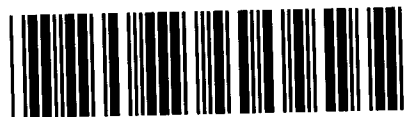


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Addendum StartPage: 0

APPLICATION OF NI PACOLET  
MILLIKEN UTILITIES, LLC TO  
PURCHASE AND TRANSFER THE  
STOCK OF NI AMERICA TEXAS,  
LLC

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§  
§  
§

PUBLIC UTILITY COMMISSION 10:03  
OF TEXAS  
FILING CLERK

### COMMISSION STAFF'S RESPONSE TO ORDER NO. 4

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Response to Order No. 4.

#### I. Background

On April 17, 2015, Ni America Texas, LLC (Ni America) and Ni Pacolet Milliken Utilities, LLC (Ni Pacolet) (collectively, Applicants) filed an Application for the Sale, Transfer, or Merger of a Retail Public Utility (Application) pursuant to Tex. Water Code Ann. § 13.301 (TWC) and 16 Tex. Admin. Code §§ 24.106, 24.109, and 24.112. On May 14, 2015, the Applicants filed a motion to have the Application reviewed as an application for the approval of the purchase and transfer of voting stock in another utility pursuant to TWC § 13.302 and 16 TAC § 24.111. On July 22, July 24, July 30, and August 6, 2015, the Applicants filed supplemental documentation to cure the deficiencies in the Application.

On September 2, 2015, the Administrative Law Judge (ALJ) issued Order No. 4 deeming the application administratively complete. Staff was given thirty (30) days after the application was deemed administratively complete to request a hearing or file a recommendation on final disposition. The ALJ deemed the Application administratively complete on September 2, 2015. Therefore, this response is timely filed.

#### II. Comments on Administrative Completeness

As detailed in the attached memorandum of Emily Sears, in the Commission's Water Utilities Division, Staff recommends the approval of the proposed stock transfer. After reviewing the Application and supplemental documents, Staff has determined that Ni Pacolet has the financial, managerial, and technical capability to ensure continuous and adequate service.

Staff also recommends the Applicants be required to, within thirty days after the effective date of the transaction, file a signed contract, bill of sale, or other appropriate documents as evidence that the transaction has been finalized.

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### **III. Conclusion**

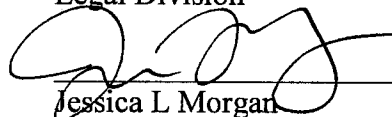
Staff recommends the stock transfer be completed and that the Applicants be directed to submit documentation regarding completion of the transaction. Consistent with the procedural schedule established in Order No. 4, if the Applicants do not file a response to Staff's recommendation, Staff intends to work with the Applicants to file a joint proposed notice of approval on or before October 19, 2015.

**Dated: October 2, 2015**

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director  
Legal Division

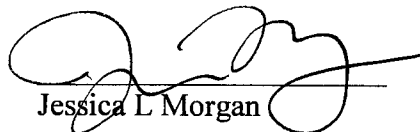
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Austin, Texas 78711-3326

### **DOCKET NO. 44656 CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this October 2, 2015 in accordance with 16 TAC § 22.74.



Jessica L Morgan

# *Public Utility Commission of Texas*

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## **Memorandum**

**To:** Jessica Morgan, Attorney  
Legal Division

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

**From:** Emily Sears, Financial Analyst  
Water Utilities Division

**Date:** October 2, 2015

**Subject:** Docket No. 44656; *Application of Ni Pacolet Milliken Utilities, LLC and Ni America Texas, LLC for the Sale and Transfer of Utility Stock in Harris, Johnson and Wise Counties*

On April 17, 2015, Ni America Texas, LLC ("Ni America" or "Seller") and Ni Pacolet Milliken Utilities, LLC ("Ni Pacolet" or "Purchaser") (collectively called "Applicants") filed an application with the Public Utility Commission ("PUC" or "Commission") for the Sale, Transfer, or Merger (STM) of water Certificate of Convenience and Necessity (CCN) No. 11922 held by Ni America to Ni Pacolet in Harris, Johnson and Wise Counties. The proposed transaction sought approval for Ni Pacolet to purchase equity interest in CCN No. 11922 from Ni America. The application was filed pursuant to the criteria in Tex. Water Code § 13.301 (TWC) and 16 Tex. Admin. Code §§ 24.106, 24.109, and 24.112 (TAC). Subsequent to this filing, on May 14, 2015, the Applicants filed a motion requesting that the application be considered for approval of the purchase and transfer of voting stock only, and not as a STM of the facilities and assets. The motion asked that the application be considered under TWC § 13.302 and 16 TAC § 24.111.

On May 19, 2015, in Order No. 2, the Applicants were asked to file updated information concerning deficiencies identified with the application. On June 1, 2015, the Applicants filed an amendment to the STM application pursuant to Order No. 2 providing additional information to respond to the deficiencies identified by Staff. On June 29, 2015, the application was deemed insufficient, and required the Applicants to file additional financial information. Between July 22 and August 6, 2015, the Applicants filed additional information to correct the deficiencies. On September 2, 2015, the Commission deemed the application sufficient for filing.

Based on a review of the application, including the supplemental filings, I have determined that Ni Pacolet, as a wholly-owned subsidiary of Pacolet Milliken Enterprises, Inc., has the financial, managerial, and technical capability to ensure continuous and adequate service is provided by the utility; therefore, additional financial assurance is not necessary. Moreover, a public hearing is not necessary on this transaction because a criterion prescribed by 16 TAC § 24.110 relating to Foreclosures and Bankruptcies does not apply.

Based on these findings, Staff recommends that the proposed transaction be completed as filed. Further, Staff recommends the Applicants be required to send copies of the closing documents evidencing the completed transaction within 30 days upon completion to the Commission per the PUC's filing procedures.