

Control Number: 43005



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DOCKET NO. 43005

APPLICATION OF TEXAS H2O, INC.
AND AQUA TEXAS, INC. FOR SALE,
TRANSFER, OR MERGER OF
FACILITIES AND TO AMEND
CERTIFICATES OF CONVENIENCE
AND NECESSITY IN HOOD,
JOHNSON, AND TARRANT
COUNTIES, TEXAS

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PUBLIC UTILITY COMMISSION
OF
TEXAS

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**STAFF'S RESPONSE TO ORDER NO. 2, STATUS UPDATE, AND REQUEST FOR
EXTENSION OF DEADLINE FOR STAFF'S RECOMMENDATION ON PROCESSING
THE APPLICATION**

Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) files this Response to Order No. 2, Status Update, and Request for Extension of Deadline for Staff's Recommendation on Processing the Application. In support of its Request, Staff states the following:

I. BACKGROUND AND STATUS UPDATE

On May 19, 2014, Aqua Texas, Inc. (Aqua Texas) 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. The application addressed the proposed sale of water and sewer utility systems and transfer of certificated service areas currently owned by Texas H2O, Inc. (Texas H2O), Certificates of Convenience and Necessity (CCN) Nos. 12809 and 20814 in Hood, Johnson, and Tarrant Counties, Texas from Texas H2O to Aqua Texas. Applicants propose to cancel Texas H2O's CCN Nos. 12809 and 20814. The TCEQ accepted the application for filing on June 10, 2014. Aqua Texas sent notice of the application to its customers on June 12, 2014, triggering the 120-day deadline for STMs required by 16 TAC § 24.109(a). The 120-day deadline for Commission action on the application is October 10, 2014.

This docket addresses the sale, transfer, and cancellation of *water* CCN No. 12809. The sale, transfer, and cancellation of *sewer* CCN No. 20814 is addressed in Docket No. 43006.

The comment period for protests ended on July 12, 2014. One protest letter was received; however, the TCEQ determined that the concerns listed in the protest letter did not meet the criteria in Title 30, TEX. ADMIN. CODE § 24.109(e)¹ and that a public hearing on the application was not required. On July 24, 2014, TCEQ sent a letter to Aqua Texas instructing that the parties should proceed with the signed contract or bill of sale, and requesting Aqua Texas to provide documents supporting the disposition of customer deposits with the closing documents. The 365-day deadline to complete the transaction, as required by 16 TAC § 24.112(e), expires on July 24, 2015.

Effective September 1, 2014, the Commission began the economic regulation of water and sewer utilities and this case formerly pending at the TCEQ was transferred to the Commission. On September 16, 2014, Order No. 2 Requiring Comments on Status 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 1, 2014. In Order No. 2, Staff was also instructed to address whether consolidation of this docket with Docket No. 43006 is appropriate. This Response is timely filed.

II. RECOMMENDATION ON CONSOLIDATION

This docket addresses the sale, transfer, and cancellation of water CCN No. 12809. The sale, transfer, and cancellation of sewer CCN No. 20814 is addressed in Docket No. 43006. Aqua Texas requested the sale, transfer, and cancellation of both CCNs in the same application and both CCNs are part of the same proposed transaction. Accordingly, Staff recommends that Docket Nos. 43005 and 43006 be consolidated.

III. REQUEST FOR EXTENSION OF DEADLINE

Due to the recent transfer of water and sewer utility cases to the PUC, good cause exists for Staff to request additional time to review the application before submitting its recommendation on how to process this case. Therefore, Staff respectfully requests that the Administrative Law Judge extend the deadline for Staff to file a recommendation on the need for

¹ Currently 16 TAC § 24.109(e).

a hearing or on final disposition of the application, or to propose a procedural schedule until October 10, 2014.

IV. CONCLUSION

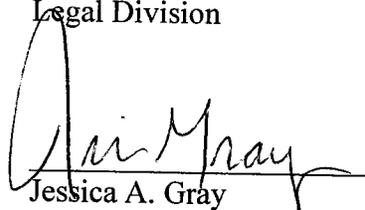
Staff respectfully requests that the Administrative Law Judge extend the deadline for Staff to file its recommendation on processing the application until October 10, 2014.

Date: October 1, 2014

Respectfully Submitted,

Joseph P. Younger
Division Director
Legal Division

Shelah J. Cisneros
Managing Attorney
Legal Division

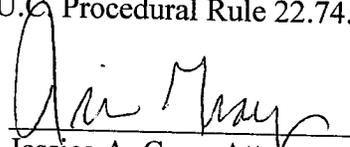


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CERTIFICATE OF SERVICE

I certify that a copy of this document was served his document was served on all parties of record on October 1, 2014 in accordance with P.U.C Procedural Rule 22.74.



Jessica A. Gray, Attorney