

Control Number: 49558



Item Number: 3

Addendum StartPage: 0

DOCKET NO. 49558

APPLICATION OF THE CITY OF	§	PUBLIC UTILITY COMMISSION	2:06
LAGO VISTA FOR WATER AND	§		
SEWER CERTIFICATES OF	§	OF TEXAS	
CONVENIENCE AND NECESSITY	§		
AND TO CANCEL LOHMAN'S	§		
FORD WATER COMPANY'S	§		
CERTIFICATE OF CONVENIENCE	§		
AND NECESSITY IN TRAVIS	§		
COUNTY	§		

**COMMISSION STAFF'S RECOMMENDATION ON ADMINISTRATIVE
COMPLETENESS AND PROPOSED NOTICE**

COMES NOW the staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Recommendation on Administrative Completeness and Proposed Notice in response to Order No. 1. Staff recommends that the application be deemed deficient and that the applicant be ordered to address the identified deficiencies. In support thereof, Staff shows the following:

I. BACKGROUND

On May 21, 2019, the City of Lago Vista (Lago Vista) filed an application to obtain a new water and sewer Certificate of Convenience and Necessity (CCN) and to decertify Lohman's Ford Water Company (LFWC) water CCN Number 11894. Lago Vista alleges that LFWC is a defunct utility with no customers, facilities or service, that the Texas Secretary of State states its status as forfeited, that the Commission's database shows LFWC as inactive, and that the Texas Commission on Environmental Quality's Customer Database has no record of a public water supply entity known as LFWC.

On May 23, 2019, Order No. 1 was issued, establishing a deadline of June 20, 2019 for Staff to file comments on the administrative completeness of the application and proposed notice and propose a procedural schedule. This pleading is therefore timely filed.

II. REVOCATION OF LFWC's CCN

On June 18, 2018, the Oversight and Enforcement Division filed a *Petition to Revoke Lohman's Ford Water Company's Certificate of Public Convenience and Necessity Pursuant to*

Tex. Water Code Ann. § 13.254 and 16 TAC § 24.113, Docket Number 48471. The Oversight and Enforcement Division made several factual allegations regarding LFWC in the petition:

- (1) LFWC is located in Travis County, Texas in the City of Austin;
- (2) On May 2, 1985, LFWC filed an application with the Secretary of State to become a Texas corporation;
- (3) On September 26, 1985, LFWC was granted CNN No. 11894;
- (4) LFWC underwent a tax forfeiture on November 20, 1989; and
- (5) LFWC has ceased to operate, and is now listed as inactive on the Secretary of State's website.

The Oversight and Enforcement Division's review of Commission's records indicated that LFWC was no longer in business, and the facilities it used to provide service were inactive. Therefore, LFWC was no longer providing, and was incapable of providing, continuous and adequate service. No response from LFWC was filed. On August 17, 2018, The Oversight and Enforcement Division filed a motion for the entry of a default order, revoking LFWC's CCN Number 11894.

Staff recommends that the Oversight and Enforcement Division's petition in Docket Number 48471 be granted and that LFWC's CCN Number 11894 be revoked.

III. ADMINISTRATIVE COMPLETENESS AND PROCEDURAL SCHEDULE

Staff recommends that Lago Vista's application be found to be administratively incomplete, as supported by the attached memorandum of Elisabeth English of the Water Utility Regulation Division. Staff recommends that Lago Vista be given a deadline of July 19, 2019, to cure the deficiencies and that Staff be given a deadline of August 19, 2019, to file a supplemental recommendation on the administrative completeness of the application. Staff notes that Lago Vista should not issue notice until the application is found administratively complete.

IV. CONCLUSION

For the reasons discussed above, Staff respectfully recommends that the application be found administratively incomplete at this time and that Lago Vista be ordered to file a supplement addressing the identified deficiencies in the application by July 19, 2019.

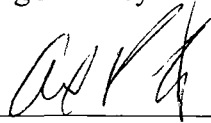
Dated: June 20, 2019

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Karen S. Hubbard
Managing Attorney

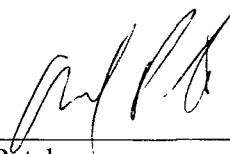


Alexander Petak
State Bar No. 24088216
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7377
(512) 936-7268 (facsimile)
Alexander.Petak@puc.texas.gov

DOCKET NO. 49558

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on June 20, 2019, in accordance with 16 TAC § 22.74.



Alexander Petak

PUC Interoffice Memorandum

To: Alexander Petak, Attorney
Legal Division

Thru: Lisa Fuentes, Manager
Water Utility Regulation Division

From: Elisabeth English, Engineering Specialist
Water Utility Regulation Division

Date: June 20, 2019

Subject: **Docket No. 49558:** *Application of in Travis County*

On May 21, 2019, the City of Lago Vista (Lago Vista) filed an application to obtain a water and sewer Certificate of Convenience and Necessity (CCN) and to cancel Lohman's Ford Water Company's water CCN No. 11894 in Travis County. The application is being reviewed pursuant to Texas Water Code (TWC) §§ 13.242-.250 and 16 Texas Administrative Code (TAC) §§ 24.225 - .237.

Lago Vista seeks to obtain a water and sewer CCN for their current and projected service area. Lago Vista is currently providing retail utility service to 3,953 customers within the approximately 9,989 acres requested area. The requested area includes all area within Lago Vista's municipal boundaries and extraterritorial jurisdiction. Lago Vista included a 2030 Comprehensive Plan (Application: Attachment 4) that details the existing and projected land use for the requested area. The requested area is titled as the "planning area" in the 2030 Comprehensive Plan, which is stated to be only 30% developed or occupied. Accordingly, 70% of the requested area does not have existing customers or facilities. TWC § 13.246(c)(2) and 16 TAC § 24.227(d)(2) require the Commission to consider the need for additional service when granting or amending a CCN: TWC § 13.246(c) and 16 TAC § 24.227(d) require the Commission to also consider an applicant's ability to provide service to the requested area. For this reason, Staff recommends that Lago Vista supplement their application to address their ability to serve the entirety of the requested area and the current need for utility service.

Staff recommends that Lago Vista's CCN application be deemed administratively incomplete. Staff requests that Lago Vista provide additional information and documentation, as detailed below:

1. A detailed map identifying the location of all the following items:
 - a) Boundary of the requested areas;
 - b) Boundaries of city limits and extraterritorial jurisdiction;
 - c) Potential customers requesting service within the requested areas; and
 - d) All existing customers within the requested area.
2. A second detailed map, separate than that requested in 1, identifying the location of the following items:
 - a) Existing water or sewer facilities for production, transmission, distribution, collection, and treatment within the boundaries of the requested area;

- b) Proposed water or sewer facilities for production, transmission, distribution, collection, and treatment within the boundaries of the requested areas.

Facilities should be identified on subdivision plats, engineering planning maps, or detailed maps. Please use color coding to distinguish different types of facilities and boundaries.

Each map used to respond to paragraphs 1 and 2 above, must be provided in the following forms:

- I. Hard copy, full-sized, and rendered to scale; and
- II. Electronically file a copy, in an Adobe PDF file format, to the Commission Interchange Filer.

Additionally, if Lago Vista has sought any construction approvals from the Texas Commission on Environmental Quality for the facilities intended to serve the undeveloped areas the application must be supplemented with either the submittal or approval letters.