



Control Number: 43005



Item Number: 18

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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 PROPOSED
PROCEDURAL SCHEDULE**

Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) files this Response to Order No. 2, Status Update, and Proposed Procedural Schedule. In support of its Response, 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.

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 § 291.109(e)¹ and that a public hearing on the application

¹ Currently 16 TAC § 24.109(e).

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. As evidenced in the attached Staff Memo of Debbie Reyes Tamayo of the Water Utilities Division (Attachment A), the Commission has not yet received the closing documents.

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.

On October 1, 2014, Order No. 2 Consolidating Dockets and Granting Extension was issued in which the Administrative Law Judge consolidated this docket, which originally addressed the sale, transfer, and cancellation of *water* CCN No. 12809, with Docket No. 43006, which originally addressed the sale, transfer, and cancellation of *sewer* CCN No. 20814, and instructed that all future filings be filed in this docket. The October 1, 2014 Order also extended the deadline for Staff to file a recommendation on the need for a hearing or on final disposition of the consolidated application, if appropriate, or to propose a procedural schedule for processing until October 10, 2014. This Response is timely filed.

II. PROPOSED PROCEDURAL SCHEDULE

Staff proposes the following procedural schedule:

Date application was filed at TCEQ.	May 19, 2014
Date of TCEQ letter approving STM.	July 24, 2014
Deadline for applicants to file a status update of documents responsive to TCEQ letter approving STM transaction.	April 24, 2015
Expiration of the Commission's approval for sale. Pursuant to 16 TAC § 24.112(e), the Commission's approval of a sale expires one year from the date of the Commission's written approval of the sale. ²	July 24, 2015
If the STM transaction is completed within the one-year deadline and the applicants provide all documents responsive to the TCEQ letter approving the STM transaction, deadline for joint proposed order with findings of fact, conclusions of law, and ordering paragraphs.	August 7, 2015

III. CONCLUSION

Staff respectfully requests that the Administrative Law Judge issue an Order consistent with this Response.

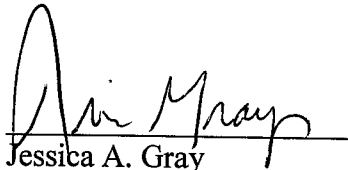
Date: October 10, 2014

² 16 TAC § 24.112(e) further specifies that if the sale has not been consummated within the one-year period and unless the applicant has requested and received an extension from the Commission, the approval is void and the applicant must reapply for approval of the sale. The Commission will review the application as though it was being filed for the first time (*de novo*).

Respectfully Submitted,

Joseph P. Younger
Division Director
Legal Division

Shelah J. Cisneros
Managing Attorney
Legal Division

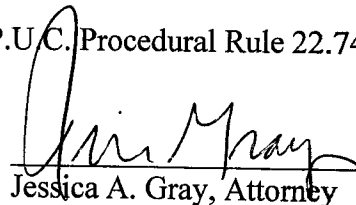


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CERTIFICATE OF SERVICE

I certify that a copy of this document was served his document was served on all parties of record on October 10, 2014 in accordance with P.U.C. Procedural Rule 22.74.



Jessica A. Gray, Attorney

ATTACHMENT A

Public Utility Commission of Texas

Memorandum

TO: Jessica Gray
Legal Division

THRU: Tammy Benter, Director
Water Utilities Division

FROM: Debbie Reyes Tamayo
Water Utilities Division

SUBJECT: Update on the Status for Proceeding for Docket Nos. 43005 & 43006 Application of Aqua Texas, Inc. Certificate of Convenience and Necessity (CCN) Nos. 13201 & 21059 to Transfer and Cancel Texas H2O, Inc. CCN Nos. 12809 & 20814 in Hood, Johnson and Tarrant Counties

DATE: September 30, 2014

Aqua Texas, Inc., Certificate of Convenience and Necessity (CCN) Nos. 13201 & 21059, has submitted applications to Transfer and cancel Texas H2O, Inc. CCN Nos. 12809 & 20814 in Hood, Johnson and Tarrant Counties. The transfer is being requested pursuant to the criteria in Texas Water Code, Section 13.301, and Title 16 of the Texas Administrative Code, Sections 24.109 and 24.112. The applications were received on May 19, 2014 and were accepted for filing on June 10, 2014. The applicant was asked to provide notices and to have the copies of the notices to previously the Texas Commission on Environmental Quality (TCEQ) by July 18, 2014. The end of the comment period for protests was July 12, 2014. No valid protests were received.

A letter with date of July 24, 2014, was sent to the applicant to go ahead and move forward with the signed contract or bill of sale, and to also provide documents supporting the disposition of customer deposits with the closing documents. Mr. Glen Lewis with Aqua Texas Inc. notified staff September 30, 2014, a meeting with Texas H2O, Inc. is to be held to sign the documents. We should have the closing documents soon. After PUC receives the closing documents the application will forward the applications to mapping. After mapping is completed the recommendations will forward to the legal, staff. The applications will move forward for the commissioner to sign to complete the process of the applications.