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DOCKET NO. 45988

APPLICATION OF OLD TAMINA	§	
WATER SUPPLY CORPORATION TO	§	PUBLIC UTILITY
OBTAIN A SEWER CERTIFICATE OF	§	COMMISSION
CONVENIENCE AND NECESSITY IN	§	OF TEXAS
MONTGOMERY COUNTY (37616-C)	§	

**OLD TAMINA WATER SUPPLY CORPORATION'S
RESPONSE TO ORDER 34 REQUIRING STATUS REPORTS
AND MOTION TO DISMISS**

NOW COMES Old Tamina Water Supply Corporation and hereby files this Response to Order No. 34 Requiring Status Reports

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 no loans.

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 was 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.

On August 24, 2022, Old Tamina filed a Status Report and Response to Motion to Dismiss. Old Tamina provided a detailed update of its ongoing work with local officials to complete the agreements with local government officials necessary to allow the new federal grant funds to finance Old Tamina's sewer project. Additionally, Old Tamina requested that the proceeding in this docket be abated until the agreements could be completed.

On August 26, 2022 The ALJ issued Order No. 33 which withdrew the Motion to Dismiss, granted the request to abate, and required Old Tamina and Commission Staff to file status reports.

On February 9, 2023, The ALJ issued Order No. 34 Requiring Status Reports. The Order indicated that Old Tamina had missed a status report filing deadline on November 28, 2022 and that the next status report would be due on February 27, 2023.

II. Status Report

On December 5, 2022, an Agreement for the Construction of Water and Wastewater Treatment Facilities and Sale of Certificate of Convenience and Necessity was fully executed by Old Tamina and the City of Shenandoah ("Shenandoah"). The agreement between Old Tamina and Shenandoah provides that Shenandoah will provide engineering and construction services to build a sanitary sewer system to serve all of the existing water customers of Old Tamina and replace the existing water service infrastructure that was installed by Old Tamina several decades ago with new water service infrastructure. The agreement further provides that Old Tamina will sell its Water CCN to Shenandoah and that upon completion of construction, Shenandoah will become retail water and sewer service provider to the residents of The Community of Tamina. The agreement was contingent on Montgomery County (the "County") approving the use of at least \$21,000,000 of the federal funds the county received via the American Rescue Plan Act ("ARPA")

to pay for Shenandoah's engineering and construction services.

On December 20, 2022, the County approved and executed the Interlocal Agreement between Montgomery County, Texas and City of Shenandoah, Texas (Regarding Tamina Water and Sewer Services). The agreement approved the use of \$21,000,000 of the ARPA funds given to the County by the federal government to finance the engineering and construction services performed by City of Shenandoah.

The agreement between Old Tamina and Shenandoah provided that Shenandoah must file an application for Sale, Transfer, or Merger of the water CCN owned by Old Tamina, and that Old Tamina will cooperate with completion of the application. As of today's date, Shenandoah reports that it is working on the application but has not yet submitted it to PUC.

USDA has knowledge that the ARPA grant funds will be used to finance Old Tamina's sewer project and has now de-obligated the loan and grant funds it had previously approved for Old Tamina.

Old Tamina is now waiting for Shenandoah to file its application for Sale, Transfer, or Merger with PUC, complete the construction of the new water and sewer infrastructure throughout the Community of Tamina, pay the contracted purchase price for Old Tamina's water CCN, and provide retail water and sewer service throughout the Community of Tamina, as per the executed agreements.

III. Motion to Dismiss

As stated in the Status Report above, Old Tamina has secured executed agreements with Shenandoah and Montgomery County to facilitate the use of federal ARPA grant funds provided to the County to finance the construction of new sewer and water facilities in the Community of Tamina. The use of the ARPA grant funds instead of the USDA loan and grant package will result

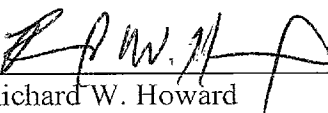
in lower utility bills for residents of the Community of Tamina. Under the agreements, Shenandoah will become the retail water and sewer service provider, and Old Tamina will sell its water CCN to Shenandoah. Old Tamina no longer has reason to acquire and operate its own onsite package sewage treatment plant, and USDA has de-obligated the funds that would finance the plant. If, however, Shenandoah and/or the County should fail to fulfill their duties under the agreements, Old Tamina will have need to refile its application for sewer CCN. Therefore, there is good cause for Old Tamina to move for dismissal of this proceeding without prejudice.

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

Respectfully submitted,

OLD TAMINA WATER SUPPLY CORPORATION

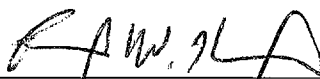
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CERTIFICATE OF SERVICE

I certify that a true and correct copy of this document will be served on all parties of record in this proceeding on February 27, 2023, in accordance with 16 TAC § 22.74.



Richard W. Howard