



Control Number: 43005



Item Number: 28

Addendum StartPage: 0

DOCKET NO. 43005

APPLICATION OF TEXAS H2O, INC.	§	2015 JUNE 2 11 03 AM	PUBLIC UTILITY COMMISSION
AND AQUA TEXAS, INC. FOR SALE,	§		
TRANSFER, OR MERGER OF	§	PUBLISHED FOR	
FACILITIES AND TO AMEND	§	FILING CLERK	
CERTIFICATES OF CONVENIENCE	§		OF
AND NECESSITY IN HOOD,	§		
JOHNSON, AND TARRANT	§		
COUNTIES, TEXAS	§		TEXAS

COMMISSION STAFF'S PROPOSED NOTICE OF APPROVAL AND REQUEST TO ADMIT EVIDENCE

Staff of the Public Utility Commission (Staff) files this Proposed Notice of Approval and Request to Admit Evidence of the application for the sale, transfer, or merger of water and sewer utility systems and the transfer of certificated service areas currently owned by Texas H2O, Inc. (Seller) to of Aqua Texas, Inc. (Purchaser) (Application) pursuant to TEX. WATER CODE ANN. §§ 13.246 and 13.301 and 16 TEX. ADMIN. CODE (16 TAC) §§ 24.109 and 24.112. Through this application, Purchaser seeks to transfer water and sewer utility systems and certificated service area held by Seller in Hood, Johnson, and Tarrant Counties to Purchaser, to cancel Seller's water and sewer Certificates of Convenience and Necessity (CCN) Nos. 12809 and 20814, and to amend Purchaser's water and sewer CCN Nos. 13201 and 21059 to reflect the transaction. This Proposed Notice of Approval and Request to Admit Evidence includes findings of fact, conclusions of law, and ordering paragraphs. The Proposed Notice of Approval is timely filed on or before June 12, 2015.

I. REQUEST TO ADMIT EVIDENCE

Staff requests to admit the following evidence into the record of this proceeding: (a) Application of Purchaser and Seller and all attachments thereto, filed May 19, 2014; (b) Commission Staff's Response to SOAH Order No. 5 and Recommendation on Final Disposition of the Application, and all attachments thereto, filed March 5, 2015; and (c) Commission Staff's Amended Response to SOAH Order No. 5, Corrected Attachment C to Staff's Recommendation on Final Disposition, and all attachments thereto, filed June 2, 2015.

II. PROPOSED NOTICE OF APPROVAL

The Proposed Notice of Approval (Attachment 1) would grant Purchaser's application for

28

approval of the sale or lease and transfer of water and sewer utility systems and certificated service area held by Seller in Hood, Johnson, and Tarrant Counties to Purchaser, the cancellation of Seller's water and sewer CCNs Nos. 12809 and 20814, and the amendment of Purchaser's water and sewer CCN Nos. 13201 and 21059 to reflect the transaction.

III. CONCLUSION

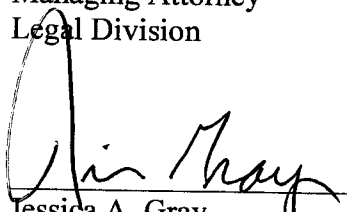
Staff has reviewed the Application and recommends its approval. Staff respectfully requests that the Commission adopt the attached findings of fact and conclusions of law as well as granting the admittance of the specified pieces of evidence.

Date: June 12, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

Shelah J. Cisneros
Managing Attorney
Legal Division

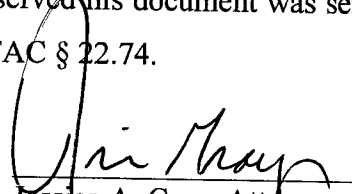


Jessica A. Gray
State Bar No. 24079236
Attorney, Legal Division
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7228
(512) 936-7268 (facsimile)

DOCKET NO. 43005

CERTIFICATE OF SERVICE

I certify that a copy of this document was served his document was served on all parties of record on June 12, 2015 in accordance with 16 TAC § 22.74.



Jessica A. Gray, Attorney

ATTACHMENT 1

DOCKET NO. 43005

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

PROPOSED NOTICE OF APPROVAL

This Proposed Notice of Approval addresses the application for the sale, transfer, or merger of water and sewer utility systems and the transfer of certificated service areas currently owned by Texas H2O, Inc. (Seller) to Aqua Texas, Inc. (Purchaser) (Application) pursuant to TEX. WATER CODE ANN. §§ 13.246 and 13.301 and 16 TEX. ADMIN. CODE (16 TAC) §§ 24.109 and 24.112. Through this application, Purchaser seeks to transfer water and sewer utility systems and certificated service area held by Seller in Hood, Johnson, and Tarrant Counties to Purchaser, to cancel Seller's water and sewer Certificate of Convenience and Necessity (CCN) Nos. 12809 and 20814, and to amend Purchaser's water and sewer CCN Nos. 13201 and 21059 to reflect the transaction. Public Utility Commission of Texas (Commission) Staff filed a memorandum recommending approval of the application. The Application is approved.

Consistent with the above discussion, the Administrative Law Judge (ALJ) makes the following findings of fact and conclusions of law.

I. FINDINGS OF FACT

1. Seller holds water and sewer CCN Nos. 12809 and 20814 and is a retail public utility in Hood, Johnson, and Tarrant Counties.
2. Purchaser holds water and sewer CCN Nos. 13201 and 21059 and is a retail public utility in Hood, Johnson, and Tarrant Counties.
3. The application requested the sale or lease and transfer of water and sewer utility systems and certificated service area held by Seller in Hood, Johnson, and Tarrant Counties to

Purchaser, the cancellation of Seller's water and sewer CCNs Nos. 12809 and 20814, and the amendment of Purchaser's water and sewer CCN Nos. 13201 and 21059 to reflect the transaction.

4. On June 12, 2014, Purchaser provided sufficient notice to customers, neighboring utilities, cities, and affected parties.
5. The Texas Commission on Environmental Quality (TCEQ) received one letters protesting the application, but determined that the concerns listed in the protest letter did not meet the criteria required to hold a public hearing.
6. A public hearing on the merits was not necessary.
7. By letter dated July 24, 2014, TCEQ instructed Purchaser to proceed with the transaction and to provide final documentation of certificated service areas being transferred to Purchaser and documents supporting the disposition of customer deposits.
8. On September 1, 2014, pursuant to House Bill 1600 and Senate Bill 567 of the 83rd Legislature, Regular Session, functions relating to the economic regulation of water and sewer utilities were transferred from TCEQ to PUC.
9. On October 23, 2014, Purchaser provided a signed bill of sale and information regarding the disposition of customer deposits.
10. On April 10, 2015, Purchaser provided a signed consent form consenting to the maps of and tariffs for Purchaser's amended water and sewer CCN Nos. 13201 and 21059, as prepared by Commission Staff.
11. On April 30, 2015, Seller provided a signed consent form consenting to the maps of and tariffs for Purchaser's amended water and sewer CCN Nos. 13201 and 21059, as prepared by Commission Staff.
12. The maps described in Findings of Fact 10 and 11 are attached to this order. The revised CCN certificates are also attached to this order.
13. On May 29, 2015, Commission Staff filed its final recommendation and recommended that the application be approved.

14. On June 2, 2015, Commission Staff filed its amended final recommendation to correct the docket number on one of the maps.
15. On June 12, 2015, Commission Staff filed a request to admit the following evidence: (a) Application of Purchaser and Seller and all attachments thereto, filed May 19, 2014; (b) Commission Staff's Response to SOAH Order No. 5 and Recommendation on Final Disposition of the Application, and all attachments thereto, filed March 5, 2015; and (c) Commission Staff's Amended Response to SOAH Order No. 5, Corrected Attachment C to Staff's Recommendation on Final Disposition, and all attachments thereto, filed June 2, 2015.
16. On _____, 2015, Order No. ____ was issued granting Staff's request to admit evidence.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over these matters pursuant to TEX. WATER CODE ANN. §§ 13.246, 13.254, 13.301 and 16 TAC §§24.109 AND 24.112.
2. Seller and Purchaser are retail public utilities as defined in TEX. WATER CODE ANN. § 13.002 and 16 TAC § 24.3(41).
3. Public notice of the application was provided as required by TEX. WATER CODE ANN. § 13.301(a)(2).
4. The Application was processed in accordance with the requirements of TEX. WATER CODE ANN. § 13.301 and 16 TAC § 24.109 and 24.112.
5. Seller and Purchaser completed the sale within 365 days from the date of TCEQ's approval of the sale, consistent with 16 TAC § 24.112(e).
6. After considering the factors in TEX. WATER CODE ANN. § 13.246(c), Purchaser has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area.
7. Seller and Purchaser have demonstrated that the sale or lease and transfer of an uncertificated service area and facilities and the amendment of a CCN requested in this application are necessary for the service, accommodation, convenience, and safety of the public.

8. 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 and the water and sewer utility systems and certificated service area held by Seller in Hood, Johnson, and Tarrant Counties are transferred to Purchaser, Seller's water and sewer CCNs Nos. 12809 and 20814 are cancelled, and Purchaser's water and sewer CCN Nos. 13201 and 21059 are amended to reflect the transaction.
2. Purchaser shall serve every customer and applicant for service within the area previously served by Seller, now under CCN Nos. 13201 and 21059, and such service shall be continuous and adequate.
3. 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.

PUBLIC UTILITY COMMISSION OF TEXAS
