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DOCKET NO. 45988

**APPLICATION OF OLD TAMINA
WATER SUPPLY CORPORATION TO
OBTAIN A SEWER CERTIFICATE OF
CONVENIENCE AND NECESSITY IN
MONTGOMERY COUNTY (37616-C)**

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**PUBLIC UTILITY
COMMISSION
OF TEXAS**

**OLD TAMINA WATER SUPPLY CORPORATION'S STATUS REPORT AND
RESPONSE TO MOTION TO DISMISS**

NOW COMES Old Tamina Water Supply Corporation and hereby files this Response to Order No. 32 Setting Deadline to Respond to Motion to Dismiss.

I. Background

On October 27, 2021, Old Tamina Water Supply Corporation ("Old Tamina") filed a Status Report stating that it was continuing to work on its plan to acquire and operate its own onsite package sewage treatment plant and that the 2.2 million dollar USDA grant and loan package awarded to Tamina to finance its project to install a sanitary sewer system in the Community of Tamina remained obligated. The Status Report also stated that Old Tamina was continuing to work on its application for a permit from TCEQ, but simultaneously Old Tamina was engaged in talks with multiple local government officials regarding a new opportunity to finance Old Tamina's sewer project completely with grants and no loans. The Status Report further stated that a meeting with these local government officials was scheduled to take place on November 16, 2021 to further discuss the opportunity.

On August 4, 2022, the Administrative Law Judge ("ALJ") filed Order No. 32 Setting Deadline to Respond to Motion to Dismiss. The ALJ suggested that the appropriate avenue forward

45988 Old Tamina Water Supply Corporation's Status Report and Response to Motion to Dismiss

is to dismiss the current proceeding and for Old Tamina to file a new application in a new docket when Tamina is ready to seek Commission approval.

II. Status Report

Old Tamina has continued to work on its plan to acquire and operate its own onsite package sewage treatment plant. The 2.2 million dollar USDA grant and loan package for financing Old Tamina's sewer project remains obligated. The meeting that was scheduled to take place on November 16, 2021, was rescheduled to November 30, 2021, and included the Montgomery County Judge, the County Commissioner representing Old Tamina's precinct, the mayor of the City of Shenandoah, multiple staff members from the governmental units, and officers and board members of Old Tamina. A plan was presented that would use a federal grant to pay in full for the installation of a sewer system in the Community of Tamina and to upgrade and replace the water system that Old Tamina installed and currently operates. Under this plan the new infrastructure would be paid for in full by grant money and Tamina would incur no debt, in contrast to the loan portion of the USDA financing package, which would have to be paid back via amortization, resulting in higher costs for the residents of the Community of Tamina. A major component of this plan is that it would require, based on the rules associated with the federal grant, that the residents of the Community of Tamina create a Municipal Utility District ("MUD"). From this meeting, Old Tamina began working towards developing this new opportunity that would be better for its members. However, Old Tamina had to keep open the prior plan of financing installation of its own onsite package plant using the USDA funds that continued to be obligated to it in the event that the new plan did not come to fruition.

On May 11, 2022, the parties met again, to share progress on their internal work toward the proposed project and to discuss the next steps to move forward. As a result of additional

information that was presented in this meeting, a variation of the plan emerged that would obviate the need for the MUD. Old Tamina then took the new variation of the plan back to its community members and circulated a petition to confirm buy-in from the community. Delivery of the petition had been requested by the County and the City. In July, Old Tamina delivered to the County and the City a petition signed by the overwhelming majority of its members endorsing going forward with the plan.

On August 11, 2022, the parties met again to work on next steps. A timetable was established for Letters of Intent and Agreements to be negotiated and drafted among Montgomery County, the City of Shenandoah, and Old Tamina; and for the parties to get official approval from their respective commissioner's court, city council, and board of directors. As of the date of this Status Report, the necessary parties are currently negotiating Letter(s) of Intent.

Because of the commitment of time and resources necessary to urgently develop the new proposal brought by the government entities, Old Tamina's progress on its plan to acquire its own treatment plant is temporarily on hold. However, Old Tamina and the members of the Community of Tamina remain committed to its plan to develop its own treatment plant financed by the obligated USDA funds if, unfortunately, the local governments with which Old Tamina is once again attempting to coordinate efforts prove themselves unreliable.

III. Response to Motion to Dismiss

In Order No. 32 Setting Deadline to Respond to Motion to Dismiss, the ALJ cited that Old Tamina failed to file a status report in response to Order No. 31. Old Tamina responds by providing the above Status Report which demonstrates that Old Tamina has been actively working toward its project to bring long-overdue sanitary sewer service to the Community of Tamina; just as it was Old Tamina, a non-profit, community member-owned water supply company that first

delivered running water to The Community of Tamina after decades of failure and neglect by the other entities in the region. The omission of the Status Update responsive to Order No. 31 was not intentional, but resulted from the uncertainty created by a promising, developing, but indefinite plan, and the initial request from some of the entities involved that the plan not be publicly divulged prematurely. Further, Old Tamina's counsel inadvertently set the wrong date on counsel's calendar for the next Status Update after moving the prior scheduled date in order to wait for more concrete information related to the new opportunity to collaborate with the local governments.

The ALJ cites that the complexity of the procedural history of this proceeding suggests that it would be appropriate to dismiss this proceeding and start over later. Old Tamina responds that the procedural history of this proceeding demonstrates that it would be a great hardship for Old Tamina to start over with a new application. The procedural history shows that Old Tamina successfully completed its application and its Sewer CCN was granted by the Commission. (Docket Item No. 66, Notice of Approval). However, because the City of Shenandoah chose not to honor a SOAH mediated settlement agreement in which the City agreed to be Old Tamina's wholesale wastewater provider, Old Tamina had to file a Request for Rehearing and the Commission rescinded the Notice of Approval (Docket Item No. 70, Notice of Rehearing). Old Tamina Water Supply Corporation is a non-profit, community member-owned entity that serves an underserved, low-income community whose homes operate on antiquated, leaking, environmentally-hazardous septic tanks. The cost of Old Tamina's more than decade-long effort to bring a modern sewer system to its community, despite a lack of cooperation, and, in some instances, outright opposition from its neighbors has been very costly for the small non-profit water supply corporation. A great deal of cost, as well as a great deal of time and effort has already been sunk into the application currently pending in this docket. Still more cost, time, and effort has

been sunk into the application that resulted in the grant and loan award from the USDA, and the post-award requirements that are still in progress to have the funds released. To have to start over again with its sewer CCN application with the Commission and repeat the efforts already completed would be nearly impossible for Old Tamina and the people of the Community of Tamina because of the costs involved and their lack of resources. Further, dismissal by the Commission could cause the de-obligation of the USDA funds which would be disastrous for the residents of the Community of Tamina if the new opportunity is not realized.

Given the forward momentum of the new opportunity afforded by use of federal grant money to pay for the Tamina sewer system in full, as well as replace and upgrade the existing water system via a cooperative effort of Montgomery County, the City of Shenandoah, and Old Tamina, Old Tamina responds that it would be counterproductive to the interests of the State, the Commission, and the citizens of the Community of Tamina to dismiss this application. Old Tamina offers that a more appropriate course of action would be to abate the proceedings on the application. This would allow Old Tamina time to complete the agreements it is currently negotiating with the County and the City. This would make it clear whether Old Tamina must continue with the effort to acquire its own treatment plant or if the more environmentally sustainable solution of having a preexisting plant in the area provide wastewater treatment will come to fruition.

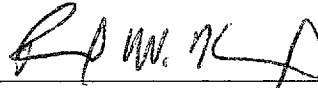
WHEREFORE, PREMISES CONSIDERED, Old Tamina respectfully submits this Status Report and Response to Motion to Dismiss.

Respectfully submitted,

OLD TAMINA WATER SUPPLY CORPORATION

RAMOND W. HOWARD, P.C.

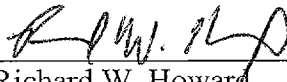
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A handwritten signature in black ink, appearing to read 'R.W. Howard', is positioned above a horizontal line.

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of this document will be served on all parties of record in this proceeding on August 24, 2022, in accordance with 16 TAC § 22.74.



Richard W. Howard