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DOCKET NO. 48039

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APPLICATION OF WATERCO OF § PUBLIC UTILITY COMMISSION  
NOCONA LAKE ESTATES FOR AN §  
EXEMPT UTILITY REGISTRATION § OF TEXAS

**COMMISSION STAFF'S RESPONSE TO ORDER NO. 1 AND RECOMMENDATION  
ON ADMINISTRATIVE COMPLETENESS**

**COMES NOW** the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Staff's Response to Order No. 1 and Recommendation on Administrative Completeness. In support thereof, Staff shows the following:

**I. BACKGROUND**

On February 8, 2018, Waterco of Nocona Lake Estates (Waterco) filed an application for exempt utility registration pursuant to Texas Water Code § 13.242(c) (TWC) and 16 Texas Administrative Code § 24.103(e) (TAC). Order No. 1, issued February 14, 2018, ordered Staff to file comments regarding the administrative completeness of the application, the processing of the petition, and a proposed procedural schedule by March 9, 2018. This pleading is therefore timely filed.

**II. RECOMMENDATION**

Staff has reviewed Waterco's application and, as support by the attached memorandum of Debbie Reyes Tamayo of the Commission's Water Utility Regulation Division, Staff recommends that the application be found administratively incomplete.

Staff also has additional concerns regarding TWC § 13.301(h), which states that:

"A sale, acquisition, lease, or rental of any water or sewer system owned by an entity required by law to possess a certificate of public convenience and necessity, or a sale or acquisition of or merger or consolidation with such an entity, that is not completed in accordance with the provisions of this section is void."

According to comments filed by the Waterco Board in Docket No. 47411, Waterco sold one of its wells, effective January 1, 2018, to an entity now referred to as Welco.<sup>1</sup> The PUC did not receive

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<sup>1</sup> Docket No. 47411, *Formal Complaint of Tammy Bean Against WATERCO, Owners Jim & Gloria Nelson, and the WATERCO Board*, Letter (Feb. 6, 2018) at 2.

an application for approval for this transaction under TWC § 13.301 and 16 TAC § 24.109. If Waterco was required by law to possess a certificate of public convenience and necessity (CCN) before the transaction occurred, then that will affect the validity of the transaction and therefore affect the review of this application. As Docket 47411 is currently ongoing, no determination of whether Waterco, in its original form, was required to obtain a CCN has been officially made.

Staff requests that Waterco be given until April 6, 2018 to cure the deficiencies in its application and that Staff be given until May 4, 2018 to file a supplemental recommendation and proposed procedural schedule, if necessary.

### **III. CONCLUSION**

Staff respectfully requests that the ALJ issue an order reflecting the above recommendation.

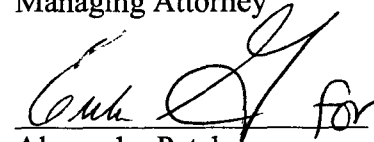
Dated: March 9, 2018

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF  
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Karen S. Hubbard  
Managing Attorney


A handwritten signature in black ink, appearing to read "Alex Petak", followed by the word "for" in a cursive script.

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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this the 9th of March, 2018 in accordance with 16 TAC § 22.74.

  
Alexander Petak

## **PUC Interoffice Memorandum**

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**To:** Alexander Petak, Attorney  
Legal Division

**From:** Debbie Reyes Tamayo, Program Specialist  
Water Utility Regulation Division

**Thru:** Lisa Fuentes, Manager  
Water Utility Regulation Division

**Date:** March 7, 2018

**Subject:** Docket No. 48039, *Application of Waterco of Nocona Lake Estates for Exempt Utility Registration*

On February 08, 2018, Waterco of Nocona Lake Estates (Applicant), filed an application for exempt utility registration pursuant to 16 Tex. Admin Code § 24.103(e) (TAC) for a utility with less than 15 potential connections.

Staff has reviewed the information and recommends the application be deemed deficient for filing and administratively incomplete.

### **Mapping**

The Applicant must submit the following items to resolve mapping deficiencies:

- A detailed map identifying the requested area in reference to verifiable man-made and natural landmarks, such as roads, rivers, and railroads.
- Digital mapping data for the requested area, as a single polygon record, in shapefile (SHP) format, georeferenced in either NAD83 Texas Statewide Mapping System (Meters) or NAD83 Texas State Plane Coordinate System (US Feet); **OR** metes and bounds survey sealed or embossed by either a licensed state surveyor or a registered professional land surveyor.

### **Application Content**

The Applicant must submit the following items to resolve application content deficiencies:

- A completed tariff.
- The number of actual physical taps to the water distribution system, as opposed to the number of “customers”. A complaint filed in Docket No. 47411, indicates there are customers with multiple residences, or multiple lots that are being charged per connection.

In addition, the application conflicts with the following agency rules:

- Pursuant to 16 TAC § 24.103(e)(1)(D), a water utility is exempt from the requirement to possess a CCN to provide water utility service if it “is not within the corporate boundaries of a district or municipality unless it receives written authorization from the district or municipality.” The requested area overlaps with Farmers Creek Watershed Authority and Red River Authority of Texas district boundaries. The Applicant must provide written authorization from the entities.
- Pursuant to 16 TAC § 24.103(e)(1)(B), a water utility is exempt from the requirement to

possess a CCN to provide water utility service if it “is not owned by or affiliated with a retail public water utility, or any other entity, that provides potable water service.” It appears the Applicant may have changed ownership of one of the wells to avoid this requirement. The Applicant must submit documentation demonstrating it is not affiliated with Welco of Nocona Lake Estates, Docket No. 48040.