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DOCKET NO. 46782

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

OF TEXAS

**COMMISSION STAFF'S SUFFICIENCY RECOMMENDATION ON APPLICATION
FOR SALE, TRANSFER, MERGER**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Commission Staff's Sufficiency Recommendation on Application for Sale, Transfer, Merger. 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 August 31, 2017, the Commission issued a Preliminary Order on Threshold Issues. On September 7, 2017, State Office of Administrative Hearings (SOAH) Order No. 3 was entered, dismissing this matter from the SOAH docket and remanding it to the Commission for further processing. On October 3, 2017, Order No. 6 was entered, requiring Kamira to file a sufficient, completed application for sale, transfer, merger (STM application) by November 1, 2017. On October 3, 2017, Kamira filed an STM application. Order No. 6 also required Staff to file a sufficiency recommendation on Kamira's STM application by December 11, 2017. Therefore, this pleading is timely filed.

II. SUFFICIENCY OF APPLICATION

In its STM application, Kamira proposes to transfer certain facilities to the newly formed Bracero Water Supply Corporation (Bracero WSC). Under Tex. Water Code § 13.242(a) (TWC) and 16 Tex. Admin. Code § 24.101 (TAC), a water supply corporation is required to obtain a CCN prior to providing retail water service to the public. Bracero WSC does not possess a CCN, and

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Kamira's STM application indicates that Bracero WSC will not be acquiring a CCN.¹ As further detailed in the attached memorandum of Elisabeth English of the Water Utilities Division, Bracero WSC may be able to render retail water service without a CCN if it obtains exempt utility registration status.² However, at this time, Bracero WSC is not an exempt utility. Staff cannot continue to evaluate Kamira and Bracero WSC's STM application until Bracero WSC either obtains a CCN or exempt utility registration status. Therefore, Staff recommends that Bracero WSC either 1) file an application for exempt utility registration status in a separate docket; or 2) amend this STM application to include a request for a CCN. If Bracero WSC files an application for exempt utility registration status, Staff further recommends that this docket be abated pending the outcome of that matter.

For the above stated reasons, Staff is not able to fully comment on the sufficiency of the STM application at this time.

III. CONCLUSION

Staff respectfully requests the entry of an order consistent with the above recommendations.

¹ STM Application at 8 of 30 (Oct. 3, 2017) (answer to question 11 B).

² See 16 TAC § 24.103(e).

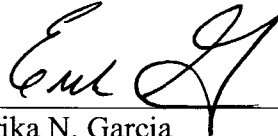
Dated: December 11, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Karen S. Hubbard
Managing Attorney

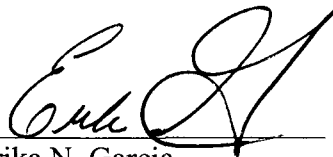


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CERTIFICATE OF SERVICE

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



Erika N. Garcia

PUC Interoffice Memorandum

To: Erika Garcia, Attorney
Legal Division

Thru: Tammy Benter, Director
Lisa Fuentes, Manager
Water Utilities Division

From: Elisabeth English, Engineering Specialist
Water Utilities Division

Date: December 11, 2017

Subject: **Docket No. 46782**, *Application of Kamira Property Owners Association DBA Kamira Water System to Amend a Certificate of Convenience and Necessity in Kerr County*

On January 19, 2017, Kamira Property Owners Association Inc. dba Kamira Water System (Kamira or Applicant) filed an application with the Public Utility Commission of Texas (Commission) to amend and decertify a portion its water Certificate of Convenience and Necessity (CCN) No. 12176 in Kerr County. The total area being requested to be decertified includes approximately 350 acres and 20 current customers. This application is being reviewed pursuant to the criteria in the Texas Water Code, Chapter 13 (TWC) and under 16 Tex. Admin Code (TAC). On August 31, 2017, the Commission issued a Preliminary Order on Threshold Issues, finding that TWC § 13.301 applies to the transaction proposed in this proceeding and requiring Kamira to file a sufficient, completed form for an application for sale, transfer, or merger (STM). On October 3, 2017, the Applicant supplemented the application with the required STM form.

In its application, Kamira proposes to transfer certain facilities to Bracero Water Supply Corporation (Bracero WSC). Under TWC § 13.242(a) a WSC is required to obtain a CCN in order to operate as a retail public utility. Kamira has indicated that Bracero WSC will operate without a CCN (Question 11(b) of STM application). Under TWC § 13.242(c) and TAC § 24.103(e) a WSC may be able to render retail water service (as an exempt utility) without a CCN if certain criteria is met. However, Bracero WSC has not requested registration status as an exempt utility and is therefore required to obtain a CCN to operate as a retail public utility.

Staff cannot continue to evaluate Kamira and Bracero WSC's application until Bracero WSC either requests to obtain a CCN or seeks exempt utility registration status. Therefore, Staff recommends that Bracero WSC:

1. File an application for exempt utility registration status in a separate docket; or,
2. amend the STM application to request a CCN for Bracero WSC.