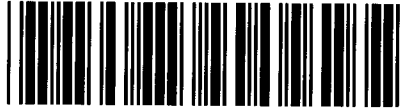


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DOCKET NO. 43177

RECEIVED

APPLICATION OF NI AMERICA  
TEXAS, LLC TO AMEND A  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY IN WISE COUNTY  
(37937-C)

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PUBLIC UTILITY COMMISSION

OF TEXAS  
PUBLIC UTILITY COMMISSION  
FILING CLERK

**JOINT PROPOSED NOTICE OF APPROVAL**


Commission Staff of the Public Utility Commission of Texas and Ni America Texas,  
LLC file their Proposed Notice of Approval.

Date: May 27, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director  
Legal Division

Shelah J. Cisneros  
Managing Attorney  
Legal Division

  
\_\_\_\_\_  
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*Commission Staff of the Public Utility  
Commission of Texas*

- and -

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*Ty H. Embrey (with permission Sam Chang)*

TY H. EMBREY  
State Bar No. 24025346

*Attorney for Ni America Texas, LLC*

**DOCKET NO. 43177**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document was served on all parties of record on May 27, 2015, in accordance with 16 Tex. Admin. Code § 22.74.



Sam Chang

**DOCKET NO. 43177**

**APPLICATION OF NI AMERICA  
TEXAS, LLC TO AMEND A  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY IN WISE COUNTY  
(37937-C)**

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**PUBLIC UTILITY COMMISSION  
  
OF TEXAS**

**NOTICE OF APPROVAL**

This Notice of Approval addresses the application filed by Ni America Texas, LLC (Ni America) regarding an amendment to its water certificate of convenience and necessity (CCN No. 11922) for a water system located in Wise County, Texas. On May 13, 2015, Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) recommended that the Commission approve Ni America's application and approve the requested amendment to water CCN No. 11922. Ni America's application and requested amendment to water CCN No. 11922 are approved.

The Commission adopts the following findings of fact and conclusions of law:

**I. Findings of Fact**

**Procedural History, Description, and Background**

1. On May 30, 2014, Ni America, an investor-owned utility, filed an application with the Texas Commission on Environmental Quality (TCEQ). In its application, Ni America requested an amendment to its water CCN No. 11922. Ni America requested an amendment in order to add a new service area of approximately 10.01 acres to the area currently certificated under water CCN No. 11922. The proposed service area is in Wise County, Texas.
2. Effective September 1, 2014, the Commission began the economic regulation of water and sewer utilities. Ni America's application, which was being processed at TCEQ, was transferred to the Commission for processing.
3. On November 4, 2014, the Administrative Law Judge entered Order No. 1, which assigned a docket number for this proceeding and required the parties to review and make any corrections to the service list by November 14, 2014.
4. Also on November 4, 2014, the Administrative Law Judge entered Order No. 2, which

required Commission Staff to file an update on the status of this proceeding by December 19, 2014.

5. On December 19, 2014, Staff filed its Status Update. In its Status Update, Staff recommended that Ni America's application be found not administratively complete until Ni America provides a legible copy of Exhibit H of the application, use the Commission's form notice for CCN amendment applications rather than TCEQ's form notice, amend the description of the proposed service area in the proposed notice, and add two parties to the list of entities within two miles of the proposed service area to receive notice. Staff proposed that Ni America be given 45 days to cure the deficiencies identified in Ni America's application.
6. On January 5, 2015, the Administrative Law Judge entered Order No. 3, which required Ni America to amend its application to cure the deficiencies noted by Staff by February 5, 2015.
7. On January 15, 2015, Ni America filed an amended application with the Commission in order to address all deficiencies noted by Staff.
8. On February 3, 2015, Staff filed a response to Order No. 3, which stated that Ni America's amended application addressed all deficiencies identified by Staff and recommended that the application be found administratively complete. Staff's response also recommended that Ni America be required to send and publish notice of its amended application and submit affidavits of provision and publication of notice its application. Finally, Staff's response recommended a procedural schedule for processing Ni America's application.
9. On February 6, 2015, the Administrative Law Judge entered Order No. 4, which deemed Ni America's application administratively complete. Order No. 4 also stated that Ni America was required to provide notice as instructed by Staff. Additionally, Order No. 4 adopted the procedural schedule proposed by Staff in its response to Order No. 3.
10. Also on February 6, 2015, Staff filed an amended response to Order No. 3, which stated that Staff had conferred with Ni America regarding the proposed procedural schedule, and Ni America requested a modification of the procedural schedule to accommodate the publication schedule of the newspaper that would publish notice of Ni America's application. Staff's amended response provided an amended proposed procedural

schedule that was agreed upon by Staff and Ni America.

11. On March 3, 2015, Ni America filed affidavits regarding the provision and publication of notice of its application.
12. On March 31, 2015, Patricia White filed a public comment regarding Ni America's application. Ms. White's comment stated complaints regarding water quality, water pressure, and cost of water from Ni America.
13. On April 6, 2015, Staff requested an extension of the deadline for Staff to file its recommendation or to request a hearing from April 6, 2015 to May 6, 2015.
14. On April 7, 2015, the Administrative Law Judge entered Order No. 5, which extended the deadline for Staff to file its recommendation or request a hearing from April 6, 2015 to May 6, 2015.
15. On May 5, 2015, Staff requested an extension of the deadline for Staff to file its recommendation or to request a hearing from May 6, 2015 to May 13, 2015.
16. On May 6, 2015, the Administrative Law Judge entered Order No. 6, which extended the deadline for Staff to file its recommendation or request a hearing from May 6, 2015 to May 13, 2015.
17. On May 12, 2015, Ni America filed its signed consent form confirming the proposed map, the proposed amended water CCN 11922, and the proposed amended tariff prepared by Staff.
18. On May 13, 2015, Staff filed its Recommendation on Final Disposition. Staff recommended that the Commission approve Ni America's application and approve the requested amendment to water CCN No. 11922. Additionally, Staff recommended that the Commission find that:
  - a. Ni America has the financial, managerial, and technical capability to provide continuous and adequate service to the proposed service area in Wise County, Texas; and
  - b. An amendment to Ni America's water CCN No. 11922 is necessary for the service, accommodation, convenience, or safety of the public.
19. On May 22, 2015, Staff and Ni America filed their Proposed Notice of Approval.

**Notice**

20. On February 13, 2015, Ni America provided notice of its application to all affected

parties.

21. On February 11, 2015, February 18, 2015, and February 25, 2015, notice of Ni America's application was published in the *Wise County Messenger*, a newspaper of general circulation in Wise County, Texas.
22. On March 3, 2015, Ni America submitted affidavits regarding the provision and publication of notice of its application, a copy of the notice provided to affected parties, and a copy of the notice that was published.

**Evidentiary Record**

23. On May 22, 2015, Staff and Ni America filed their Joint Motion to Admit Evidence. Staff and Ni America requested that certain evidence be admitted into the record in support of their Proposed Notice of Approval.
24. On \_\_\_\_\_, the Commission granted Staff and Ni America's Joint Motion to Admit Evidence. The following evidence was admitted into the record:
  - a. Exhibit 1: Application of Ni America Texas, LLC to Amend a Certificate of Convenience and Necessity in Wise County and accompanying Exhibits A, B, C, D, E, F, G, H, I, J, K, L, M, and N (filed on May 30, 2014);
  - b. Exhibit 2: Amended Application of Ni America Texas, LLC to Amend a Certificate of Convenience and Necessity in Wise County and accompanying Exhibits A, B, C, D, E, F, G, H, I, J, K, L, M, and N (filed on January 15, 2015);
  - c. Exhibit 3: Affidavit of Provision of Notice to Neighboring Utilities and Affected Parties (filed on March 3, 2015);
  - d. Exhibit 4: Publisher's Affidavit from the *Wise County Messenger* (filed on March 3, 2015);
  - e. Exhibit 5: Letter from Patricia White (filed on March 31, 2015).
  - f. Exhibit 6: Ni America's signed Consent Form (filed on May 12, 2015).
  - g. Exhibit 7: Staff's Recommendation on Final Disposition and accompanying attachments (filed on May 13, 2015).

**Informal Disposition**

25. More than 15 days have passed since completion of the notice provided in this docket.
26. Ni America and Staff are the only parties to this proceeding.

## **II. Conclusions of Law**

1. The Commission has jurisdiction over Ni America's application under Tex. Water Code §§ 13.041, 13.241, 13.244, and 13.246.
2. Ni America is a retail public utility, as defined by Tex. Water Code § 13.002(19) and 16 Tex. Admin. Code § 24.3(41).
3. Notice of Ni America's application was provided to affected parties, as required by Tex. Water Code § 13.246 and 16 Tex. Admin. Code § 24.106.
4. Ni America's application was processed in accordance with the requirements of Tex. Water Code § 13.244 and 16 Tex. Admin. Code §§ 24.102 and 24.105.
5. After considering the factors in Tex. Water Code § 13.246(c), Ni America has demonstrated that it has adequate financial, managerial, and technical capability to provide continuous and adequate service to customers in the requested area and its current service area as required by Tex. Water Code § 13.241.
6. Ni America's application, as amended, meets the requirements in Tex. Water Code §§ 13.241, 13.244, and 13.246 and 16 Tex. Admin. Code §§ 24.101, 24.102, 24.104, 24.105, and 24.106.
7. An amendment of Ni America's water CCN No. 11922 is necessary for the service, accommodation, convenience, or safety of the public as required under Tex. Water Code § 13.246(b) and 16 Tex. Admin. Code § 24.102(c).
8. The requirements for informal disposition under 16 Tex. Admin. Code § 22.35 have been met in this proceeding.

## **III. Ordering Paragraphs**

The Commission issues the following ordering paragraphs in accordance with these findings of fact and conclusions of law:

1. Ni America's application is approved.
2. Ni America's water CCN 11922 is amended, consistent with this Notice of Approval. Ni America's amended water CCN No. 11922, new service area map, and tariff for its amended water CCN No. 11922 are attached to this Notice of Approval.
3. Ni America shall serve every customer and applicant for service within the service area certificated in water CCN No. 11922 and such service shall be continuous and adequate.



4. 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 in this Notice of Approval, are denied.

**SIGNED IN AUSTIN, TEXAS, this \_\_\_\_\_ day of \_\_\_\_\_, 2015**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**SUSAN E. GOODSON  
ADMINISTRATIVE LAW JUDGE**