



Control Number: 44046



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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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**PUBLIC UTILITY COMMISSION**  
PUBLIC UTILITY COMMISSION  
FILING CLERK  
**OF TEXAS**

**COMMISSION STAFF’S RESPONSE TO ORDER NO. 2 – SUPPLEMENTAL  
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. 2 – Supplemental 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 pursuant to TEX. WATER CODE ANN. § 13.301 and Title 16, TEX. ADMIN. CODE (16 TAC) §§ 24.109 and 24.112. 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 requires Staff to file a supplemental recommendation regarding the sufficiency of the amended application and revised notice by April 1, 2015. Therefore, this response is timely filed.

**II. Statutory and Substantive Rule Requirement**

The Texas Water Code details the requirements for the sale of a water system. The relevant portions of the Texas Water Code state:

- (a) A utility or a water supply or sewer service corporation, on or before the 120<sup>th</sup> day before the effective date of a sale, acquisition, lease, or rental of a water or sewer system that is required by law to possess a certificate of public

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convenience and necessity or the effective date of a merger or consolidation with such a utility or water supply or sewer service corporation, shall:

- (1) file a written application with the utility commission; and
- (2) unless public notice is waived by the utility commission for good cause shown, give public notice of the action.

(b) The utility commission may require that the person purchasing or acquiring the water or sewer system demonstrate adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and any areas currently certificated to the person.

...

(d) The utility commission shall, with or without a public hearing, investigate the sale, acquisition, lease, or rental to determine whether the transaction will serve the public interest.

...

(f) Unless the utility commission holds a public hearing, the sale, acquisition, lease, or rental may be completed as proposed:

- (1) at the end of the 120-day period; or
- (2) at any time after the utility commission notifies the utility or water supply or sewer service corporation that a hearing will not be held.<sup>1</sup>

The Commission's substantive rules detail similar requirements for the sale of a water system.<sup>2</sup> The purchaser of the water system "must demonstrate adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and any areas currently certificated to the person."<sup>3</sup> In the event that the sale of a water system includes the sale of a CCN, the Commission's substantive rules state that a CCN may not be sold "unless the commission has determined that the purchaser . . . is capable of rendering adequate and continuous service to every consumer within the certificated area, after considering the factors under the TWC, § 13.246(c)."<sup>4</sup> The factors listed in the Water Code that are to be considered by the Commission are:

- (1) the adequacy of service currently provided to the requested area;
- (2) the need for additional service in the requested area, including whether any landowners, prospective landowners, tenants, or residents have requested service;
- (3) the effect of the granting of a certificate or of an amendment on the recipient of the certificate or amendment, on the landowners in the area, and on any retail public utility of the same kind already serving the proximate area;
- (4) the ability of the applicant to provide adequate service, including meeting the standards of the commission, taking into consideration the current and

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<sup>1</sup> TEX. WATER CODE § 13.301.

<sup>2</sup> See generally 16 TAC § 24.109.

<sup>3</sup> *Id.*

<sup>4</sup> 16 TAC § 24.112(b).

- projected density and land use of the area;
- (5) the feasibility of obtaining service from an adjacent retail public utility;
  - (6) the financial ability of the applicant to pay for the facilities necessary to provide continuous and adequate service and the financial stability of the applicant, including, if applicable, the adequacy of the applicant's debt-equity ratio;
  - (7) environmental integrity;
  - (8) the probable improvement of service or lowering of cost to consumers in that area resulting from the granting of the certificate or amendment; and
  - (9) the effect on the land to be included in the certificated area.<sup>5</sup>

### **III. Staff's Recommendation**

On March 4, 2015, Applicant filed documentation in response to Order No. 2 which contained (1) corrected notice pages, (2) and updated list of neighboring water/sewer utilities, cities, and political subdivisions within two miles of the affected area, and (3) a copy of the Purchase Agreement. The Commission received no protests regarding this matter.

Staff has determined that the application, in combination with the supplemental filing, is sufficient and complete. Staff has also reviewed the proposed notice and finds it sufficient.

Based on the attached memorandum of Emily Sears, Utility Rate Analyst in the Commission's Water Utilities Division, Staff recommends the application be deemed sufficient for filing. In addition, Staff has included the notice for publication and the notice to current customers, neighboring systems and cities. At this time, Staff recommends that Laguna Tres be allowed to proceed with the proposed transaction and notes that a public hearing is not necessary. Staff also recommends that Laguna Vista's CCN Nos. 11983 and 20766 remain in the name of Laguna Vista and until the transfer is complete and approved in accordance with Commission rules.

### **IV. Proposed Procedural Schedule**

Staff proposes the following procedural schedule for this proceeding.

April 30, 2015	Affidavits evidencing proof of notice to be filed
30 days after the mailing or publication of notice, whichever occurs later	Intervention deadline
June 10, 2015	Deadline for Commission Staff's recommendation or request for a hearing on the merits

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<sup>5</sup> TEX. WATER CODE § 13.246(c).

June 17, 2015	Deadline for Applicant to request a hearing, and file responses, if any, to intervener comments, and Commission Staff's recommendation
July 30, 2015	120 days from April 1, 2015
One year from the date of the commission's written approval of the sale	Expiration of the commission's approval for sale

#### IV. Conclusion

Staff recommends that the application be deemed administratively complete and recommends the adoption of the proposed procedural schedule.

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director-Legal Division

Shelah J. Cisneros  
Managing Attorney-Legal Division

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Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

**DATED:** April 1, 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 1<sup>st</sup> of April, 2015, in accordance with P.U.C. Procedural Rule 22.74.

Maria Faconti  
Maria Faconti

# Public Utility Commission of Texas

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## Memorandum

**To:** Maria Faconti, Attorney  
Legal Division

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

**From:** Emily Sears, Utility Rates Analyst  
Tracy Harbour, GIS Specialist  
Water Utilities Division

**Date:** March 30, 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 purchase 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 application is sufficient for filing. The notice for publication and the notice to current customers, neighboring systems and cities are attached. The Applicant should be ordered to:

- 1) Notice the following entities, in addition to those entities listed in the application, located within a 2-mile buffer of the proposed water and sewer service areas requested with this application:
  - a) Hood County
  - b) Monarch Utilities I LP (CCN No. 12963)
  - c) Brazos River Authority (District ID 1685000)
  - d) Lake Granbury Improvement District (District ID 5310100)
  - e) Upper Trinity GCD (District ID 8114850)
- 2) Provide the correct notice of the application to the following:
  - a) any districts, groundwater conservation districts, counties, utilities, cities, cities with an extraterritorial jurisdiction within two (2) miles of the proposed service areas;
  - b) any city with an extraterritorial jurisdiction which overlaps the proposed service areas; and
  - c) any customers transferred, or other affected parties in the requested area.
- 3) Include a copy of a map showing the proposed service areas with the individual notices to neighboring utilities, customers and other affected parties. It is the Applicant's burden to provide an accurate map delineating the proposed service areas with each individual notice.

Information related to districts including addresses can be obtained by the Applicant from the TCEQ web site located at <http://www14.tceq.texas.gov/iwud/>

Within 30 days of the Commission order, the Applicant should submit a copy of the actual notice issued, the map issued with the individual mailed notice, and the signed affidavits (copies attached), indicating that the notice was given.





request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, Commission will not transfer the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

***Si desea informacion en Espanol, puede llamar al 1-888-782-8477***

**Notice to Current Customers, Neighboring Systems and Cities**

Laguna Vista, Ltd.  
(Seller's or Transferor's Name) 'S

**NOTICE OF INTENT TO SELL FACILITIES AND TRANSFER CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO** 11983 (water) and 20766 (sewer) TO Laguna Tres, Inc.

IN Hood COUNTY, TEXAS (Purchaser's or Transferee's Name)

To: \_\_\_\_\_ Date Notice Mailed \_\_\_\_\_, 20 \_\_\_\_  
(Name of Customer, Neighboring System or City)

\_\_\_\_\_  
(Address)

City State Zip

Laguna Vista, Ltd. 112 N. Crockett Granbury, TX 76048  
Sellers or Transferors' Name Address City/State/Zip Code

has submitted an application with the Public Utility Commission of Texas to sell facilities and transfer water or sewer (please select) CCN No. 11983 (water) and 20766 (sewer) in Hood [County Name]

County to:

Laguna Tres, Inc. P.O.Box 2337 Granbury, TX 76048  
Purchasers or Transferee's Name Address City/State/Zip Code

The sale is scheduled to take place as approved by the Commission (V.T.C.A., Water Code §13.301). The transaction and the transfer of the CCN include the following subdivision(s):

Laguna Vista

The area subject to this transaction is located approximately 4 miles North [direction] of downtown Granbury, [City or Town] Texas, and is **generally** bounded on the north by intersection of Killbough and Weatherford Hwy ; on the east by FM 51; on the south by intersection of FM 51 and Reed Rd.; and on the west by Lake Granbury

The total area being requested includes approximately 159 acres for water and 6 acres for sewer and serves 205 water and 8 sewer customers

This transaction will have the following effect on the current customer's rates and services:

None

Affected persons may file written protests and/or request a public hearing within 30 days of this notice.

To request a hearing, you must:

- (1) state your name, mailing address and daytime telephone number;
- (2) state the applicant's name, application number or another recognizable reference to this application;
- (3) include the statement "I/we request a public hearing";
- (4) write a brief description of how you, the persons you represent, or the public interest would be adversely affected by the proposed transaction and transfer of the CCN; and
- (5) state your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Only those persons who submit a written request to be notified of a hearing will receive notice if a hearing is scheduled. The Commission will issue the CCN requested in the referenced application unless a hearing is scheduled to consider the transaction. If no protests or requests for hearing are filed during the comment period, the Commission may issue the CCN 30 days after publication of this notice.

Persons who wish to protest or request a hearing on this application should write the:

Filing Clerk  
Public Utility Commission of Texas  
1701 North Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

**Se desea informacion en Espanol, puede llamar al  
1-888-782-8477**

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Utility Representative

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Utility Name