



Control Number: 42983



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DOCKET NO. 42983

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**APPLICATION OF CRYSTAL CLEAR
WATER SUPPLY CORPORATION AND
CITY OF SAN MARCOS FOR SALE,
TRANSFER, OR MERGER OF
FACILITIES AND TO AMEND A
CERTIFICATE OF CONVENIENCE
AND NECESSITY IN COMAL,
GUADALUPE, AND HAYS COUNTIES
(37671-S)**

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PUBLIC UTILITY COMMISSION
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PUBLIC UTILITY COMMISSION
FILING CLERK
OF
TEXAS

DOCKET NO. 42984

**APPLICATION OF CITY OF SAN
MARCOS AND CRYSTAL CLEAR
WATER SUPPLY CORPORATION FOR
SALE, TRANSFER, OR MERGER OF
FACILITIES AND TO AMEND A
CERTIFICATE OF CONVENIENCE
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PUBLIC UTILITY COMMISSION
OF
TEXAS

COMMISSION STAFF'S SECOND RESPONSE TO ORDER NO. 4

COMES NOW Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) and files this Second Response to Order No. 4 and would show the following:

I. BACKGROUND

On July 26, 2013, Crystal Clear Water Supply Corporation (Crystal Clear WSC) and the City of San Marcos filed a sale, transfer, merger (STM) application with the Texas Commission on Environmental Quality (TCEQ) pursuant to TEX. WATER CODE ANN. § 13.301 and Title 16, TEX. ADMIN. CODE (16 TAC) §§ 24.109 and 24.112. On January 30, 2015, the Administrative Law Judge (ALJ) issued Order No. 4 requiring clarification of the applications and a recommendation on consolidation in Docket Nos. 42983 and 42984 by February 13, 2015. On February 13, 2015, Staff, along with Crystal Clear WSC and the City of San Marcos (Applicants) filed a Joint First Response to Order No. 4 and Unopposed Request for Extension of Deadline. On February 19, 2015, the ALJ issued Order No. 5 granting the requested extension and

directing the parties to file their clarification and recommendation by April 14, 2015. This Response is timely filed.

II. STAFF'S RECOMMENDATION ON CLARIFICATION OF APPLICATION

On April 13, 2015, the Applicants filed their Response to Order No. 4 Requiring Clarification in order to amend the application by clarifying the intent of the transaction.¹ As stated in the memo of Fred Bednarski of the Commission's Water Utilities Division, Staff has reviewed the applications as amended by the Applicants' clarification pleadings and recommends that the applications sufficiently reflect the requested relief. Staff notes that the maps, as previously revised by Staff, are sufficient to reflect the intent of the transaction. Additionally, the Applicants requested that the 365-day deadline for the expiration of the Commission's approval of the sale pursuant to 16 TAC § 24.112(e) be extended until July 31, 2015. Staff does not oppose this request, as the efforts of the parties to conclude this proceeding provide good cause for an extension of the sale approval expiration deadline pursuant to 16 TAC § 24.112(e).

III. STAFF'S RECOMMENDATION ON NOTICE

While the Applicants previously provided mailed and published notice of the applications,² Staff recommends that the notices were not sufficient to notify the public of the full extent of the proposed transaction. As such, Staff recommends that the Applicants be required to provide revised mailed and published notice of the applications as required by 16 TAC §§ 24.112(c)(2) and (c)(3) in order to correctly reflect the intent of the applications. Staff will supplement this recommendation by **Friday, April 17, 2015** in order to provide Applicants with the proper notice form. At that time, Staff recommends that the Applicants be directed to provide mailed notice pursuant 16 TAC § 24.112(c)(3) and to publish notice pursuant to 16 TAC § 24.112(c)(2). Staff further recommends that the Applicants be directed to file signed affidavits with the Commission as proof of notice by **June 12, 2015**. If, after the end of the 30-day

¹ The Applicants filed clarification documentation intended to address both Docket No. 42983 and Docket No. 42984 on April 13, 2015 in Docket No. 42893; however, this information was not filed on that date in Docket No. 42984. Staff contacted that Applicants and the Applicants indicated that they intended to file the same clarification documentation in Docket No. 42984 on April 14, 2015.

² Commission Staff's Final Recommendation, Docket No. 42984 (Dec. 15, 2015) at 1.

comment period, the applications still qualify for informal disposition as recommended by Staff in its December 15, 2015 Final Recommendation, Staff intends to file a revised proposed notice of approval by **July 13, 2015**.

IV. STAFF'S RECOMMENDATION ON CONSOLIDATION

Staff respectfully recommends that Docket Nos. 42983 and 42984 not be consolidated. At this late stage of processing, Staff recommends that consolidation of these dockets will not improve regulatory efficiency.

V. CONCLUSION

For the reasons stated above, Staff recommends that the Applicants have adequately amended the applications to clarify the intent of the transaction. However, Staff recommends that the Applicants be directed to provide revised mailed and published notice of the applications in accordance with 16 TAC §§ 24.112(c)(2) and (c)(3) in order to accurately reflect the intent of the transaction. Staff will provide Applicants with the proper notice forms to use by Friday, April 17, 2015. Staff respectfully requests that an order be issued reflecting the recommendations in this Response.

DATE: April 14, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

Shelah J. Cisneros
Managing Attorney
Legal Division

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Austin, Texas 78711-3326

DOCKET NO. 42983

APPLICATION OF CRYSTAL CLEAR	§	PUBLIC UTILITY COMMISSION
WATER SUPPLY CORPORATION AND	§	
CITY OF SAN MARCOS FOR SALE,	§	
TRANSFER, OR MERGER OF	§	
FACILITIES AND TO AMEND A	§	OF
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GUADALUPE, AND HAYS COUNTIES	§	
(37671-S)	§	TEXAS

DOCKET NO. 42984

APPLICATION OF CITY OF SAN	§	PUBLIC UTILITY COMMISSION
MARCOS AND CRYSTAL CLEAR	§	
WATER SUPPLY CORPORATION FOR	§	
SALE, TRANSFER, OR MERGER OF	§	
FACILITIES AND TO AMEND A	§	OF
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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this the 14th day of April, 2015 in accordance with Public Utility Commission of Texas Procedural Rule 22.74.

Maria Francis w/ permission
Jessica A. Gray, Attorney

PUC Interoffice Memorandum

To: Jessica Gray, Attorney
Legal Division

Through: Tammy Benter, Director
Water Utilities Division

From: Fred Bednarski, Regulatory Financial and Managerial Review Specialist
Water Utilities Division

Date: April 14, 2015

Subject: Docket No. 42983, Application of Crystal Clear Water Supply Corporation (WSC) and City of San Marcos for Sale, Transfer or Merger of Facilities and to amend Certificate of Convenience and Necessity in Comal, Guadalupe, and Hays Counties (37671-S)

On July 26, 2013, Crystal Clear Water Supply Corporation (WSC), Certificate of Convenience and Necessity (CCN) No. 10297 and City of San Marcos, Certificate of Convenience and Necessity (CCN) No. 10298, filed an application with the Texas Commission on Environmental Quality (TCEQ) to purchase facilities and transfer a portion of their CCN area as well as decertify and amend a portion of their respective CCN areas held in Guadalupe, Hay, and Comal Counties, pursuant to the criteria in the Texas Water Code, Chapter 13, and the TCEQ's rules outlined in Title 30, Texas Administrative Code (TAC), Sections 291.109 and 291.112. On September 1, 2014, the rates and CCN programs were transferred from the TCEQ to the Public Utility Commission (PUC). This application was part of the transfer and is now under the PUC's purview. The application is now being reviewed under the PUC's Substantive Rules in Chapter 24, §§24.109 and 24.112.

Based on my review of additional information in the application, I recommend the following:

- 1) The Applicant be ordered to provide notice of the application to the following:
 - a) any districts, groundwater conservation districts, counties, utilities, cities, cities with an extraterritorial jurisdiction within two miles of the proposed service area;
 - b) any city with an extraterritorial jurisdiction which overlaps the proposed service area; and
 - c) any customers transferred, or other affected parties in the requested area
 - d) landowners with more than 25 acres and any affected parties in the proposed CCN area. The landowner information may be obtained from the county appraisal district tax rolls for the county or counties in which the proposed CCN lies; and
 - e) notice to the public which must be published once each week for two (2) consecutive weeks in a newspaper of general circulation in Comal, Guadalupe, and Hays Counties
- 2) The Applicant include copy of a map showing the proposed service area with the individual notices to neighboring utilities, other affected parties and each landowner. It is the Applicant's burden to provide an accurate map delineating the proposed area with each individual notice. Information related to districts including addresses can be

obtained by the Applicant from the TCEQ web site located at
<http://www14.tceq.texas.gov/iwud/>.

Within 30 days of the Commission order, the Applicant should submit a copy of the actual notice issued, the map issued with the individual mailed notice, tear sheets of the newspaper notice, and the signed affidavits (copies attached), indicating that the notice was given.