



Control Number: 43353



Item Number: 9

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**DOCKET NO. 43353**

**APPLICATION OF FOUNDER'S  
RESERVE COMMUNITY  
ASSOCIATION INC. FOR  
CERTIFICATES OF CONVENIENCE  
AND NECESSITY AND TO DECERTIFY  
A PORTION OF CITY OF  
SHENANDOAH'S CCNs IN  
MONTGOMERY COUNTY (37884-C)**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

2014 OCT 27 AM 11:15  
PUBLIC UTILITY COMMISSION  
FILED

**COMMISSION STAFF'S RESPONSE TO ORDER NO. 2**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Response to Order No. 2, and would show the following:

**I. Background**

On April 9, 2014, Founder's Reserve Community Association, Inc. (Founder's Reserve) filed an application with the Texas Commission on Environmental Quality (TCEQ) to obtain new water and sewer certificates of convenience and necessity (CCNs) in Montgomery County, pursuant to TEX. WATER CODE ANN. § 13.242 and P.U.C. SUBST. R. 24.101. By notice of deficiency (NOD) letter dated May 30, 2014, the TCEQ notified Founder's Reserve that the application was not accepted for filing due to deficiencies. The NOD letter required Founder's Reserve to provide the information necessary to address the deficiencies by June 30, 2014.

On September 1, 2014, the Commission began the economic regulation of water and sewer utilities and this case was transferred from the TCEQ to the Commission for further review. On September 29, 2014, the Administrative Law Judge (ALJ) issued Order No. 2, requiring Staff to file an update on the status of this proceeding by October 27, 2014, including clarification regarding whether AIS Item No. 6 is actually an amended application. Therefore, this response is timely filed.

**II. Status Report**

With regard to AIS Item No. 6, the item is not an amended application; it is a duplicate of the original application. As of the time of this filing, it appears that Founder's Reserve did not respond to TCEQ's NOD letter to cure the deficiencies in the application. Staff has made several

attempts to contact Founder's Reserve, via email and telephone, to verify whether the case file is incomplete or that Founder's Reserve never responded to the NOD letter, however Founder's Reserve has not responded to Staff. Therefore, Staff recommends return of the application and dismissal of this proceeding for failure to prosecute pursuant to P.U.C. PROC. R. 22.181(a)(1)(F).

### **III. Conclusion**

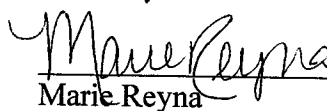
Staff respectfully requests that the ALJ issue an order consistent with Staff's recommendation.

**Dated: October 27, 2014**

Respectfully Submitted,

Joseph P. Younger  
Division Director-Legal Division

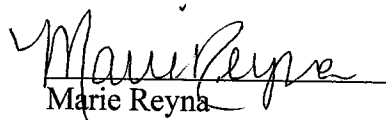
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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this the 27<sup>th</sup> day of October, 2014, in accordance with P.U.C. Procedural Rule 22.74.

  
Marie Reyna