone Water, Inc.'s Supplemental Application Information filed on March 8, 2023 (Interchange No. 11); (f) Staff's Recommendation on Administrative Completeness filed on March 9, 2023 (Interchange No. 13); and (g) Staff's Final Recommendation and confidential attachment filed on April 4, 2023 (Interchange Nos. 15 and 16).

Adequacy of Financial Capability

22. Hearthstone, Horseshoe Bend, and Lone Star's financial statements ending December 31, 2022 demonstrate that each entity has a debt-to-equity ratio of less than one, satisfying the leverage test.
23. Hearthstone, Horseshoe Bend, and Lone Star's financial statements ending December 31, 2022 include operating income and cash flow information that indicate Hearthstone will have sufficient cash to cover projected shortages, satisfying the operations test.
24. Hearthstone, Horseshoe Bend, and Lone Star have demonstrated adequate financial capability for providing continuous and adequate service.
25. Additional financial assurance is not necessary for approval of the proposed transaction.

Adequacy of Managerial and Technical Capability

26. Horseshoe Bend and Lone Star personnel, including their licensed water operators, will continue to manage and operate the systems after the proposed transaction with Hearthstone closes.
27. The proposed transaction will not change or alter the service provided to existing customers served by Horseshoe Bend and Lone Star or the rates charged for such service within the service areas under CCN No. 10263 and CCN No. 13279.
28. Hearthstone has demonstrated adequate managerial and technical capability for providing continuous and adequate service to the requested area.

Informal Disposition

29. More than 15 days have passed since the completion of notice provided in this docket.
30. No party requested a hearing, and no hearing is necessary.
31. Hearthstone, The Kauffman Family Living Trust, Dated April 9, 2015, Disciple Asset Holdings, LP, and Malakoff Family Holdings, LP (Sellers), Triton, Horseshoe Bend, Lone Star, and Commission Staff are the only parties to this proceeding.
32. Commission Staff recommended approval of Hearthstone's application.
33. 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 this proceeding under TWC §§ 13.041 and 13.302.
2. Horseshoe Bend and Lone Star are each a "water utility," "public utility," or "utility" as defined by TWC § 13.002(23) and 16 TAC § 24.3(39).
3. The Commission processed this application as required by the TWC, the Administrative Procedure Act,² and Commission rules.
4. Notice complies with 16 TAC § 22.55 as there are no specific notice requirements for applications under TWC § 13.302 and 16 TAC § 24.243, notice was not ordered by the presiding ALJ or the Commission, and the only affected persons are the Applicants.
5. Hearthstone, together with Horseshoe Bend and Lone Star, has demonstrated that it has adequate financial, managerial, and technical capability for providing continuous and adequate service to the certificated service areas for CCN No. 10263 and CCN No. 13279 in accordance with TWC § 13.302(b) and 16 TAC § 24.243(b).
6. Hearthstone, Horseshoe Bend, and Lone Star have demonstrated that the application meets the requirements in TWC § 13.302 and 16 TAC § 24.243.
7. The Commission evaluated the application as amended and supplemented under the requirements in TWC § 13.302 and 16 TAC § 24.243.

² TEX. GOV'T CODE §§ 2001.001–.903.

8. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission approves the transfer and assignment of The Kauffman Family Living Trust, Dated April 9, 2015, Disciple Asset Holdings, LP, and Malakoff Family Holdings, LP's interests in Triton to Hearthstone, immediately followed by a merger of Triton into Hearthstone, leaving Hearthstone as the surviving entity holding 100% of the issued and outstanding limited liability company interests of Horseshoe Bend and 100% of the issued and outstanding shares of Lone Star stock as proposed in the application.
2. Water CCN No. 10263 and CCN No. 13279 will remain in the name of their current holders.
3. Hearthstone must notify the Commission within 30 days after the date the approved transaction is completed.
4. Hearthstone must file a written update on the status of the transaction within 30 days of this Order and every 30 days thereafter until the transaction has been completed.
5. The Commission denies all other motions and any other requests for general or specific relief, not expressly granted.

Signed at Austin, Texas the ____ day of April, 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

JEFFREY J. HUHN
ADMINISTRATIVE LAW JUDGE