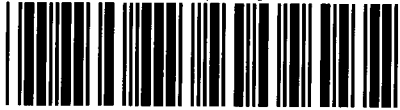




Control Number: 46077



Item Number: 24

Addendum StartPage: 0

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<p>APPLICATION OF BRUSHY CREEK MUNICIPAL UTILITY DISTRICT AND AQUA TEXAS, INC. FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN WILLIAMSON COUNTY</p>	<p>§ § § § § §</p>	<p>PUBLIC UTILITY COMMISSION OF TEXAS</p>	<p>2016 OCT 28 PM 2:00 PUBLIC UTILITY COMMISSION FILING CLERK</p>
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COMMISSION STAFF'S RECOMMENDATION REGARDING NOTICE SUFFICIENCY

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this response to Order No. 6, Staff's Recommendation Regarding Notice Sufficiency. In support thereof, Staff would show the following:

I. BACKGROUND

On June 17, 2016, Brushy Creek Municipal Utility District (Brushy Creek MUD) and Aqua Texas, Inc. (Aqua) (collectively, Applicants) filed an application with the Public Utility Commission of Texas (Commission) for sale, transfer, or merger (STM) of facilities and certificate rights in Williamson County. Aqua seeks approval to acquire a portion of the water assets and certificate rights of Brushy Creek MUD's CCN No. 11773. These include the transfer of water assets serving the Brushy Bend Park Subdivision and the creation of a new water CCN to encompass the service area being transferred. The Applicants concurrently seek cancellation of that portion of CCN No. 11773 covering the transferred service area. Brushy Creek MUD will continue to own and service the remainder of water CCN No. 11773 following the completion of this Application.

On September 26, 2016, the Commission administrative law judge (ALJ) issued Order No. 6, deeming the application administratively complete, requiring the Applicants to issue notice, and requiring Staff to file a recommendation regarding the sufficiency of that notice within 10 days of the Applicants' filing. The Applicants filed proof of notice on October 19, 2016. Ten days from October 19, 2016 is October 28, 2016. Therefore, this pleading is timely filed.

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II. NOTICE SUFFICIENCY RECOMMENDATION

As indicated in the attached memorandum of Emily Sears, Séan Scaff, and Kristy Nguyen of the Water Utilities Division, Staff reviewed the notice materials filed by the Applicants on October 19, 2016 and recommends that the Applicants' notice be found sufficient.

III. COMMENTS ON INTERVENOR

On October 18, 2016, John Joyal filed a request for a public hearing in this matter. Mr. Joyal describes himself as a "Home Owner" in Round Rock, Texas and appears to be a current customer of Brushy Creek MUD.

IV. PROPOSED ADDITIONAL PROCEDURAL SCHEDULE

Following the filing of proof of notice by the Applicants, Staff proposes further procedural schedule deadlines in the table below. Because the deadline for motions to intervene and the statutory 120-day STM deadline are determined from the last date that the Applicants mailed the required notice, the finalized dates for those deadlines are included below as well.

Event:	Date:
Notice completed	October 6, 2016 ¹
Deadline to Intervene; deadline for intervenors to file comments or to request a hearing on the merits	November 7, 2016 ²
Deadline for Staff to file a recommendation on approval of the sale and CCN amendment or to request a hearing	December 9, 2016
Deadline for parties to file a response to Staff's recommendation	December 23, 2016

¹ See Applicants' Affidavit of Notice to Current Customers, Neighboring Systems, and Cities (Oct. 19, 2016).

² Thirty days from the last date of the mailing of notice on October 6, 2016 is November 5, 2016. However, because that is a Saturday when the Commission will not be open for business, November 7, 2016 is the next day that the Commission will be open. Therefore, pursuant to 16 Tex. Admin. Code § 22.4(a) (TAC), the thirty day period prescribed by 16 TAC § 24.106(a)(3) will conclude on the next day the Commission is open for business, November 7, 2016.

Expiration of 120-day deadline for Commission action on STM ³	February 3, 2017 ⁴
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V. CONCLUSION

For the reasons stated above, Staff respectfully recommends that the Applicants' filed notice and affidavits be deemed sufficient and that the additional procedural schedule deadlines be adopted.


Dated: October 28, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Katherine Lengieza Gross
Managing Attorney



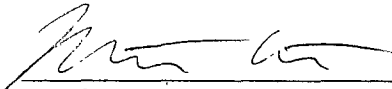
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³ See 16 TAC § 24.109(e) (TAC).

⁴ Pursuant to 16 TAC § 24.109(a), the 120-day period begins on the last date of whichever of the following events occurs: (1) the date the applicant files the application, (2) if mailed notice is required, the last date that the applicant mailed notice; or (3) if newspaper notice is required, the last date of publication. Because newspaper notice was not required, the latest date is the last date that notice was mailed, October 6, 2016. 120 days from October 6, 2016 is February 3, 2017.

DOCKET NO. 46077
CERTIFICATE OF SERVICE

I, Matthew Arth, Attorney in the Legal Division of the Public Utility Commission of Texas, certify that a copy of this document was served on all parties of record in this proceeding on October 28, 2016 in accordance with the requirements of 16 TAC § 22.74.



Matthew A. Arth

Public Utility Commission of Texas

Memorandum

To: Matthew Arth, Attorney
Legal Division

Through: Tammy Benter, Director
Water Utilities Division

From: Emily Sears, Financial Analyst
Sean Scaff, Engineering Specialist
Kristy Nguyen, GIS Specialist
Water Utilities Division

Date: October 21, 2016

Subject: *Docket No. 46077; Application of Brushy Creek Municipal Utility District and Aqua Texas, Inc. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Williamson County*

Background

On June 17, 2016, Aqua Texas, Inc. (Aqua or Purchaser) filed an application to purchase facilities and transfer a portion of the Certificate of Convenience and Necessity (CCN) No. 11773 of Brushy Creek Municipal Utility District (Brushy Creek or Seller) (collectively, Applicants), in Williamson County, Texas. The Application was filed pursuant to Section 13.251 of the Tex. Water Code (TWC), and Title 16, Chapter 24 of the Tex. Admin. Code (TAC).

The application was accepted for filing on September 26, 2016. Proper notice was provided on October 5th and 6th, 2016, to current customers, neighboring systems, and cities in Williamson County in accordance with 16 TAC § 24.112(c). The affidavit of notice was received by the Commission on October 19, 2016. The comment period ends on November 7, 2016. Staff has reviewed the notice documents and finds them sufficient.