

Control Number: 47178



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<b>APPLICATION OF RICHARD SULLIVAN AND MICHAEL &amp; HEIDI FENSTERBUSH FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN LUBBOCK COUNTY (VALLEY ESTATES)</b>	§ § § § § §	<b>PUBLIC UTILITY COMMISSION  OF TEXAS</b>
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**COMMISSION STAFF'S NOTICE SUFFICIENCY RECOMMENDATION**

**COMES NOW** the Commission Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this response to Order No. 3, Staff's Notice Sufficiency Recommendation. Staff recommends that the notice be found sufficient. In support thereof, Staff shows the following:

**I. BACKGROUND**

On May 17, 2017, Richard Sullivan d/b/a Country View Water System (Seller) and Michael and Heidi Fensterbush (Purchasers) (collectively, Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Lubbock County, Texas pursuant to Tex. Water Code § 13.301 (TWC) and 16 Tex. Admin. Code §§ 24.109 & 24.112 (TAC). Specifically, Purchasers seek approval to acquire all water system assets and the associated service area currently held by Seller under water certificate of convenience and necessity (CCN) No. 12490. The total area being requested is approximately 45 acres with 35 affected customers.

On August 14, 2017, the Commission administrative law judge (ALJ) issued Order No. 3, finding the application administratively complete and requiring the Applicants to issue notice. The Applicants filed proof of notice on September 13, 2017. Order No. 3 also required Staff to file a recommendation on notice sufficiency by September 22, 2017. Therefore, this pleading is timely filed.

**II. NOTICE SUFFICIENCY RECOMMENDATION**

Staff has reviewed the Applicants' proof of notice filed on September 13, 2017. The proof of notice included a notarized affidavit attesting to the provision of notice, a copy of the

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notice issued, and a list of the entities to whom notice was issued.<sup>1</sup> Accordingly, Staff recommends that the Applicants' notice be found sufficient.

### **III. PROPOSED ADDITIONAL PROCEDURAL SCHEDULE**

In accordance with Staff's notice sufficiency recommendation, Staff proposes the following procedural schedule:

<b>Event</b>	<b>Date</b>
Notice completed	August 17, 2017
Deadline for intervention <sup>2</sup>	September 18, 2017
Deadline for Staff to request a hearing or file a recommendation on the approval of the sale and on the CCN amendment	October 18, 2017
Deadline for parties to file a response to Staff's recommendation	November 1, 2017
120 day deadline for the Commission to approve the sale or require a hearing <sup>3</sup>	December 15, 2017

### **IV. CONCLUSION**

For the reasons stated above, Staff respectfully recommends that the Applicants' notice be found sufficient and that the above proposed additional procedural schedule be adopted.

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<sup>1</sup> See Applicants' Proof of Notice (Sept. 13, 2017).

<sup>2</sup> Pursuant to 16 Tex. Admin. Code § 24.109(b) (TAC), the intervention period shall not be less than 30 days unless for good cause shown. Notice was mailed on August 17, 2017. Thirty days after August 17, 2017 is Saturday, September 16, 2017. Pursuant to 16 TAC § 22.4(a), a period that would conclude on a day which the Commission is not open for business shall conclude on the next day that the Commission is open for business. Because September 16, 2017 is a day when the Commission is not open for business, the next business day is Monday, September 18, 2017.

<sup>3</sup> Pursuant to 16 TAC § 24.109(a), the deadline for Commission action is 120 days after the later of either when the application is filed, when notice was mailed, or when notice is published. One hundred and twenty days after August 17, 2017 is December 15, 2017.

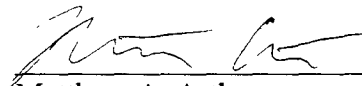
Dated: September 21, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Katherine Lengieza Gross  
Managing Attorney

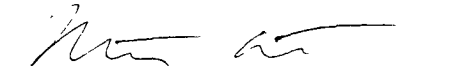


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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record September 21, 2017 in accordance with 16 Tex. Admin. Code § 22.74.



Matthew A. Arth