



Control Number: 44268



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Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83rd
Legislature, Regular Session, transferred the functions
relating to the economic regulation of water and sewer
utilities from the TCEQ to the PUC effective
September 1, 2014

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SOAH DOCKET NO. 582-08-0132
TCEQ DOCKET NO. 2007-0358-UCR

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FULL-TIME COMMISSIONER
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APPLICATION OF CITY OF ORANGE § BEFORE THE STATE
TO DECERTIFY PORTIONS OF §
WATER CERTIFICATES OF §
CONVENIENCE AND NECESSITY §
(CCNs) FROM AQUA TEXAS, INC.; § OF
NORTH ORANGE WATER & SEWER, §
LLC; AND KELLY BREWER (RURAL §
WATER COMPANY) § ADMINISTRATIVE HEARINGS

APPLICANT'S STATUS REPORT

COMES NOW, the Applicant, the City of Orange, Texas (hereinafter the "Applicant"), and files this Status Report with regard to the above-referenced cause, and would respectfully show as follows:

I.

PARTIES

The parties to this cause are the Applicant; the Executive Director of the Texas Commission on Environmental Quality; Kelly Brewer d/b/a Rural Water Company; Aqua Texas, Inc.; and the Texas Commission on Environmental Quality Office of Public Interest Counsel.

II.

NOTICE AND JURISDICTION

Proper notice and jurisdiction were established at the preliminary hearing of this cause held on November 14, 2007 before the Administrative Law Judge. At the preliminary hearing, this cause was abated for all purposes, including discovery, in order for the parties to pursue settlement discussions. On December 30, 2008, the Administrative Law Judge signed Order No. 5 requiring the Applicant to submit a current status report on or before January 15, 2009.

Pursuant to the Order signed by the Administrative Law Judge on December 30, 2008, the Applicant files this status report.

III.

STATUS REPORT

A. Kelly Brewer d/b/a Rural Water Company

The Applicant entered into an Asset Purchase Agreement with Kelly Brewer d/b/a Rural Water Company dated April 8, 2008 by which the Applicant acquired the assets of Rural Water Company for the provision of water services to residents within the applicable service area. On October 28, 2008, the Executive Director of the Texas Commission on Environmental Quality issued an Order transferring a portion of Kelly Brewer's Certificate of Convenience and Necessity to the Applicant and ordering the Applicant to commence providing water service to the residents in the applicable service area. In accordance with the above-referenced Order, the Applicant has commenced providing water services in the applicable service area.

B. Aqua Texas, Inc.

The Applicant entered into an Asset Purchase Agreement with Aqua Texas, Inc. dated May 8, 2008 by which the Applicant agreed to acquire the assets of Aqua Texas, Inc. for the provision of water and wastewater services to residents within the service area in which the Applicant seeks decertification of a portion Aqua Texas, Inc.'s Certificate of Convenience and Necessity. The Asset Purchase Agreement is contingent upon Aqua Texas, Inc. receiving all governmental authorizations necessary to transfer the water and wastewater system assets to the Applicant.

In connection with this transaction, on January 12, 2009, legal counsel for Aqua Texas, Inc., Chris Luning, advised the Applicant that Aqua Texas, Inc. is in the process of fulfilling its

responsibilities under the Asset Purchase Agreement to submit an Application for Sale, Transfer or Merger of a Retail Public Utility to the Texas Commission on Environmental Quality. Mr. Luning further advised that Aqua Texas, Inc. believes that the parties remain on schedule to close the transaction by the date provided for in the Asset Purchase Agreement.

C. North Orange Water and Sewer, LLC

Representatives for the Applicant and North Orange Water & Sewer, LLC met on December 29, 2008 and agreed upon the final revisions to the Asset Purchase Agreement to be entered into between the Applicant and North Orange Water & Sewer, LLC pertaining to the Applicant's acquisition of the assets of North Orange Water & Sewer, LLC for the provision of water and wastewater services to residents within the service area in which the Applicant seeks decertification of a portion of North Orange Water & Sewer, LLC's Certificate of Convenience and Necessity. The Applicant anticipates that the Asset Purchase Agreement will be signed by both parties in the very near future. The Asset Purchase Agreement is to be contingent upon North Orange Water & Sewer, LLC receiving all governmental authorizations necessary to transfer the water and wastewater system assets to the Applicant. In this connection, on December 12, 2008, the Applicant submitted an Application for Sale, Transfer or Merger of a Retail Public Utility to the Texas Commission on Environmental Quality.

IV.

PRAYER/REQUEST


WHEREFORE, PREMISES CONSIDERED, the Applicant requests that this cause be abated for another 60 days in order to allow the Applicant time to execute the Asset Purchase Agreement with North Orange Water & Sewer, LLC and to obtain final approval from the Texas Commission on Environmental Quality for transfer to the Applicant of the applicable portions of

the Certificates of Convenience and Necessity of Aqua Texas, Inc. and North Orange Water & Sewer, LLC respectively.

Respectfully submitted,

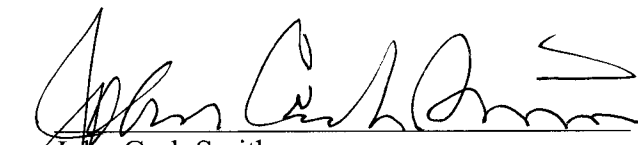
Applicant, CITY OF ORANGE, TEXAS .

By


John Cash Smith
City Attorney

CERTIFICATE OF SERVICE

This is to certify that a copy of this status report has been furnished to all interested parties in accordance with TCEQ and SOAH rules on the 13th day of January, 2009.


John Cash Smith