

Control Number: 46782



Item Number: 18

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DOCKET NO. 46782
SOAH DOCKET NO. 473-17-4909.WS

RECEIVED

**APPLICATION OF KAMIRA
PROPERTY OWNERS
ASSOCIATION, INC. DBA KAMIRA
WATER SYSTEM TO AMEND A
CERTIFICATE OF CONVENIENCE
AND NECESSITY IN KERR
COUNTY**

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PUBLIC UTILITY COMMISSION PM 2:36

OF TEXAS

PUBLIC UTILITY COMMISSION
FILING CLERK

COMMISSION STAFF'S LIST OF ISSUES

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this List of Issues. In support thereof, Staff shows the following:

I. BACKGROUND

On January 19, 2017, Kamira Property Owners Association, Inc. dba Kamira Water System (Kamira) filed an application to amend and decertify a portion of its water certificate of convenience and necessity (CCN) No. 12176 in Kerr County. On June 14, 2017, James F. Weathersbee and Cindy L. Dix filed a request for a hearing in this docket.

On June 26, 2017, an Order of Referral was issued referring this matter to the State Office of Administrative Hearings (SOAH) for a hearing. The Order of Referral allows Staff to file a list of issues to be addressed in this docket by July 11, 2017. This pleading is therefore timely filed.

II. LIST OF ISSUES

Staff asserts that this proceeding is unique in that it is a voluntary relinquishment by a utility of only a portion of its CCN service area.¹ While the area will be decertified from Kamira's CCN No. 12176, this proceeding is not a cancellation of the CCN as a whole, and does not appear to meet any of the circumstances for revocation or amendment under 16 TAC § 24.113(i). This application also does not include an agreement with another provider for the provision of service

¹ Application at 1 ("The CCN area on the west side of RR 783 is very thinly populated and lends itself to a non-PWS status, which will be achieved with approval of this application. We would then manage the Box S area as a separate entity.").

to the area proposed to be decertified. Accordingly, Staff recommends that the Commission adopt the following issues to be addressed:

1. Has Kamira given notice consistent with Texas Water Code § 13.246 (TWC) and 16 Tex. Admin. Code § 24.106 (TAC)?
2. Is the requested water CCN amendment necessary for the service, accommodation, convenience, or safety of the public? TWC § 13.246(b) and 16 TAC § 24.102(c).
3. Does the balance of factors under TWC § 13.246(c) and 16 TAC § 24.102(d) weigh in favor of granting the requested water CCN amendment? In answering this issue, please address the following sub-issues:
 - a. Is the proposed water service area currently receiving adequate water service? TWC § 13.246(c)(1) and 16 TAC § 24.102(d)(1).
 - b. What is the effect, under TWC § 13.246(c)(3) and 16 TAC § 24.102(d)(3) of granting the requested water CCN amendment on:
 - i. Kamira,
 - ii. Landowners in the proposed service areas, and
 - iii. Any retail public utility of the same kind as Kamira that is already serving in the area proximate to the proposed service area?
 - c. How would environmental integrity be affected, if at all, by granting the requested water CCN amendment? TWC § 13.246(c)(7) and 16 TAC § 24.102(d)(7).
 - d. Is it probable that water service would be improved or costs to consumers in that service area would be lowered by granted the requested CCN amendment? TWC § 13.246(c)(8) and 16 TAC § 24.102(d)(8).
 - e. How would the land in the proposed service area be affected, if at all, by granting the requested CCN amendment? TWC § 13.246(c)(9) and 16 TAC § 24.102(d)(9).
4. Is it appropriate for a CCN holder to decertify a portion of its CCN area before the new proposed provider obtains a CCN or registers as an exempt utility? 16 TAC § 24.102 and 16 TAC § 24.103.
5. Does Bracero Water Supply Corporation (Bracero WSC) hold a CCN? TWC § 13.246 and 16 TAC § 24.101(a).
6. Is Bracero WSC registered as an exempt utility? 16 TAC § 24.103(e).
7. Is Bracero WSC eligible to be registered as an exempt utility? In answering this issue, please address the following sub-issues:

- a. Does the area to be served contain less than 15 potential service connections? 16 TAC § 24.103(e)(1)(A).
 - b. Is Bracero WSC owned by or affiliated with a retail public water utility, or any other entity, that provides potable water service? 16 TAC § 24.103(e)(1)(B).
 - c. Is Bracero WSC located within the certificated service area of another retail public water utility? 16 TAC § 24.103(e)(1)(C).
 - d. Is Bracero WSC within the corporate boundaries of a district or municipality? If so, has it received written authorization from the district or municipality? 16 TAC § 24.103(e)(1)(D).
8. If Bracero WSC is unable or unwilling to provide service to the decertified area, will Kamira provide service to the decertified area? TWC §§ 13.242 13.246(b) and 16 TAC §§ 24.101, 24.102(c).
 9. Has Kamira complied with the requirements of 16 TAC § 24.114 in order to abandon a certificated service area? 16 TAC § 24.88(d).

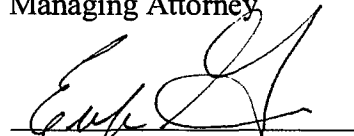
Dated: July 11, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Karen S. Hubbard
Managing Attorney

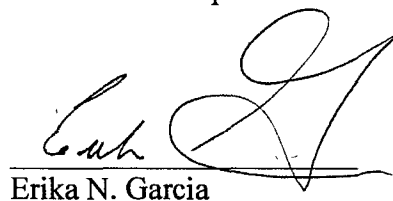


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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on July 11, 2017 in accordance with 16 TAC § 22.74.



Erika N. Garcia