



Control Number: 42959



Item Number: 33

Addendum StartPage: 0

DOCKET NO. 42959

**APPLICATION OF AQUA UTILITIES, §
INC. AND AQUA TEXAS, INC. D/B/A §
AQUA TEXAS FOR SALE, TRANSFER, §
OR MERGER OF FACILITIES AND §
TO AMEND CERTIFICATES OF §
CONVENIENCE AND NECESSITY IN §
MCLENNAN COUNTY (T&A WATER §
AND VLS INC. WATER SYSTEMS; §
37944-S) §**

PUBLIC UTILITY COMMISSION

OF TEXAS

2015 DEC 16 PM 2:31

**PUBLIC UTILITY COMMISSION
FILING CLERK**

**JOINT MOTION FOR ADMISSION OF EVIDENCE AND ADOPTION OF PROPOSED
NOTICE OF APPROVAL**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, on behalf of itself, Aqua Utilities, Inc., and Aqua Texas, Inc. d/b/a Aqua Texas (collectively, the Parties) and files this Joint Motion for Admission of Evidence and Adoption of Proposed Notice of Approval. In support thereof, the Parties show the following:

I. BACKGROUND

On June 4, 2014, Aqua Texas, Inc. d/b/a Aqua Texas filed an application (Application) with the Texas Commission on Environmental Quality (TCEQ) regarding the sale, transfer, or merger (STM) and amendment of Certificate of Convenience and Necessity (CCN) No. 11157 held by Aqua Utilities, Inc. in McLennan County, Texas pursuant to Tex. Water Code § 13.301 (TWC) and Title 16, Tex. Admin Code §§ 24.109 and 24.112 (TAC).

On October 13, 2015 the Administrative Law Judge (ALJ) issued Order No. 11 deeming the Applicant and Seller's closing documentation sufficient and establishing a procedural schedule. Order No. 11 directed Parties to file a request to admit evidence and proposed notice of approval, including findings of fact, conclusions of law, and ordering paragraphs by December 16, 2015. Therefore, this pleading is timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

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

- a. The Applicants' June 4, 2014 Application (Commission's automated interchange system [AIS] Item No. 1, filed September 25, 2014);
- b. Applicants' amendments to Application filed on January 30, 2015 (AIS Item No. 9, filed January 30, 2015);
- c. Applicants' amendments to Application filed on April 7, 2015 (AIS Item No. 15, filed April 7, 2015);
- d. Affidavit dated June 2, 2015, attesting to notice mailed on May 26, 2015 (AIS Item No. 19, filed June 2, 2015);
- e. Closing documents and bill of sale (AIS Item No. 27, filed October 2, 2015);
- f. Commission Staff's Response to Order No. 9 and Final Recommendation and attachment thereto (AIS Item No. 22, filed July 24, 2015);
- g. Commission Staff's Response to Order No. 10, Recommendation on Sufficiency of Closing Documents and Proposed Procedural Schedule and attachment thereto (AIS Item No. 28, filed October 12, 2015);
- h. Commission Staff's Response to Order No. 11 and attachments thereto (AIS Item No. 33, filed December 9, 2015).

III. JOINT MOTION FOR ADOPTION OF PROPOSED NOTICE OF APPROVAL

The attached Proposed Notice of Approval would grant the Applicants' Application to sell/transfer a portion of Aqua Utilities' service area served under its Certificate of Convenience and Necessity (CCN) No. 11157 to Aqua Texas and amend Aqua Texas' CCN No. 13201.

IV. CONCLUSION

The Parties have indicated to Staff that Staff is authorized to file this pleading on their behalf. Therefore, the Parties respectfully request that the Commission grant the joint motions to admit the evidence specified above and adopt the attached proposed Notice of Approval.

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

Karen S. Hubbard
Managing Attorney
Legal Division



Erika Garcia
Attorney-Legal Division
State Bar No. 24092077
(512) 936-7290
(512) 936-7268 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P. O. Box 13326
Austin, Texas 78711-3326

DOCKET NO. 42959
CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on December 16, 2015, in accordance with 16 Tex. Admin. Code § 22.74.



Erika Garcia

PUC DOCKET NO. 42959

**APPLICATION OF AQUA UTILITIES,
INC. AND AQUA TEXAS, INC. D/B/A
AQUA TEXAS FOR SALE, TRANSFER,
OR MERGER OF FACILITIES AND TO
AMEND CERTIFICATES OF
CONVENIENCE AND NECESSITY IN
MCLENNAN COUNTY (T&A WATER
AND VLS INC. WATER SYSTEMS;
37944-S)**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

NOTICE OF APPROVAL

This Notice addresses the application of Aqua Utilities, Inc. (“Aqua Utilities”) and Aqua Texas, Inc. d/b/a Aqua Texas (“Aqua Texas”) (collectively, the “Applicants”) for the sale, transfer, or merger of facilities and certificated service area in McLennan County. The Public Utility Commission of Texas (“Commission”) Staff (“Staff”) recommends approval of the application. The application is approved.

The Commission adopts the following findings of fact, conclusions of law and ordering paragraphs.

I. Findings of Fact

Procedural History

1. On June 4, 2014, Applicants filed an application (“Application”) for the sale, transfer, or merger of a retail public utility with the Texas Commission on Environmental Quality (“TCEQ”) pursuant to Tex. Water. Code Ann. §13.246(c), 13.301 (“TWC”) and 16 Tex. Admin. Code Subchapter G (“TAC”).
2. Aqua Utilities holds water CCN No. 11157.
3. Aqua Texas holds water CCN No. 13201.
4. The Application requests approval to sell/transfer a portion of Aqua Utilities’ service area and T&A Water and VLS, Inc. water systems served under CCN No. 11157 to Aqua Texas and to amend Aqua Texas’ CCN No. 13201 service area.
5. The transaction has allowed Aqua Texas to acquire the T&A Water and VLS, Inc. water systems and provide retail public water utility service to connected customers in each system’s certificated service area.

6. Effective September 1, 2014, jurisdiction over the economic regulation of water and sewer utilities was transferred from the TCEQ to the Commission.
7. On September 29, 2014, Order No. 1 was issued, addressing the water program transfer and procedural matters.
8. On September 29, 2014 Order No. 2 was issued requiring Staff to file an update on the status of the proceeding, to file a recommendation on the need for a hearing or on final disposition of the Application, or to propose a procedural schedule by October 20, 2014.
9. On October 20, 2014, Staff filed its Response to Order No. 2, requesting that the Administrative Law Judge (“ALJ”) extend the deadline for Staff to file its recommendation.
10. On October 21, 2014, Order No. 2 was issued, requiring Staff to file a recommendation by December 19, 2014.
11. On December 19, 2014, Staff filed its Recommendation on the Application, in which Staff identified multiple deficiencies in the Application and notice and requested that the Applicants be given additional time to cure the deficiencies.
12. On January 5, 2015, the ALJ issued Order No. 4 directing the Applicants to file an amended application to cure the deficiencies by January 30, 2015.
13. On January 30, 2015, the Applicants filed supplemental mapping information to cure the identified deficiencies.
14. On February 13, 2015, Staff filed its Response to Order No. 4, Status Report, and Request for extension of deadline.
15. On February 17, 2015, the ALJ issued Order No. 5 granting Staff’s request and extending the deadline for Staff to file its supplemental recommendation, until March 30, 2015.
16. On March 30, 2015, Staff filed its Response to Order No. 5 and Recommendation on the Application in which Staff recommended that the Application remained deficient and requested the Applicants be given additional time to cure the deficiencies.
17. On March 31, 2015, the ALJ issued Order No. 6 directing the Applicants to file supplemental information to cure the identified mapping and notice by April 7, 2015 and directing Staff to file a second supplemental recommendation regarding administrative completeness of the Application and proposed notice by May 8, 2015.
18. On April 8, 2015, the ALJ issued Order No. 7 clarifying a date referenced in Order No. 6.

19. On May 8, 2015, Staff filed its Response to Order No. 6 in which Staff recommended that the Application be deemed administratively complete.
20. On May 8, 2015, the ALJ issued Order No. 8 finding the application sufficient for filing and establishing a procedural schedule for issuing notice.
21. On June 2, 2015, the Applicants filed affidavits of notice indicating that notice of the Application was mailed to current customers and affected municipalities on May 26, 2015.
22. On June 19, 2015, Staff filed its Response to Order No. 8 and Proposed Procedural Schedule.
23. On June 22, 2015, the ALJ issued Order No. 9 adopting a supplemental procedural schedule.
24. On July 24, 2015, Staff filed its Response to Order No. 9 recommending that no hearing on the Application was required and that the sale/transfer be approved.
25. On July 27, 2015, Order No. 10 was issued approving the sale/transfer to proceed and instructing the Applicants to provide monthly status reports, and documents evidencing consummation upon conclusion of the transaction.
26. On August 27, 2015, Applicants filed a Status Report.
27. On September 8, 2015, Staff filed a Second Response to Order No. 9 recommending that a proposed notice of approval was not appropriate at that time, and proposed that Staff would file a final recommendation and proposed notice of approval after receiving closing documents and consent forms indicating consent to the revised maps and certificates.
28. On September 28, 2015, Applicants filed a second Status Report.
29. On October 2, 2015, the Applicant filed a Bill of Sale to show that the transaction was finalized effective September 2, 2015 and that there were no customer deposits to be refunded either prior to or immediately after closing.
30. On October 12, 2015, Staff filed its Response to Order No. 10, recommending that the closing documents were sufficient to show that the transaction was fully completed.
31. On October 13, 2015, the ALJ issued Order No. 11 deeming closing documentation sufficient and establishing a further procedural schedule.
32. On November 23, 2015, Aqua Utilities and Aqua Texas filed signed consent forms evidencing their consent to the amended map and certificates developed by Staff.

33. On December 9, 2015, Staff filed its Response to Order No. 11, recommending approval of the Application.

Notice

34. Mailed notice was provided to all affected and interested parties on May 26, 2015.

35. The Applicants filed affidavits with the Commission providing proof of notice on June 2, 2015.

Informal Disposition

36. More than 15 days have passed since completion of all notice required for this docket.

37. Aqua Utilities, Aqua Texas, and Staff are the only parties to this proceeding.

38. No protests, motions to intervene, or requests for hearing were filed in this docket; therefore, no hearing was necessary.

Evidence

39. The Applicants' Application; Applicants' January 30, 2015 amendment to Application; Applicants' April 7, 2015 amendment to Application; Affidavit attesting to notice; Closing documents and Bill of Sale; Staff's Response to Order No. 9 and attachment thereto; Staff's Response to Order No. 10 and attachment thereto; and Staff's Response to Order 11 and attachments thereto, have been admitted into evidence.

II. Conclusions of Law

1. The Commission has jurisdiction over this proceeding pursuant to TWC §§ 13.041, 13.246, 13.251, and 13.301.

2. Aqua Utilities is a water and sewer utility as defined in TWC § 13.002(24).

3. Public notice of the application was provided as required by TWC § 13.301(a)(2).

4. The application was processed in accordance with the requirements of the Texas Administrative Procedure Act,¹ TWC, and the Commission's rules.

5. Aqua Utilities and Aqua Texas completed the sale within 365 days from the date of the Commission's approval of the sale, consistent with 16 TAC § 24.112(e).

6. The Commission notified the Parties that a public hearing on the Application was not requested and would not be held, consistent with TWC § 13.301(f) and 16 TAC § 24.109(f).

¹ Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2012 & Supp. 2014).

7. After consideration of the factors in TWC § 13.246(c), Aqua Texas has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to every consumer within T&A Water and VLS, Inc. water systems' service areas.
8. Aqua Utilities and Aqua Texas have demonstrated that the certificate transfer requested in the application is necessary for the service, accommodation, convenience, and safety of the public, and approval of the Application serves the public interest.
9. The requirements for informal disposition pursuant to 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 orders as follows:

1. The Application is approved.
2. Aqua Texas' Certificate of Convenience and Necessity ("CCN") No. 13201 is amended to include the T&A Water and VLS, Inc. water systems transferred from Aqua Utilities to Aqua Texas.
3. Aqua Utilities CCN No. 11157 is amended to reflect the removal of the T&A Water and VLS, Inc. water systems consistent with this Notice.
4. Aqua Texas shall serve every customer and applicant for service within the area covered by its CCN No. 13201, and such service shall be continuous and adequate.
5. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.

SIGNED AT AUSTIN, TEXAS the ____ day of _____, 2015.

ADMINISTRATIVE LAW JUDGE