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DOCKET NO. 43074

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APPLICATION OF J&S WATER §
COMPANY, LLC AND UTILITIES §
INVESTMENT COMPANY, INC. FOR §
SALE, TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN HARRIS COUNTY §

PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

COMMISSION STAFF'S RECOMMENDATION

Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) files its Recommendation. In support of its Recommendation, Staff states the following:

I. Background

On September 9, 2014, J&S Water Company, LLC (J&S Water) filed an application requesting approval of the sale and transfer of a water system and sewer system and corresponding certificates of convenience and necessity (CCN Nos. 12085 and 20658) for a certificated area in Harris County, Texas. J&S Water is the seller, and Utilities Investment Company, Inc. (Utilities Investment) is the purchaser. The proposed effective date is February 1, 2015.

On September 23, 2014, the Administrative Law Judge entered Order No. 3, which found J&S Water's application incomplete and J&S Water's proposed notice insufficient. J&S Water was given an opportunity to cure the deficiencies identified in Order No. 3.

In response to Order No. 3, J&S Water, Utilities Investment, or their authorized representative filed additional documents with the Commission.

On June 16, 2015, the Administrative Law Judge entered Order No. 4. Order No. 4 requires Staff to file a recommendation regarding administrative completeness of J&S Water's application and sufficiency of J&S Water's revised proposed notice by June 30, 2015. Staff's Recommendation is timely filed.

II. Applicable Legal Standards

A. Commission Approval of the Sale and Transfer of a Water or Sewer System

The Texas Water Code details the requirements for the sale of a water or sewer system.

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The relevant portions of the Texas Water Code state:

(a) A utility or a water supply or sewer service corporation, on or before the 120th day before the effective date of a sale, acquisition, lease, or rental of a water or sewer system that is required by law to possess a certificate of public convenience and necessity or the effective date of a merger or consolidation with such a utility or water supply or sewer service corporation, shall:

- (1) file a written application with the utility commission; and
- (2) unless public notice is waived by the utility commission for good cause shown, give public notice of the action.

(b) The utility commission may require that the person purchasing or acquiring the water or sewer system demonstrate adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and any areas currently certificated to the person.¹

The Commission's substantive rules detail similar requirements for the sale of a water or sewer system.² The purchaser of a water or sewer system "must demonstrate adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and any areas currently certificated to the person."³ The Commission has 120 days to either administratively approve a proposed sale or require a hearing.⁴

With regards to the sale and transfer of a certificate of convenience and necessity, the Texas Water Code states that a certificate of convenience and necessity may not be sold "unless the utility commission has determined that the purchaser . . . is capable of rendering adequate and continuous service to every consumer within the certificated area, after considering the factors under Section 13.246(c) [of the Texas Water Code]."⁵ The factors to be considered by the Commission are:

- (1) the adequacy of service currently provided to the requested area;

¹ Tex. Water Code § 13.301(a)-(b).

² See generally 16 Tex. Admin. Code § 24.109.

³ 16 Tex. Admin. Code § 24.109(b).

⁴ 16 Tex. Admin. Code § 24.109(e), (f).

⁵ Tex. Water Code § 13.251. See also 16 Tex. Admin. Code § 24.112(b).

- (2) the need for additional service in the requested area, including whether any landowners, prospective landowners, tenants, or residents have requested service;
- (3) the effect of the granting of a certificate or of an amendment on the recipient of the certificate or amendment, on the landowners in the area, and on any retail public utility of the same kind already serving the proximate area;
- (4) the ability of the applicant to provide adequate service, including meeting the standards of the commission, taking into consideration the current and projected density and land use of the area;
- (5) the feasibility of obtaining service from an adjacent retail public utility;
- (6) the financial ability of the applicant to pay for the facilities necessary to provide continuous and adequate service and the financial stability of the applicant, including, if applicable, the adequacy of the applicant's debt-equity ratio;
- (7) environmental integrity;
- (8) the probable improvement of service or lowering of cost to consumers in that area resulting from the granting of the certificate or amendment; and
- (9) the effect on the land to be included in the certificated area.⁶

Approval of the sale and transfer of a certificate of convenience and necessity expires one year after the date of approval.⁷

B. Notice of a Sale Transaction

An applicant requesting approval of the sale and transfer of assets and accompanying certificates of convenience and necessity must send notice "on the form required by the commission"⁸ In previous sale and transfer applications, Staff has required that an applicant send notice to: (1) current customers; (2) neighboring systems; (3) affected landowners; and (4) neighboring municipalities. With respect to the transfer of a certificate of convenience and necessity, an applicant must provide notice to "cities and neighboring retail public utilities providing the same utility service whose corporate limits or certificated service area boundaries

⁶ Tex. Water Code § 13.246(c).

⁷ 16 Tex. Admin. Code § 24.112(e).

⁸ 16 Tex. Admin. Code § 24.109(a). The form notice is available on the Commission's website: <http://www.puc.texas.gov/industry/water/Forms/Forms.aspx>.

are within two miles of the requested service area boundaries, and any city with an extraterritorial jurisdiction which overlaps the proposed service area boundaries.”⁹ Additionally, the Commission may require the publication of notice of the transfer of a certificate of convenience and necessity.¹⁰

C. Administrative Completeness

An application requesting approval of a sale and transfer transaction is not considered filed with the Commission until “a determination of administrative completeness is made.”¹¹ “If the commission determines that material deficiencies exist . . . [the] application may be rejected and the effective date suspended until the deficiencies are corrected.”¹²

III. Staff’s Recommendation

Staff has reviewed the additional documents and revised proposed notice submitted by J&S Water or Utilities Investment. Staff recommends the following:

1. Staff recommends that J&S Water’s application be deemed administratively complete.
2. Staff recommends that the following entities receive notice of J&S Water’s application:

Aldine Bender Development Corp	Harris County FCD	Aqua Texas Inc.
Aldine ISD Raymond Elementary School	Harris County MUD 11	Blue Bell Manor Utility Co. Inc.
Country Living Apt Water Well	Harris County MUD 24	Champs Water Company
Galco Utilities	Harris County MUD 119	Community Utility
Hooks Mobile Home Park LTD	Harris County MUD 220	Greenwood Place Civic Club Inc
Imperial Valley MUD	Harris County MUD 322	Harris County MUD 24
J & S Water Company, LLC	Harris County MUD 354	Harris County MUD 118
Nitsch & Son Util Co Inc	Harris County MUD 368	Harris County MUD 321
Pinewood Community LP	Harris County MUD 401	Harris County MUD 367
Suburban Utility Co.	Harris County MUD 406	Harris County MUD 383
Trinity RCT GP	Harris County MUD 530	
	Harris County MUD 531	

⁹ 16 Tex. Admin. Code § 24.112(c)(3).

¹⁰ 16 Tex. Admin. Code § 24.112(c)(2).

¹¹ 16 Tex. Admin. Code § 24.8(a).

¹² *Id.*

MBC Water Systems
 Airline Improvement District
 Central Harris County Regional
 Water Authority
 Coastal Water Authority
 Cy Fair Community Improvement
 District
 Cypress Hill MUD 1
 East Aldine Management District
 Fallbrook Utility District
 Forest Hills MUD
 Greater Northside Management
 District
 Greenspoint District
 Gulf Coast Waste Disposal
 Authority

Harris County WCID 114
 Harris County WCID 119
 Kleinwood MUD
 Louetta North PUD
 Near Northwest Management
 District
 North Belt Utility District
 North Harris County
 Regional Water Authority
 Northwest Harris County
 MUD 30
 Northwest Harris County
 MUD 32
 Port of Houston Authority
 Spring Creek Forest PUD
 City of Houston
 City of Jersey Village
 Harris County
 Arch Utility
 Albury Manor Utility
 Company

Harris County MUD 396
 Harris County WCID 155
 H-M-W SUD
 Inline Development
 Corporation
 Mount Houston Road MUD
 North Freeway Center
 Orchard Crossing
 Pine Knob Estates Water
 Rosehill Ranchettes Water
 Seller Water Company
 Southern Water Corp
 Sunbelt FWSD
 Swea Gardens Estates Utility
 Westfield Garden Park
 West Road WSC

3. Staff recommends that J&S Water send notice of its sale and transfer transaction with Utilities Investment on the attached form notice.

4. Staff recommends that J&S Water use the attached form affidavit regarding the provision of notice.

Staff's recommendations are based on the attached memorandum of Mary Lupo, Utility Rates Analyst/Auditor in the Water Utilities Division.

IV. Proposed Procedural Schedule

To assist in the processing of J&S Water's application, Staff requests that the Commission adopt the following procedural schedule:

Event	Deadline
Deadline to file Affidavit evidencing provision of notice	July 13, 2015
Deadline for Staff to file a supplemental procedural schedule	July 27, 2015
Intervention deadline and deadline for intervenors to file comments or request a hearing	August 12, 2015

V. Conclusion


Staff recommends that: (1) J&S Water and Utilities Investment's application be found administratively complete; (2) J&S Water and Utilities Investment use the form notices attached to this Recommendation in providing notice; and (3) the Commission adopt the above-mentioned procedural schedule.

Date: June 30, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

Shelah J. Cisneros
Managing Attorney
Legal Division



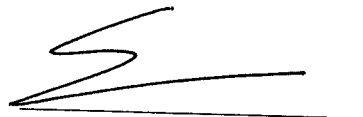
Sam Chang
State Bar No. 24078333
Attorney, Legal Division

Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7261
(512) 936-7268 (facsimile)
sam.chang@puc.texas.gov

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on June 30, 2015, in accordance with 16 Tex. Admin. § 22.74.


Sam Chang

DOCKET NO. 43074

**APPLICATION OF J&S WATER
COMPANY, LLC AND UTILITIES
INVESTMENT COMPANY, INC. FOR
SALE, TRANSFER, OR MERGER OF
FACILITIES AND CERTIFICATE
RIGHTS IN HARRIS COUNTY**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

MEMORANDUM OF MARY LUPO

PUC Interoffice Memorandum

To: Sam Chang
Legal Division

Thru: Tammy Benter, Director
Water Utilities Division

Tracy Harbour, GIS Specialist
Water Utilities Division

From: Mary Lupo Utility Rates Analyst/Auditor
Water Utilities Division

Date: June 6, 2015

Subject: Staff Recommendation for Docket No. 43074

Utilities Investment Company, Inc. (Applicant) has filed an application to acquire a portion of water and sewer facilities from CCN Nos. 12085 and 20658, held by J&S Water Company, LLC in Harris County, Purchaser currently has both a water and sewer CCN but would like to acquire a new water and sewer CCN, pursuant to the criteria in Texas Water Code 13.301 and Title 16 Texas Administrative Code, Sections 24.109 and 24.112.

The proposed area will include Aldine Village Subdivision (PWS #1010931 & WQ 12382-001), Azalea Estates Mobile Home Community (PWS #1011253), Cottonwood Park Water System (PWS #1010283) and Cypress Hill Subdivision (PWS #1011792)

Based on review of the information in the application, I recommend that the application be deemed sufficient for filing. The supplemental information submitted by the Applicant to the Commission cured the deficiencies previously noted.

In its response to Order No. 3, on October 23, 2014, the purchaser submitted its Financial Statements.

In its response to Order No. 3, on October 23, 2014, the applicant submitted a copy of J&S Water Company, LLC's proposed tariff.

I further recommend the following:

1. Applicant be ordered to provide the correct notice of the application to the following:
 - a. any districts, groundwater conservation districts, counties, utilities, cities, cities with an extraterritorial jurisdiction within two (2) miles of the proposed service areas;
 - b. any city with an extraterritorial jurisdiction which overlaps the proposed service areas;
 - c. any customers transferred, or other affected parties in the requested area; and

In addition to those the entities listed in the application who must receive notice (note that not all entities the applicant listed in the application must receive notice, see below for further instructions) the following entities must be noticed:

CCNs:

Aldine Bender Development Corp (20822)
Aldine ISD Raymond Elementary School (N0062)
Country Living Apt Water Well (12590)
Galco Utilities (10736/ 20546)
Hooks Mobile Home Park LTD (13027/ 20932)
Imperial Valley MUD (10865/ 20341)
J & S Water Company, LLC (12085/ 20658)
Nitsch & Son Util Co Inc (11124/ 20446)
Pinewood Community LP (13158)
Suburban Utility Co. (10835)

Proposed utilities:

Trinity RCT GP
MBC Water Systems

Districts:

Airline Improvement District
Central Harris County Regional Water Authority
Coastal Water Authority
Cy Fair Community Improvement District
Cypress Hill MUD 1
East Aldine Management District
Fallbrook Utility District
Forest Hills MUD
Greater Northside Management District
Greenspoint District
Gulf Coast Waste Disposal Authority
Harris County FCD
Harris County MUD 11
Harris County MUD 24
Harris County MUD 119
Harris County MUD 220
Harris County MUD 322
Harris County MUD 354
Harris County MUD 368
Harris County MUD 401
Harris County MUD 406
Harris County MUD 530
Harris County MUD 531
Harris County WCID 114
Harris County WCID 119
Kleinwood MUD
Louetta North PUD
Near Northwest Management District
North Belt Utility District
North Harris County Regional Water Authority

Northwest Harris County MUD 30
Northwest Harris County MUD 32
Port of Houston Authority
Spring Creek Forest PUD

Entities Listed in Application who must receive notice; not all entities the applicant listed in the application must receive service except those listed below:

City of Houston
City of Jersey Village
Harris County

Arch Utility
Albury Manor Utility Company
Aqua Texas Inc.
Blue Bell Manor Utility Co. Inc.
Champs Water Company
Community Utility
Greenwood Place Civic Club Inc
Harris County MUD 24
Harris County MUD 118
Harris County MUD 321
Harris County MUD 367
Harris County MUD 383
Harris County MUD 396
Harris County WCID 155
H-M-W SUD
Inline Development Corporation
Mount Houston Road MUD
North Freeway Center
Orchard Crossing
Pine Knob Estates Water
Rosehill Ranchettes Water
Seller Water Company
Southern Water Corp
Sunbelt FWSD
Swea Gardens Estates Utility
Westfield Garden Park
West Road WSC

DOCKET NO. 43074

**APPLICATION OF J&S WATER
COMPANY, LLC AND UTILITIES
INVESTMENT COMPANY, INC. FOR
SALE, TRANSFER, OR MERGER OF
FACILITIES AND CERTIFICATE
RIGHTS IN HARRIS COUNTY**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

PROPOSED FORM NOTICE

Notice to Current Customers, Neighboring Systems, and Cities

J&S WATER COMPANY, L.L.C.'S NOTICE OF INTENT TO SELL FACILITIES AND TO TRANSFER A PORTION OF THEIR WATER CCN No. 12085 AND A PORTION OF THEIR SEWER CCN No. 20658 TO UTILITIES INVESTMENT COMPANY, INC., IN HARRIS COUNTY, TEXAS

To: _____ Date Notice Mailed: _____, 2015
(Name of Customer, Neighboring System, or City)

(Address)

(City State Zip)

J & S Water Company, LLC. 8010 Thompson Road Highland TX 77562-
3122
(Seller's or Transferor's Name) (Address) (City) (State) (Zip Code)

has submitted an application with the Public Utility Commission of Texas (Commission) to sell water and sewer facilities and to transfer water and sewer CCN Nos. 12085 and 20658 in Harris County, Texas to:

UTILITIES INVESTMENT COMPANY, INC. PO Box 279 New Waverly,
Texas 77358-0279
(Purchaser's or Transferee's Name) (Address) (City) (State) (Zip Code)

The sale is scheduled to take place as approved by the Commission. The transaction and the transfer, include the following subdivision: Aldine Village Subdivision.

The area subject to this transaction is located approximately 10.5 miles northwest of downtown Houston, Texas and is **generally** bounded on the north by Branding Iron Street; on the east by Henry Street; on the south by Charriton Street ; and on the west by Lillja Street.

See attached map.

The total area being requested includes approximately 43 acres for water and sewer and serves 328 current customers. This transaction will have the following effect on the current customers' rates and services: All customers will be charged the same rate as they were charged before the transaction.

The sale is scheduled to take place as approved by the Commission. The transaction and the transfer, of the CCNs include the following subdivision: Azalea Estates Mobile Home Community.

The area subject to this transaction is located approximately 7 miles southeast of downtown Tomball, Texas and is **generally** bounded on the north by Hooks Memorial Airport; on the east by Valka Road; on the south by the Intersection of Valka Road and Shimmering Pines Road ; and on the west by Woolf Road.

See attached map.

The total area being requested includes approximately 19 acres for water and serves 23 current customers. This transaction will have the following effect on the current customers' rates and services: All customers will be charged the same rate as they were charged before the transaction.

The sale is scheduled to take place as approved by the Commission. The transaction and the transfer, of the CCNs include the following subdivision: Cottonwood Park Water System.

The area subject to this transaction is s **generally** bounded on the north by State Highway 249; on the east by Braunston Lane; on the south by Lockland Lane ;and on the west by Cordoba Drive.

See attached map.

The total area being requested includes approximately 34 acres for water and serves 56 current customers. This transaction will have the following effect on the current customers' rates and services: All customers will be charged the same rate as they were charged before the transaction.

The sale is scheduled to take place as approved by the Commission. The transaction and the transfer, of the CCNs include the following subdivision: Cypress Hill Subdivision.

The area subject to this transaction is located approximately 7 miles southwest of downtown Tomball, Texas and is **generally** bounded on the north by Juergen Street ; on the east by W. Cypress Hill Circle; on the south by KZ Road ; and on the west by Hanberry Road.

See attached map.

The total area being requested includes approximately 85 acres for water and serves 37 current customers. This transaction will have the following effect on the current customers' rates and services: All customers will be charged the same rate as they were charged before the transaction.

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 STM; 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 file a request in writing with the:

Filing Clerk
Public Utility Commission of Texas
1701 North Congress Avenue
P.O. Box 13326
Austin, Texas 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, Commission will not transfer 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.

Si desea informacion en Espanol, puede llamar al 1-888-782-8477

Utility Representative

Utility Name

DOCKET NO. 43074

APPLICATION OF J&S WATER	§	PUBLIC UTILITY COMMISSION
COMPANY, LLC AND UTILITIES	§	
INVESTMENT COMPANY, INC. FOR	§	OF TEXAS
SALE, TRANSFER, OR MERGER OF	§	
FACILITIES AND CERTIFICATE	§	
RIGHTHS IN HARRIS COUNTY	§	

PROPOSED AFFIDAVIT REGARDING NOTICE

PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE TO NEIGHBORING UTILITIES, CUSTOMERS AND AFFECTED PARTIES
DOCKET NO. _____

STATE OF TEXAS
COUNTY OF _____

_____ has provided
individual notice to the following entities and customers:

	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 for 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 _____