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DOCKET NO. 44046

APPLICATION OF LAGUNA VISTA,
LTD. AND LAGUNA TRES INC. FOR
SALE, TRANSFER, OR MERGER OF
FACILITIES AND CERTIFICATE
RIGHTS IN HOOD-COUNTY

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**COMMISSION STAFF'S REQUEST FOR REFERRAL TO THE STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Request for Referral to the State Office of Administrative Hearings. In support of its Response, Staff states the following:

I. Background

On December 30, 2014, Laguna Vista, Ltd. (Laguna Vista) and Laguna Tres Inc. (Laguna Tres) filed an application with the Public Utility Commission (PUC) for the sale, transfer, or merger of the facilities and certificate rights in Hood County pursuant to TEX. WATER CODE ANN. § 13.301 (TWC) and Title 16 TEX. ADMIN. CODE §§ 24.109 and 24.112 (TAC). Specifically, Laguna Tres seeks approval to acquire all of the water and sewer assets of Laguna Vista. The application requests that Laguna Vista's water Certificate of Convenience and Necessity (CCN) No. 11983 be cancelled and the assets transferred to Laguna Tres. In addition, the application requests the transfer of Laguna Vista's sewer CCN No. 20766 be transferred to Laguna Tres.

On January 29, 2015, Staff responded to Order No. 1 and found the application contained material deficiencies and recommended the application be found not administratively complete. On January 29, 2015, the Administrative Law Judge (ALJ) issued Order No. 2 finding the application administratively incomplete and requiring the applicant to file an amended application to cure the identified deficiencies by March 4, 2015. Order No. 2 also required Staff to file a supplemental recommendation regarding the sufficiency of the amended application and revised notice by April 1, 2015. On April 1, 2015, Staff responded to Order No. 2 and recommended the application be found administratively complete. On April 2, 2015, the ALJ issued Order No. 3 setting the deadline to intervene at thirty days after the completion of notice, and June 10, 2015 as the deadline for Commission Staff to file a recommendation or request a

hearing on the merits. Mailed notice was completed on April 22, 2015 making the intervention deadline May 22, 2015. Therefore, this response is timely filed.

II. Discussion

Under 16 Tex. Admin. Code § 24.109(e), the Commission shall either approve the sale administratively or require a public hearing to determine if the transaction will serve the public interest, prior to the expiration of the 120-day notification period. 16 TAC § 24.109(e) further provides that:

- (e) Prior to the expiration of the 120-day notification period, the commission shall either approve the sale administratively or require a public hearing to determine if the transaction will serve the public interest. The commission may require a hearing if:
 - (1) the application filed with the commission or the public notice was improper;
 - (2) the person purchasing or acquiring the water or sewer system has not demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the service area being acquired and to any areas currently certificated to that person;
 - (3) the person or an affiliated interest of the person purchasing or acquiring the water or sewer system has a history of:
 - (A) noncompliance with the requirements of the TCEQ, the commission or the Texas Department of State Health Services; or
 - (B) continuing mismanagement or misuse of revenues as a utility service provider;
 - (4) the person purchasing or acquiring the water or sewer system cannot demonstrate the financial ability to provide the necessary capital investment to ensure the provision of continuous and adequate service to the customers of the water or sewer system;
 - (5) it is in the public interest to investigate the following factors:
 - (A) whether the seller has failed to comply with a commission order;
 - (B) the adequacy of service currently provided to the area;
 - (C) the need for additional service in the requested area;
 - (D) the effect of approving the transaction on the utility or water supply or sewer service corporation, the person purchasing or acquiring the water or sewer system, and on any retail public utility of the same kind already serving the proximate area;
 - (E) the ability of the person purchasing or acquiring the water or sewer system to provide adequate service;
 - (F) the feasibility of obtaining service from an adjacent retail public utility;
 - (G) the financial stability of the person purchasing or acquiring the water or sewer system, including, if applicable, the adequacy of the debt-equity ratio of the person purchasing or acquiring the water or sewer system if the transaction is approved;
 - (H) the environmental integrity; and

(I) the probable improvement of service or lowering of cost to consumers in that area resulting from approving the transaction.

After review of the submitted application Staff recommends referral to the State Office of Administrative Hearings (SOAH) because the Applicants appear to have a history of noncompliance with the requirements of TCEQ; therefore, Staff requests a hearing pursuant to TWC § 13.301(e)(3)(A) and 16 TAC § 24.109(e)(3)(A). Staff recommends that this matter be referred to SOAH for a hearing on the merits and development of the record. In addition, Staff recommends that the procedural schedule established in Order No. 3 be canceled in order to avoid confusion.

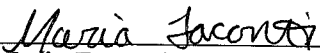
III. Conclusion

Staff respectfully requests that the ALJ refer this case to SOAH for further review and that the procedural schedule established in Order No. 3 be cancelled.

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director-Legal Division

Shelah J. Cisneros
Managing Attorney-Legal Division



Maria Faconti
Attorney-Legal Division
State Bar No. 24078487
(512) 936-7235
(512) 936-7268 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

DATED: June 10, 2015

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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 10th of June, 2015, in accordance with P.U.C. Procedural Rule 22.74.

Maria Faconti
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