



Control Number: 42960



Item Number: 34

Addendum StartPage: 0

**DOCKET NO. 42960**

**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 §  
CHAMBERS, JEFFERSON AND §  
LIBERTY COUNTIES (GRAY §  
UTILITY SERVICE SEWER SYSTEM; §  
37945-S) §**

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

RECEIVED  
2015 DEC 16 PM 2:32  
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. 20453 held by Aqua Utilities, Inc. in Chambers, Jefferson, and Liberty Counties, 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. Affidavit dated May 1, 2015, attesting to notice mailed on April 20, 2015 and April 23, 2015 (AIS Item No. 19, filed June 2, 2015);
- d. Closing documents and bill of sale (AIS Item No. 26, filed October 2, 2015);
- e. Commission Staff's Response to Order No. 8 and Final Recommendations on the Application and attachment thereto (AIS Item No. 20, filed June 19, 2015);
- f. Commission Staff's Response to Order No. 9, Recommendation on Sufficiency of Closing Documents and Proposed Procedural Schedule and attachment thereto (AIS Item No. 29, filed October 12, 2015); and
- g. 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. 20453 to Aqua Texas and amend Aqua Texas' CCN No. 21065.

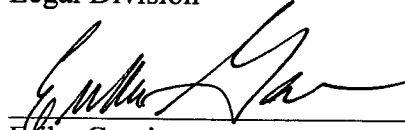
## **IV. CONCLUSION**

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. 42960**  
**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. 42960**

<b>APPLICATION OF AQUA UTILITIES, INC. AND AQUA TEXAS, INC. FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND TO AMEND CERTIFICATES OF CONVENIENCE AND NECESSITY IN CHAMBERS, JEFFERSON AND LIBERTY COUNTIES (GRAY UTILITY SERVICE SEWER SYSTEM; 37945-S)</b>	<b>§ § § § § § § § §</b>	<b>PUBLIC UTILITY COMMISSION  OF TEXAS</b>
---	--	--

**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 areas in Chambers 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, Aqua Texas filed an 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 sewer CCN No. 20453.
3. Aqua Texas holds sewer CCN No. 21065.
4. The Application requests approval to sell/transfer a portion of Aqua Utilities’ service area and the Southeast Region Gray sewer system (a/k/a Veranda Wastewater Treatment Facility System) served under CCN No. 20453 to Aqua Texas and to amend Aqua Texas’ CCN No. 21065.
5. The transaction has allowed Aqua Texas to serve Aqua Utilities’ Southeast Region-Gray Sewer system service areas and system and provide retail sewer utility service to connected customers in the certificated service areas.

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 30, 2014, Order No. 1 was issued, addressing the water program transfer and procedural matters.
8. On September 30, 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 21, 2014.
9. On October 21, 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 28, 2014, Order No. 3 Extending Deadline 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 19, 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 Status Report and Request for Extension of Deadline in which it requested additional time to file its supplemental recommendation.
17. On April 1, 2015, the ALJ issued Order No. 6 extending the deadline for Staff to file its supplemental recommendation.
18. On April 10, 2015, Staff filed its Response to Order No. 6 in which Staff recommended that the Application be deemed administratively complete.
19. On April 13, 2015, the ALJ issued Order No. 7 finding the application sufficient for filing and establishing a procedural schedule for issuing notice.

20. On May 5, 2015, the Applicants filed an affidavit of notice indicating that notice of the Application was mailed to current customers and affected municipalities on April 20, 2015 and April 23, 2015.
21. On May 28, 2015, Staff filed its Response to Order No. 7 and Proposed Procedural Schedule.
22. On May 29, 2015, the ALJ issued Order No. 8 updating the procedural schedule for this proceeding.
23. On June 2, 2015, the Applicants filed an affidavit of notice indicating that notice of the Application was mailed to current customers and affected municipalities on April 20, 2015 and April 23, 2015, and included an attached copy of the notice.
24. On June 19, 2015, Staff filed its Response to Order No. 8 recommending that no hearing on the Application was required and that the sale/transfer be approved.
25. On June 23, 2015, Order No. 9 was issued approving the sale/transfer to proceed and instructing the Applicants to provide monthly status reports, and documents evidencing the consummation upon conclusion of the transaction.
26. On July 23, 2015, Commission Staff filed its First Status Update in Response to Order No. 9.
27. On August 21, 2015, Applicants filed a Status Report.
28. On September 21, 2015, Applicants filed a Status Report.
29. On October 2, 2015, the Applicants filed a Bill of Sale and other closing documents to show that the transaction was finalized effective September 2, 2015, a Customer Deposits Report, and a Motion for Protective Order pursuant to 16 TAC §22.142(c). Aqua Utilities, Inc. transferred certain customer deposit credits with interest to Aqua Texas, Inc. for management and refund in due course of business under Commission rules.
30. On October 5, 2015, the ALJ issued Order No. 10 granting the Applicants' Motion for Entry of a Protective Order.
31. On October 2, 2015 the Applicants filed a confidential list of customer deposits.
32. On October 12, 2015, Staff filed its Response to Order No. 9, recommending that the closing documents and customer deposits report were sufficient to show that the transaction was fully completed and the customer deposits had been addressed.

33. On October 15, 2015, the ALJ issued Order No. 11 deeming closing documentation sufficient and establishing a further procedural schedule.

34. 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.

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

#### **Notice**

36. Mailed notice was provided to all affected and interested parties on April 20, 2015.

37. The Applicants filed affidavits of notice with the Commission providing proof of notice on May 5, 2015.

#### **Informal Disposition**

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

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

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

#### **Evidence**

41. The Applicants' Application; Applicants' January 30, 2015 amendment to Application; Affidavit attesting to notice; Closing documents and Bill of Sale; Staff's Response to Order No. 8 and attachment thereto; Staff's Response to Order No. 9 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 Administrative Procedures Act,<sup>1</sup> 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).

---

<sup>1</sup> Administrative Procedure Act, Tex. Gov't's Code §§ 2001.001-.902 (West 2012 & Supp. 2014).



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).
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 its Southeast Region-Gray sewer system's service areas and approval of the Application serves the public interest.
8. Aqua Utilities and Aqua Texas have demonstrated that the certificate transfer requested in this application is necessary for the service, accommodation, convenience, and safety of the public.
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 issues the following Order:

1. The Application is approved.
2. Aqua Texas' Certificate of Convenience and Necessity ("CCN") No. 21065 is amended to include the Southwest Region-Gray sewer system and service areas transferred from Aqua Utilities to Aqua Texas.
3. Aqua Utilities CCN No. 20453 is amended to reflect the removal of the Southeast Region-Gray sewer system and service areas consistent with this Notice.
4. Aqua Texas shall serve every customer and applicant for service within the area covered by its CCN No. 21065, 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