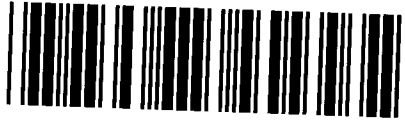


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APPLICATION OF BRUSHY CREEK MUNICIPAL UTILITY DISTRICT AND AQUA TEXAS, INC. FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN WILLIAMSON COUNTY	§ § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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**COMMISSION STAFF'S ADMINISTRATIVE COMPLETENESS
RECOMMENDATION**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this response to Order No. 1, Staff's Administrative Completeness Recommendation. In support, thereof, Staff shows 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 (the Application) with the Public Utility Commission of Texas (Commission) for sale, transfer, or merger 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 June 22, 2016, the Commission Administrative Law Judge (ALJ) issued Order No. 1, requiring Staff to file its recommendation regarding the administrative completeness of the Application by July 15, 2016. Therefore, this pleading is timely filed.

II. DEFICIENCY RECOMMENDATION

As indicated in the attached memorandum of Emily Sears and Kristy Nguyen of the Water Utilities Division, Staff reviewed the materials submitted by the Applicants and determined that the Application is not sufficient. First, in response to question five of the

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Application, the Applicants stated, “All deposits held by Brushy Creek MUD, if any, will be refunded prior to closing. Applicants request a waiver of production for this item.”¹ Staff recommends that the ALJ deny this request for a waiver because the Applicants have not given any reason to support their request and Staff can identify no reason on its face to grant it. Staff recommends that the Applicants supply the list of customers affected by the transaction who have deposits held by Brushy Creek MUD, along with the related required information. Second, in response to Part B of Question 11, Aqua requested a waiver of the requirement to supply correspondence with the agencies with which it has had enforcement actions.² Staff recommends that the ALJ deny such a waiver because the information required is limited to Aqua’s CCN No. 11157 and therefore not so voluminous as to encompass every violation that Aqua has ever been involved with. Staff recommends that Aqua supply a description of any enforcement actions and efforts to comply with them, as well as any correspondence with the listed agencies in regards to such enforcement actions, for only Aqua’s CCN No. 11157. Finally, Staff recommends that the Applicants be ordered to supply the projected losses from the acquired system for the five years following a successful acquisition. For these reasons, Staff recommends that the Application be found administratively incomplete at this time and that the Applicants be ordered to address these deficiencies.

III. 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 the Applicants be given until July 29, 2016 to cure the identified deficiencies in the Application.

Furthermore, pursuant to 16 TAC § 24.8(d), an application is not considered filed until the Commission makes a determination of administrative completeness. If the ALJ agrees with Staff’s deficiency recommendation, then the Application is not administratively complete and therefore the Application is not considered filed.

¹ Application at 3 (June 17, 2016).

² *Id.* at 5.

IV. CONCLUSION

For the reasons stated above, Staff respectfully recommends that the Application be found insufficient and that the Applicants be ordered to file a supplement addressing the deficiencies identified by July 29, 2016.

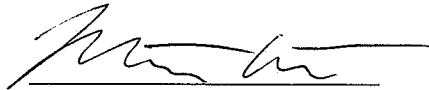
Dated: July 15, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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Division Director

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**DOCKET NO. 46077
CERTIFICATE OF SERVICE**

I, Matthew Arth, Attorney – 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 July 15, 2016 in the following manner: via facsimile.



Matthew 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
Kristy Nguyen, GIS Specialist
Water Utilities Division

Date: July 12, 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).

Order No. 1 requested that Staff provide a recommendation regarding the administrative completeness of this application by July 15, 2016. After reviewing the application, Staff has determined that the Applicant provided adequate maps that meet PUC's mapping requirements. However, Staff recommends the application be deemed administratively incomplete and not accepted for filing due to the deficiencies detailed below.

Application Content

In order to continue processing the application, the applicant must provide the following information:

1. A response to Part B, Question 5, regarding deposits, including all information that the question requests be included;
2. A response to Part B, Question 11, for Aqua's CCN No. 11157 only; and
3. Any projected losses from the acquired system in the first 5 years.