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**DOCKET NO. 43523**

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PUBLIC UTILITY COMMISSION  
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**APPLICATION OF CITY OF ELGIN TO  
AMEND A WATER CERTIFICATE OF  
CONVENIENCE AND NECESSITY IN  
BASTROP AND TRAVIS COUNTIES**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**COMMISSION STAFF'S COMMENTS ON ADMINISTRATIVE  
COMPLETENESS**

COMES NOW the Staff ("Staff") of the Public Utility Commission of Texas ("Commission"), representing the public interest and files these Comments on Administrative Completeness and would show the following:

**I. BACKGROUND**

On October 10, 2014, the City of Elgin ("Elgin") filed an application to implement a settlement agreement reached between Aqua Water Supply Corporation ("Aqua") and Elgin.<sup>1</sup>

On October 20, 2014, Order No. 2 was entered, requiring Staff to file these comments by October 28, 2014. This pleading is timely filed.

**II. COMMENTS**

**1. Elgin should be required to clarify whether it requests approval of the transfer of certain facilities.**

Staff recommends that the application should not be deemed to be administratively complete. Elgin filed this application using the Commission's form for the amendment of a certificate of convenience and necessity ("CCN") and states that the application is intended to formally modify Elgin's and Aqua's CCN boundaries in accordance with an agreement between

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<sup>1</sup> Application to Amend City of Elgin Water CCN #10311 at Attachment 1, page 1 (Oct. 10, 2014) ("Application").

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these two parties.<sup>2</sup> However, section 2.05 of the settlement agreement that Elgin requests to implement states that “[a]s a condition precedent to the transfer of the CCN Transfer Area, Elgin shall transfer to Aqua a twelve (12) inch water line” and that “Aqua and Elgin shall cooperatively submit paperwork with the TCEQ for the transfer of the twelve (12) inch water line within thirty (30) days after the Effective Date [of the settlement agreement].”<sup>3</sup> As discussed in the attached memorandum of Debbie Reyes-Tamayo, Water Utilities Division, Elgin’s application is unclear regarding whether it requests approval of the transfer of this property or whether such approval has already been received.

In order to effectuate the transfer of such property, Elgin and Aqua would be required to submit a request pursuant to P.U.C. SUBST. R. 24.109 for approval of the sale and to use the Commission’s form for such an application, instead of the CCN form used by Elgin. However, the settlement agreement appears to have been executed in April 2012, meaning that the transfer of such property may have already been adjudicated by the Texas Commission on Environmental Quality prior to September 1, 2014.

Staff recommends that Elgin be required to clarify whether it requests approval of the transfer of the property stated in the settlement agreement or whether such approval has already been received, which is unclear from Elgin’s application. If Elgin does request approval of the transfer of property as part of this proceeding pursuant to P.U.C. SUBST. R. 24.109, Staff recommends that Elgin be required to amend its application using the correct Commission form and comply with P.U.C. SUBST. R. 24.109, which addresses sales, transfers, and mergers.

## **2. The proposed notice in the application is not sufficient**

As discussed in Ms. Reyes-Tamayo’s memorandum, regardless of whether Elgin is required to amend its application using another form, the proposed notice is not sufficient. Where the Commission’s notice form requires the applicant to state what features generally bound the north, south, east, and west edges of the proposed utility service area, the proposed notice merely states “farmland.”<sup>4</sup> Staff recommends that

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<sup>2</sup> *Id.*

<sup>3</sup> The settlement agreement is provided as an attachment to Attachment 1 to the Application.

<sup>4</sup> *Id.* at Attachment 10.

Elgin be required to provide more particular textual descriptions of the boundaries of the proposed area to notify customers and interested parties of the geographic area subject to the CCN transfer.

Further, proposed notice does not include a map of the proposed service area, which is required by the Commission's form. Staff recommends that Elgin be required to correct this omission.

### **III. CONCLUSION**

Staff requests the entry of an order consistent with the above discussion.

Date: October 28, 2014

Respectfully Submitted,

Joseph P. Younger  
Division Director  
Legal Division

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Managing Attorney  
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 October 28, 2014 in accordance with P.U.C. PROC. R. 22.74.



A. J. Smullen

## PUC Interoffice Memorandum

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**To:** AJ Smullen, Attorney  
Legal Division

**Thru:** Tammy Benter, Director  
Water Utilities Division

**From:** Debbie Reyes Tamayo  
Program Specialist  
Water Utilities Division

**Date:** October 27, 2014

**Subject:** Staff Recommendation for Docket No. 43523

On October 01, 2014, the City of Elgin, (Applicant) Certificate of Convenience and Necessity (CCN) No. 10311 filed an application to transfer a portion of CCN 10294 from Aqua Water Supply Corporation (Aqua) in Bastrop and Travis Counties, under the PUC's Substantive Rules in Chapter 24, §§24.102 & 24.105.

A review of the application revealed that it is not administratively complete for the purpose of further review at this time. It is unclear whether Applicant is requesting approval of the transfer of certain facilities to Aqua. If so, this application should have been filed using the Commission's form for application for approval of the transfer of property pursuant to P.U.C. SUBST. R. 24.109.

Regardless of whether Applicant is required to amend its application using another form, I recommend that the proposed notice is not sufficient. Where the Commission's notice form requires the applicant to state what features generally bound the north, south, east, and west edges of the proposed utility service area, the proposed notice merely states "farmland." I recommend that Applicant be required to provide more particular textual descriptions of the boundaries of the proposed area. Further, proposed notice does not include a map of the proposed service area, which is required by the Commission's form. I recommend that Applicant be required to correct this omission.

Mapping content of notice is insufficient. DO NOT NOTICE