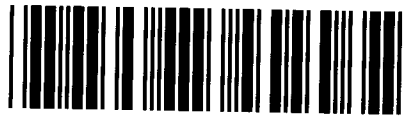




Control Number: 44046



Item Number: 5

Addendum StartPage: 0

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
PUBLIC UTILITY COMMISSION
OF TEXAS

**COMMISSION STAFF'S RESPONSE TO ORDER NO. 1 – RECOMMENDATION ON
ADMINISTRATIVE COMPLETENESS**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Response to Order No. 1 – Recommendation on Administrative Completeness. 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. 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 7, 2015, the Administrative Law Judge (ALJ) issued Order No. 1, which requires Staff to file comments/recommendation regarding the administrative completeness of the application by January 29, 2015. Therefore, this response is timely filed.

II. Sufficiency of the Application and Notice

As detailed in the attached memorandum of Emily Sears of the Commission's Water Utilities Division, Staff has reviewed the application and recommends that the application be found materially deficient pursuant to P.U.C. SUBST. R. 24.105, 24.106, and 24.109. Staff has identified multiple notice deficiencies in the application. P.U.C. SUBST. R. 24.8(a) provides that, if material deficiencies exist in a rate/tariff change application or notice, the application may be rejected. In addition, as described in Commission rules,¹ notice of the application may be

¹ P.U.C. SUBST. R. 24.8 states "[i]f the commission determines that material deficiencies exist in any pleadings, statement of intent, application, or other requests for commission action addressed by this chapter, the notice or application may be rejected and the effective date suspended until the deficiencies are corrected."

deemed insufficient for filing until the proposed notice is approved. In order to cure the identified deficiencies, Staff recommends the Applicant be ordered to update the application as specified in the attached memoranda.

Pursuant to P.U.C. SUBST. R. 24.8(a), the application is not considered filed until the Commission determines that the application and notice are both administratively complete. Staff has identified deficiencies, therefore, Staff recommends that the application package be found **not administratively complete** pursuant to P.U.C. SUBST. R. 24.105, 24.106, and 24.109. Staff recommends that the application package be rejected pursuant to P.U.C. SUBST. R. 24.8(a) until the deficiencies are cured and that the Applicant be given until Wednesday, March 4, 2015 to cure the identified deficiencies and submit a revised proposed notice.

III. Proposed Procedural Schedule

With respect to procedure, the Commission's substantive rules state:

On or before the 120th day before the effective date of any sale, acquisition, lease, rental, merger or consolidation of any water or sewer system required by law to possess a certificate of public convenience and necessity, the utility or water supply or sewer service corporation shall file a written application with the commission and give public notice of the action.²

The 120-day period begins on the later of: (i) the filing of a sale, transfer, merger application; (ii) if mailed notice is required, the date that the applicant mailed notice; or (iii) if newspaper notice is required, the last date of publication of the notice.³ An application is not considered filed until "a determination of administrative completeness is made."⁴

Staff notes that the Commission has not yet made a determination of administrative completeness in this proceeding. Therefore, the 120-day clock pursuant to P.U.C. SUBST. R. 24.109(a) has not yet started. Staff recommends that the application be found not administratively complete due to the identified deficiencies. Accordingly, Staff has not proposed a procedural schedule for this application at this time. Staff recommends Applicant have until March 4, 2015 to cure the deficiencies in the application. Staff also requests that it have until

² P.U.C. SUBST. R. 24.109(a).

³ P.U.C. SUBST. R. 24.109(a)(1)-(3).

⁴ *Id.*

April 1, 2015 to review the items submitted and make a supplemental recommendation regarding the sufficiency of the application.

IV. Conclusion

Staff recommends that the application be deemed not administratively complete due to the noted deficiencies. Therefore, Staff recommends that the Applicant be given until March 4, 2015 to amend its application in order to cure the deficiencies identified by Staff and submit a revised proposed notice. At that time, Staff further requests that it have until April 1, 2015 to supplement its recommendation regarding notice and administrative completeness of the application. In the event that Staff determines that the Applicant's amended application and notice are administratively complete, Staff will propose a procedural schedule for processing the matter. Staff respectfully requests that the ALJ issue an order consistent with this Response.

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director-Legal Division

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Managing Attorney-Legal Division

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P.O. Box 13326
Austin, Texas 78711-3326

DATED: January 29, 2015

DOCKET NO. 44046
CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this the 29th of January, 2015, in accordance with P.U.C. Procedural Rule 22.74.

Maria Faconti
Maria Faconti

Public Utility Commission of Texas

Memorandum

To: Maria Faconti, Attorney
Legal Division

Thru: Tammy Benter, Director
Water Utilities Division

From: Emily Sears, Utility Rates Analyst
Water Utilities Division

Date: January 29, 2015

Subject: 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*

On December 30, 2014, Laguna Tres Inc. (Applicant) filed an application to acquire the water and wastewater facilities of Laguna Vista, Ltd. The Applicant filed to amend its water facilities Certificate of Convenience and Necessity (CCN) No. 11609 to include the systems and territory under CCN No. 11983 held by Laguna Vista, Ltd., and cancel CCN No. 11983. The Applicant also filed to transfer the sewer CCN No. 20766 held by Laguna Vista, Ltd. The systems and territories are located in Hood County, Texas. The Application was filed pursuant to Chapter 13.251 of the Texas Water Code (TWC), and Chapter 24 of the P.U.C.'s Substantive Rules.

The Applicant has submitted adequate maps that meet P.U.C.'s mapping requirements. However, the Applicant has not submitted adequate notice documents or a complete 2-mile list of neighboring entities; Applicant only submitted a 2-mile list of utilities and cities with their application.

The Applicant also failed to file "Attachment 5 – Copy of the Purchase Agreement."

Based on a review of the information in the application, I recommend the application be deemed insufficient for filing due to these deficiencies. In order to cure the deficiencies, I recommend the applicant provide the following information:

1. Applicant must submit a complete list of neighboring entities within a 2-mile radius of the proposed water and sewer service areas which they are seeking to acquire with this transaction. Please provide an updated 2-mile list of entities including utilities (CCNs), districts, counties, ground water conservation districts, cities and their extraterritorial jurisdictions (ETJ's) and any other entities required to receive notice.
2. The document used to notice customers and neighboring utilities should be reworded after the text, "and is generally bounded by" to read as follows: "on the north by the intersection of

Killbough and Weatherford Hwy; on the east by FM 51; on the south by the intersection of FM 51 and Reed Rd. ; and on the west by Lake Granbury.”

3. File Attachment 5 – Copy of the Purchase Agreement.

Applicant should not publish notice until their notice documents and 2-mile list of entities have been reviewed and approved by Commission Staff. Applicant may contact mapping Staff for notice related guidance.

If the Applicant fails to file the requested information within 30 calendar days from the date of the Commission’s order, staff further recommends dismissal of the application.