

Control Number: 44046



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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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PUBLIC UTILITY COMMISSION  
OF TEXAS  
FILING CLERK

**COMMISSION STAFF'S PROPOSED LIST OF ISSUES**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Proposed List of Issues and would show 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.

The Administrative Law Judge's (ALJ) Order of Referral required Staff to file a list of issues to be considered by the Commission by July 10, 2015. Therefore, this pleading is timely filed.

**II. LIST OF ISSUES**

Staff has identified the following issues that should be addressed in this proceeding.

1. What is the effective date of the proposed sale?
2. Has the purchaser demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and any areas currently certificated to the seller? TWC 13.301(b); 16 TAC § 24.112(b).

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- a. If the purchaser has not demonstrated adequate financial capability, should the Commission require that it provide financial assurance to ensure continuous and adequate utility service is provided, consistent with TWC § 13.301(c) and 16 TAC § 24.109(b)?
  - b. If the Commission requires the purchaser to provide financial assurance, what form and amount of financial assurance should the Commission should require?
3. Will approving the proposed sale serve the public interest? TWC § 13.301(d), (g); 16 TAC § 24.112(c)(5).
- a. Is the purchaser capable of rendering adequate and continuous service to every consumer within the certificated area, taking into account the factors under the TWC, § 13.251; 16 TAC § 24.112(c)(5)(B)?
    - i. Is the service currently provided in the area adequate? TWC § 13.246(c)(1).
    - ii. Is additional service needed in the requested area? Have any landowners, prospective landowners, tenants, or residents requested service? TWC § 13.246(c)(2).
    - iii. What is the effect of approving the proposed sale on the purchaser, on the landowners in the area, and on any retail public utility of the same kind already serving the proximate area? TWC § 13.246(c)(3).
    - iv. Taking into consideration the current and projected density and land use of the area, does the purchaser have the ability to provide adequate service and meet the standards of the TCEQ? TWC § 13.246(c)(4).
    - v. Is it feasible to obtain service from an adjacent retail public utility? TWC § 13.246(c)(5).
    - vi. Is the purchaser financially stable considering, if applicable, the adequacy of the debt-equity ratio of the purchaser if the proposed sale is approved? TWC § 13.246(c)(6).
    - vii. What is the effect of approving the sale on environmental integrity? TWC § 13.246(c)(7).

- viii. What is the probable improvement of service or lowering of cost to consumers in that area resulting from approving the proposed sale? TWC § 13.246(c)(8).
  - ix. What is the effect on the land to be included in the certificated area? TWC § 13.246(c)(9).
- b. Have the conditions of any judicial decree, compliance agreement, or other enforcement order not been substantially met? 16 TAC § 24.112(c)(5)(B).
  - c. What is the experience of the purchaser as a utility service provider? 16 TAC § 24.112(c)(5)(C).
  - d. Does the purchaser have a history of noncompliance with the requirements of the TCEQ, the Commission, or the Texas Department of State Health Services or continuing mismanagement or misuse of revenues as a utility service provider? TWC § 13.301(e)(3); 16 TAC § 24.112(c)(5)(D).
  - e. Does the purchaser have the financial ability to provide the necessary capital investment to ensure the provision of continuous and adequate service to the customers of the water system? TWC § 13.301(e)(4); 16 TAC § 24.112(c)(5)(E).
  - f. Has the purchaser failed to comply with any orders of the TCEQ or the Commission? 16 TAC § 24.109(e)(5)(A).
  - g. Was the water system partially or wholly constructed with customer contributions in aid of construction derived from specific surcharges as provided by TWC § 13.301(j)? If so, has the notice required by TWC § 13.301(j) been provided?
  - h. Was the notice required by TWC § 13.301(k) provided?
- 4. Does the seller currently retain any customer deposits? If so,
    - a. what is the total amount of customer deposits retained;
    - b. does the seller have proper records of to allow deposits and any unpaid interest to be returned; and
    - c. will customer deposits be returned to customers or transferred to the purchaser?

5. Does the water system being purchased have any deficiencies or problems that need correction to be in compliance with the rules of the Commission and the TCEQ? If so,
  - a. what are those deficiencies or problems;
  - b. how and when will those deficiencies or problems be corrected; and
  - c. does the purchase have access to adequate financial resources to timely correct those deficiencies and problems?
6. What are the precise boundaries of the service area that is the subject of the purchaser's application?

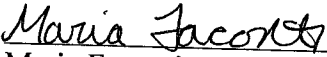
**III. ISSUES NOT TO BE ADDRESSED**

Staff has not identified any issues not to be addressed.

**DATED:** July 10, 2015

Respectfully Submitted,  
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Division Director-Legal Division

Shelah J. Cisneros  
Managing Attorney-Legal Division

  
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**PUC DOCKET NO. 44046**  
**SOAH DOCKET NO. 473-15-4390.WS**  
**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this the 10<sup>th</sup> of July, 2015, in accordance with 16 TAC § 22.74.

Maria Faconti  
Maria Faconti