



Control Number: 47178



Item Number: 5

Addendum StartPage: 0

RECEIVED

APPLICATION OF RICHARD SULLIVAN AND MICHAEL & HEIDI FENSTERBUSH FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN LUBBOCK COUNTY (VALLEY ESTATES)	§ § § § § §	<div style="text-align: right;">2017 JUN 16 AM 11:46</div> PUBLIC UTILITY COMMISSION PUBLIC UTILITY COMMISSION FILING CLERK OF TEXAS
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COMMISSION STAFF'S FIRST ADMINISTRATIVE COMPLETENESS 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. 1, Staff's First Administrative Completeness Recommendation. Staff recommends that the application be found deficient. In support thereof, Staff shows the following:

I. BACKGROUND

On May 17, 2017, Richard Sullivan (Seller) and Michael & Heidi Fensterbush (Purchaser) (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-.242 (TWC) and 16 Tex. Admin. Code §§ 24.109-.112 (TAC). Specifically, Purchaser seeks 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 15 acres with 35 affected customers.

On May 25, 2017, the Commission administrative law judge (ALJ) issued Order No. 1, requiring Staff to file a recommendation on the administrative completeness of the application, whether additional notice may be required, and to propose a procedural schedule by June 16, 2017. Therefore, this pleading is timely filed.

II. APPLICATION DEFICIENCY RECOMMENDATION

As detailed in the attached memorandum of Greg Charles of the Water Utilities Division, Staff has reviewed the application and recommends that it be found deficient. The Applicants must provide: (1) completed historical and projected financial statements, (2) a completed annual report for Valley Estates Water Service from the 2016 fiscal year, (3) tax returns for both the purchaser and the seller, (4) a copy of the tariff for CCN No. 12490, (5) a copy of the latest

Texas Commission on Environmental Quality (TCEQ) inspection letters for Public Water System No. 1520198 indicating that outstanding violations have been or are being addressed, (6) a copy of the written agreement between the seller and purchaser for the water system, (7) confirmation of the date of the system's last inspection, and (8) a signed and notarized seller oath from page 18 of the application. Staff recommends that the Applicants be given a deadline of July 14, 2017 by which to file a supplement addressing these issues. Staff further respectfully requests that it be given until August 11, 2017 to review the Applicants supplement for sufficiency.

III. NOTICE SUFFICIENCY RECOMMENDATION

Pursuant to 16 TAC § 24.109, Staff has reviewed the Applicants' proposed notice attached to their application and recommends that no notice in addition to that proposed be required. Staff notes that when notice is sent, the mailed notice should include the actual date that it was sent and the docket number of this proceeding. However, Staff recommends that the Applicants not mail this proposed notice until such time as the application is found sufficient by order of the ALJ.

IV. PROCEDURAL SCHEDULE

In accordance with Staff's deficiency recommendation, Staff does not propose a procedural schedule for further processing of this docket at this time. Staff intends to propose a procedural schedule alongside a subsequent recommendation for application sufficiency.

V. CONCLUSION

For the reasons stated above, Staff respectfully recommends that the application be found deficient at this time, that the Applicants be ordered to file a supplement addressing the noted deficiencies by July 14, 2017, and that Staff be given a deadline of August 11, 2017 by which to review the Applicants supplement for sufficiency.

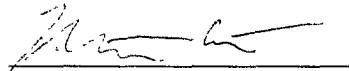
Dated: June 16, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Katherine Lengieza Gross
Managing Attorney

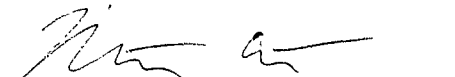


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DOCKET NO. 47178

CERTIFICATE OF SERVICE

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



Matthew A. Arth

PUC Interoffice Memorandum

To: Matthew Arth, Attorney
Legal Division

Thru: Lisa Fuentes, Manager
Water Utilities Division

From: Greg Charles, Staff Engineer
Water Utilities Division

Date: June 14, 2017

Subject: **Docket 47178**, *Application of Richard Sullivan and Michael & Heidi Fensterbush for sale, transfer, or merger (STM) of facilities and certificate rights in Lubbock County (Valley Estates)*

On May 17, 2017, Michael & Heidi Fensterbush (Purchaser) and Richard Sullivan (Seller), (collectively, Applicants), filed an application for the sale, transfer, or merger of facilities and certificate rights in Lubbock County. Specifically, the Purchaser seeks approval to acquire all of the water system assets held by the Seller. The total area being requested is 15 acres. This application is being reviewed pursuant to Tex. Water Code §§ 13.301 and 13.242 (TWC) to 13.250 and 16 Tex. Admin. Code §§ 24.109 and 24.112 (TAC).

Based on a review of the information in the application, Staff recommends that the application be deemed deficient for filing and administratively incomplete at this time. In order to cure the deficiencies, Staff recommends that the Applicants provide the following information:

- 1) A completed historical and projected financial statements (Assets = Liabilities + Equity, Income = Revenues – Expenses);
- 2) A completed annual report for Valley Estates Water Service (Certificate of Convenience and Necessity 12490) for fiscal year 2016;
- 3) A tax return from the seller to support the income generated by the system;
- 4) A tax return from the purchaser in order to indicate that monies are available to cover any income shortages or required improvements;
- 5) A copy of the tariff for Valley Estates Water Services (CCN 12490);
- 6) A copy of the latest Texas Commission on Environmental Quality (TCEQ) inspection letter(s) for the system (PWS #1520198), and any response(s) provided to TCEQ to address the numerous outstanding violations;
- 7) A copy of the written agreement between the seller and purchaser of the system;
- 8) The last inspection date of the water system; and
- 9) A seller oath from page 18 of the application that is completed, signed, and notarized.