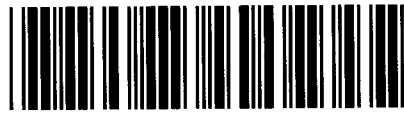




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Addendum StartPage: 0

**DOCKET NO. 42983**

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PUBLIC UTILITY COMMISSION  
FILING CLERK

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) §

PUBLIC UTILITY COMMISSION

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 §  
AND NECESSITY IN COMAL, §  
GUADALUPE, AND HAYS COUNTIES §  
(37672-S) §

PUBLIC UTILITY COMMISSION

OF

TEXAS

### **COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION**

COMES NOW Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) and files this Supplemental Recommendation 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 (together, Applicants) 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

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extension and directing the parties to file their clarification and recommendation by April 14, 2015. On April 14, 2015, Staff filed its Second Response to Order No. 4 in which Staff recommended that the Applicants provide revised notice of the application pursuant to 16 TAC § 24.112 and stated that Staff would file a supplemental recommendation including the approved forms of notice by April 17, 2015. Therefore, this pleading is timely filed.

## II. STAFF'S SUPPLEMENTAL RECOMMENDATION ON NOTICE

While the Applicants previously provided mailed and published notice of the applications,<sup>1</sup> Staff recommends that the notices were not sufficient to notify the public of the full extent of the proposed transaction. As stated in the memo of Fred Bednarski of the Commission's Water Utilities Division<sup>2</sup>, 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. In its April 14, 2015 Second Response, Staff indicated that it would supplement its recommendation to provide the approved forms of notice by April 17, 2015. Staff has attached the approved forms of notice (Attachment A) and 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). The Applicants should include with each individual notice a copy of a map showing the proposed service area. Staff further recommends that the Applicants be directed to file signed affidavits of notice (Attachment B) with the Commission as proof of notice by **June 12, 2015**. If, after the end of the 30-day 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**.

## III. CONCLUSION

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 respectfully requests that an order be issued reflecting the recommendations in this Response.

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<sup>1</sup> Commission Staff's Final Recommendation, Docket No. 42983 (Dec. 15, 2015) at 1.

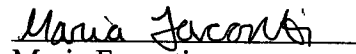
<sup>2</sup> Commission Staff's Second Response to Order No. 4, PUC Docket No. 42983 (April 14, 2015) at 6.

**DATE: April 17, 2015**

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director  
Legal Division

Shelah J. Cisneros  
Managing Attorney  
Legal Division

  
Maria Faconti  
Attorney-Legal Division  
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(512) 936-7235

Jessica A. Gray  
Attorney-Legal Division  
State Bar No. 24079236  
(512) 936-7228  
(512) 936-7268 (facsimile)  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

**DOCKET NO. 42983**

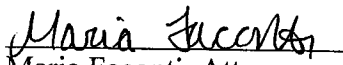
APPLICATION OF CRYSTAL CLEAR	§	PUBLIC UTILITY COMMISSION
WATER SUPPLY CORPORATION AND	§	
CITY OF SAN MARCOS FOR SALE,	§	
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FACILITIES AND TO AMEND A	§	OF
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY IN COMAL,	§	
GUADALUPE, AND HAYS COUNTIES	§	
(37671-S)	§	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
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY IN COMAL,	§	
GUADALUPE, AND HAYS COUNTIES	§	
(37672-S)	§	TEXAS

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this the 17<sup>th</sup> day of April, 2015 in accordance with Public Utility Commission of Texas Procedural Rule 22.74.

  
Maria Faconti, Attorney

## ATTACHMENT A

## ***Notice for Publication***

### **NOTICE OF APPLICATION FOR CERTIFICATES OF CONVENIENCE AND NECESSITY (CCN) TO PROVIDE WATER UTILITY SERVICE IN GUADALUPE, HAYS & COMAL COUNTIES, TEXAS**

The City of San Marcos has filed an application (Docket No. 42983) with the Public Utility Commission of Texas to decertify a portion of their Certificate of Convenience and Necessity No. 10298 and to amend areas to their Certificate of Convenience and Necessity No. 10298; and to purchase facilities and transfer of a portion of Convenience and Necessity No. 10297 held by Crystal Clear WSC in Guadalupe, Hays and Comal Counties.

Crystal Clear Water Supply Corporation (WSC) has filed an application (Docket No. 42984) with the Public Utility Commission of Texas to decertify a portion of their Certificate of Convenience and Necessity No. 10297 and to amend areas to their Certificate of Convenience and Necessity No. 10297; and to purchase facilities and transfer of a portion of Convenience and Necessity No. 10298 held by the City of San Marcos in Guadalupe, Hays and Comal Counties.

The areas subject to these transactions are generally located near the City of San Marcos within Guadalupe, Hays, and Comal Counties.

The City of San Marcos's application includes the decertification and transfer of approximately 4,044 acres to Crystal Clear WSC and the amendment of approximately 2,462 acres to add to the City of San Marcos's Certificate of Convenience and Necessity. The transaction includes the purchase of facilities and the acquisition of 206 current customers from Crystal Clear WSC. This transaction will have the following effect on the current customers' rates and services: Customers being transferred will have their rates adjusted to the rates paid by existing City of San Marcos's customers.

Crystal Clear WSC's application includes the decertification and transfer of approximately 4,510 acres to the City of San Marcos and the amendment of approximately 1,360 acres to add to Crystal Clear WSC's Certificate of Convenience and Necessity. The transaction includes the purchase of facilities and the acquisition of 239 current customers from the City of San Marcos. This transaction will have the following effect on the current customers' rates and services: Customers being transferred will have their rates adjusted to the rates paid by existing Crystal Clear WSC's customers.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should write the:

Public Utility Commission of Texas  
Water Utilities Division  
P. O. Box 13326  
Austin, TX 78711-3326

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the Commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the Commission will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If you are a landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the proposed area, you may request to be excluded from the proposed area (or "opt out") by providing written notice to the Commission within (30) days from the date that notice was provided by the applicant. All request to opt out of the requested service area must include a scaled, general location map and a metes and bounds description of the tract of land.

Persons who meet the requirements to opt out, and wish to request this option should file the required documents with the:

Public Utility Commission of Texas  
Water Utilities Division  
P. O. Box 13326  
Austin, TX 78711-3326

A copy of the request to opt out of the proposed area must also be sent to the applicant. Staff may request additional information regarding your request.

Si desea informacion en Espanol, puede llamar al 1-512-936-7221



***Notice to Neighboring Systems, Landowners and Cities***

**NOTICE OF APPLICATION FOR CERTIFICATES OF CONVENIENCE AND NECESSITY  
(CCN) TO PROVIDE WATER UTILITY SERVICE IN GUADALUPE, HAYS AND COMAL  
COUNTIES, TEXAS**

To: \_\_\_\_\_  
(Neighboring System, Landowner or City)

Date Notice Mailed: \_\_\_\_\_, 2014

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City                      State                      Zip)

The City of San Marcos has filed an application (Docket No. 42983) with the Public Utility Commission of Texas to decertify a portion of their Certificate of Convenience and Necessity No. 10298 and to amend areas to their Certificate of Convenience and Necessity No. 10298; and to purchase facilities and transfer of a portion of Convenience and Necessity No. 10297 held by Crystal Clear WSC in Guadalupe, Hays and Comal Counties.

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**See enclosed map of the proposed service area.**

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or

another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

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## ATTACHMENT B

# PUBLIC UTILITY COMMISSION



PUBLISHER'S AFFIDAVIT  
DOCKET NO. \_\_\_\_\_

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared

\_\_\_\_\_, who being by me

duly sworn, deposes and that (s)he is the \_\_\_\_\_  
(TITLE)

of the \_\_\_\_\_  
(NAME OF NEWSPAPER)

that said newspaper is regularly published in: \_\_\_\_\_  
(COUNTY/COUNTIES)

and generally circulated in \_\_\_\_\_, Texas: and  
(COUNTY/COUNTIES)

that the attached notice was published in said newspaper on the following date(s), to wit:

\_\_\_\_\_  
(DATES)

\_\_\_\_\_  
(SIGNATURE OF NEWSPAPER REPRESENTATIVE)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public

Commission Expires \_\_\_\_\_

# PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE TO NEIGHBORING UTILITIES, LANDOWNERS AND AFFECTED PARTIES  
DOCKET NO. \_\_\_\_\_

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

\_\_\_\_\_ has provided  
individual notice to the following entities and landowners:


DATE


## OATH

I, \_\_\_\_\_, being duly sworn, file this form as

\_\_\_\_\_ (indicate relationship to applicant, that is, owner, member of partnership, title of officer of corporation, or other authorized representative of applicant); that in such capacity, I am qualified and authorized to file and verify such form, am personally familiar with the notices given with this application, and have complied with all notice requirements in the application and application acceptance letter; and that all such statements made and matters set forth therein are true and correct.

\_\_\_\_\_  
Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant, or its' attorney, a properly verified Power of Attorney must be enclosed.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to  
certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public

Commission Expires \_\_\_\_\_