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DOCKET NO. 56385

APPLICATION OF NEW WATER	§	PUBLIC UTILITY COMMISSION
SYSTEMS, INC. AND DERBY ING LLC	§	
FOR SALE, TRANSFER, OR MERGER	§	OF TEXAS
OF FACILITIES AND CERTIFICATE		
RIGHTS IN FRIO COUNTY		

**COMMISSION STAFF’S MOTION TO WITHDRAW MOTION TO DISMISS,
SUPPLEMENTAL RECOMMENDATION ON NOTICE, AND PROPOSED
PROCEDURAL SCHEDULE**

On March 19, 2024, New Water Systems, Inc. (New Water Systems) and Derby ING LLC (Derby ING) (collectively, Applicants) filed an application for the sale, transfer, or merger of facilities and certificate of convenience and necessity rights in Frio County.

On June 18, 2024, the administrative law judge filed Order No. 4, requiring responses to Commission Staff’s (Staff) motion to dismiss, if any, by July 3, 2024. Therefore, this pleading is timely filed.

I. MOTION TO WITHDRAW MOTION TO DISMISS

After conferring with New Water Systems and the Division of Compliance and Enforcement (DICE), Staff now understands that New Water Systems is not acquiring a new system, as the application reflects, and is instead submitting a Sale, Transfer, or Merger for a system it is already operating in order to get in compliance with Texas Water Code (TWC) § 13.301 and 16 TAC § 24.239. As such, Staff moves to withdraw its previously filed motion to dismiss.

II. SUPPLEMENTAL RECOMMENDATION ON NOTICE

On June 28, 2024, New Water Systems filed supplemental notice documentation. Staff has reviewed New Water System’s supplemental notice documentation and, as described in the attached memorandum from Jaspinder Singh of the Infrastructure Division, recommends that New Water System’s notice is sufficient. New Water Systems supplemental notice documentation included the Landowner affidavit indicating that there were no landowners with 25 or more acres to provide notice.

III. PROPOSED PROCEDURAL SCHEDULE

Staff recommends that notice be deemed sufficient. Therefore, Staff proposes the following procedural schedule:

Event	Date
Notice Completed	April 18, 2024
Deadline for Intervention	May 18, 2024 ¹
Deadline for Staff to request a hearing or file a recommendation on approval of a sale	July 12, 2024
Deadline for Applicants to file a response to Staff's recommendation on approval of the sale or request a hearing	July 26, 2024
Deadline for parties to file a joint motion to admit evidence and proposed order approving the sale and allowing the transaction to proceed	August 8, 2024
120-day deadline for the Commission to approve the sale or require a hearing	July 16, 2024 ²

IV. CONCLUSION

For the reasons discussed above, Staff recommends that Staff's motion to dismiss be withdrawn, that notice be found sufficient, and that the proposed procedural schedule be adopted. Staff respectfully requests the entry of an order consistent with these recommendations.

¹ Under 16 TAC § 24.239(d), the intervention period shall not be less than thirty (30) days unless good cause is shown. Notice was mailed on April 18, 2024. Thirty (30) days after April 18, 2024 is May 18, 2024.

² Under 16 TAC § 24.239(b) and (h), the deadline for Commission action is one hundred and twenty (120) days after the mailing or publication of notice, whichever occurs later. One hundred and twenty days after April 18, 2024 is July 16, 2024.

Date: July 2, 2024

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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/s/ Rowan Pruitt
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CERTIFICATE OF SERVICE

I certify that unless otherwise ordered by the presiding officer, notice of the filing of this document will be provided to all parties of record via electronic mail on July 2, 2024, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Rowan Pruitt
Rowan Pruitt

Public Utility Commission of Texas

Memorandum

TO: Rowan Pruitt, Attorney
Legal Division

FROM: Jaspinder Singh, Engineering Specialist
Infrastructure Division

DATE: July 2, 2024

RE: Docket No. 56385 – *Application of New Water Systems, Inc. and Derby ING LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Frio County*

1. Application

On March 19, 2024, New Water Systems, Inc. (New Water Systems) and Derby ING LLC (Derby ING) (collectively “Applicants”) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Frio County, Texas, under Texas Water Code (TWC) §§ 13.242 through 13.250 and § 13.301 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237 and § 24.239.

Specifically, New Water Systems is seeking to obtain a Certificate of Convenience and Necessity (CCN) and approval to acquire facilities and to transfer all of the water certificated service area from Derby ING under water CCN No. 12931.

2. Notice:

Commission staff reviewed the proof of notice filed on April 25, 2024, under item 12 and June 28, 2024, under item 20. Affidavits were provided affirming that notices were submitted to customers, cities, districts, neighboring retail public utilities, the county judge, groundwater conservation districts, and that there are no landowner of tract of land that is at least 25 acres and is wholly or partly located in the requested area. Therefore, I recommend that the notice be sufficient.

3. Factors Considered and Recommendations:

Staff reviewed and determined the application administratively complete on April 18, 2024. On June 13, 2024, Staff filed recommendations that this application be dismissed given the issues and the time needed to address them. After conferring with New Water Systems and the Division of Compliance and Enforcement, Staff now has the understanding that New Water Systems submitted the Sale, Transfer, or Merger for a system it is already operating in order

to get in compliance with Texas Water Code (TWC) § 13.301 and 16 TAC § 24.239. Therefore, Staff recommends withdrawing its previous recommendations to dismiss.