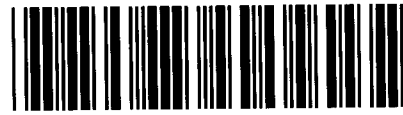


Control Number: 45552



Item Number: 24

Addendum StartPage: 0

APPLICATION OF OLD TAMINA §  
WATER SUPPLY CORPORATION TO §  
AMEND ITS WATER CERTIFICATE §  
OF CONVENIENCE AND NECESSITY §  
FOR DUAL CERTIFICATION WITH §  
THE CITY OF SHENANDOAH AND §  
TO OBTAIN A SEWER §  
CERTIFICATE OF CONVENIENCE §  
AND NECESSITY IN MONGOMERY §  
COUNTY §

2016 MAY 13 AM 10: 27  
PUBLIC UTILITY COMMISSION  
PUBLIC UTILITY COMMISSION  
FILING CLERK

OF TEXAS

**COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION REGARDING ADMINISTRATIVE COMPLETENESS AND RESPONSE TO MOTION TO SEVER**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission) representing the public interest and files this Response to Order No. 3, Supplemental Recommendation Regarding Administrative Completeness, and Response to Motion to Sever.

**I. Background**

On May 15, 2013, Old Tamina Water Supply Corporation (Old Tamina WSC) filed an application to amend its water Certificate of Convenience and Necessity (CCN) No. 12289 for a dual certification with the City of Shenandoah (Shenandoah) and obtain a new sewer CCN in Montgomery County (Application) with the Texas Commission on Environmental Quality (TCEQ).

On April 5, 2016, the Administrative Law Judge (ALJ) issued Order No. 3 granting Old Tamina WSC's request for an extension to cure the deficiencies identified by Staff. Order No. 3 also requires Staff to file additional comments on the administrative completeness of the application and proposed notice by May 13, 2016. Therefore, this Response is timely filed.

**II. Staff's Comments on Administrative Completeness and Notice**

As detailed in the attached memorandum of Debbie Reyes Tamayo, Andrew Novak, and Tracy Montes, in the Commission's Water Utilities Division, Staff has reviewed the Application and recommends that the Application be found administratively incomplete 16 Tex. Admin. Code §§ 24.105-.106 (TAC).

Staff identified deficiencies in the application and mapping requirements submitted by Old Tamina WSC. Specifically, the map provided does not include enough verifiable landmarks for Staff to accurately position the proposed service area. In addition, the digital data for the proposed service area overlaps with Chateau Woods MUD's and Shenandoah's sewer CCNs. Staff recommends Old Tamina WSC amend its maps as described in the attached memorandum to cure the deficiencies identified by Staff. Staff also recommends Old Tamina WSC provide a written statement clarifying whether it intends dual certification with Shenandoah for a sewer CCN or in the alternative, remove the overlapping service area.

### **III. Response to Old Tamina WSC's Motion to Sever the Application to Obtain a Sewer CCN from the Application for Dual Certification for a Water CCN**

Staff recommends severing the application to obtain a sewer CCN from the application for dual certification of a water CCN. In its application, Old Tamina WSC seeks to amend its water CCN No. 12289 for a dual certification with Shenandoah and obtain a new sewer CCN in Montgomery County. Old Tamina WSC represents that it is currently engaged in litigation with Shenandoah preventing it from continuing forward at this time with the amendment to its water CCN No. 12289 for dual certification with Shenandoah.<sup>1</sup> Old Tamina WSC requests to sever the application to obtain a sewer CCN from the dual certification application so that the application to obtain a sewer CCN may proceed.<sup>2</sup> Old Tamina WSC states that delaying the application to obtain a sewer CCN jeopardizes a United States Department of Agriculture grant and loan package.<sup>3</sup> Old Tamina WSC states that the application to obtain a sewer CCN is a complete application and can be processed in a separate docket as a standalone application.<sup>4</sup> Staff has reviewed Old Tamina WSC's motion, along with the application, and agrees that the application to obtain a sewer CCN can be processed as a separate application. Therefore, Staff recommends severing the application to obtain a sewer CCN from the application for dual certification of a water CCN and assigning the application to obtain a sewer CCN a new docket number.

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<sup>1</sup> Old Tamina Water Supply Corporation's Response to Order No. 2, Request to Sever the Application for Sewer CCN, and Request to Abate the Application for Amended Water CCN at 4-5 (April 13, 2016).

<sup>2</sup> *Id.* at 4.

<sup>3</sup> *Id.* at 5.

<sup>4</sup> *Id.*

In addition, Staff does not oppose Old Tamina WSC's motion to abate<sup>5</sup> the application to amend water CCN No. 12289 for dual certification with Shenandoah to allow for the litigation between the two parties to be resolved.

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

Due to the deficiencies in the application, Staff does not recommend a procedural schedule for the evaluation of the merits of the Application at this time. Staff recommends that Old Tamina WSC be given until **June 3, 2016** to cure deficiencies identified by Staff. Staff proposes a deadline of **June 24, 2016** for Staff to file additional comments regarding administrative completeness, along with a proposed procedural schedule if deemed administratively complete.

#### **V. Conclusion**

Staff respectfully requests the entry of an order consistent with this Response.

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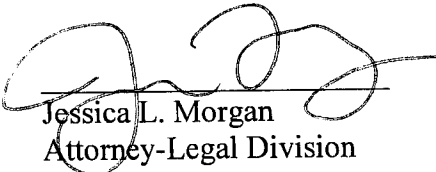
<sup>5</sup> *Id.*

**Dated: May 13, 2016**

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director  
Legal Division

Karen S. Hubbard  
Managing Attorney  
Legal Division

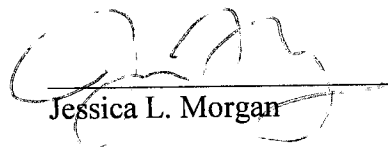


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**DOCKET NO. 45552**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this May 13, 2016 in accordance with 16 TAC § 22.74.



Jessica L. Morgan

## PUC Interoffice Memorandum

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**TO:** Jessica Morgan, Legal Division

**THRU:** Tammy Benter, Director  
Lisa Fuentes, Manager  
Water Utility Division

**FROM:** Debbie Reyes Tamayo, Program Specialist  
Andrew Novak, Financial Analyst  
Tracy Montes, GIS Specialist  
Water Utility Division

**DATE:** May 11, 2016

**SUBJECT:** **Docket No. 45552**, *Application of Old Tamina Water Supply Corporation (WSC) to Amend its Water Certificate of Convenience and Necessity for Dual Certification with the City of Shenandoah and to Obtain a Sewer CCN in Montgomery County (37615-C and 37616-C)*

On May 13, 2013, Old Tamina WSC (Applicant) filed an application with the Texas Commission on Environmental Quality (TCEQ) to amend Certificate of Convenience and Necessity (CCN) No. 12289, to obtain dual certification with a portion of CCN No. 13146 held by the City of Shenandoah, and to obtain a sewer CCN in Montgomery County, pursuant to the criteria in the Texas Water Code, Chapter 13, and the TCEQ's rules outlined in Title 30, Texas Administrative Code (TAC), Sections 291.101 – 291.107. On September 1, 2014, the rates and CCN programs were transferred from the TCEQ to the Public Utility Commission (PUC). This application was part of the transfer and is now under the PUC's purview. The application is now being reviewed pursuant to 16 TAC §§ 24.101 – 24.107.

Order No. 2 required the Applicant to cure application content and mapping deficiencies. On April 13, 2016, the Applicant filed a response to Order No. 3, supplementing the application, seeking to abate the water CCN portion of the application, and requesting to proceed with the application to obtain a sewer CCN. The Applicant is also seeking a new docket number for their sewer CCN application.

Staff has reviewed the information provided by the Applicant and recommends the application be deemed administratively incomplete and not accepted for filing due to the deficiencies detailed below.

### **Mapping Content**

The Applicant filed a metes and bounds map with a written description for the property subject to the Conroe Independent School District's (CISD) opt out request which consists of 60 acres. However, the map does not include enough verifiable man-made and/or natural landmarks of the surrounding property and Staff is unable to accurately position the CISD's property on a road map. It appears the property is to be located partially within the proposed sewer service area requested in the docket. Also, the digital data for the proposed sewer service area overlaps Chateau Woods MUD's sewer CCN No. 20937 and the City of Shenandoah's sewer CCN No. 21025. Lastly, portions of the proposed sewer service area is located within the City of Shenandoah's

extraterritorial jurisdiction (ETJ) and city limits.

Staff recommends the Applicant submit the following items to resolve mapping deficiencies:

1. A revised large scale (detailed) map showing the accurate location of the entire property subject to Conroe Independent School District's (CISD) opt out request in reference to surrounding verifiable man-made and/or natural landmarks such as roads, railroads and rivers.
2. A revised general location (small scale) map for the proposed sewer service area, which accurately removes CISD's property with enough detail to locate the proposed sewer service area within the nearest city, town or county.
3. A revised large scale map for the proposed sewer service area, which accurately removes CISD's property with enough detail to locate the proposed sewer service area in reference to verifiable man-made and natural landmarks such as roads, railroads and rivers.
4. Revised digital data in a shapefile format for the proposed sewer service area, which accurately removes the requested CISD property.
  - a. File the digital data on a CD with the projection (.prj) file used to create the shapefile.
  - b. The revised digital data filed must correspond to the same proposed sewer service area as shown on the revised small and large scale maps.
5. The revised total acreage for the proposed sewer service area after the removal of the CISD's property. The total acreage must correspond to the same acreage provided with the revised digital data for the proposed sewer service area.
6. A written statement clarifying the request for dual certification with the City of Shenandoah's sewer CCN No. 21025. If dual certification is not being requested, the Applicant must remove the portions of overlap from the proposed sewer service area shown on the revised maps and digital data.
7. File written documentation from the City of Shenandoah allowing the Applicant to provide retail sewer service within a portion of their ETJ and corporate boundaries.

TB/LF/DRT/TM