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APPLICATION OF ECHO HILLS
POA WATER SYSTEM FOR AN
EXEMPT UTILITY REGISTRATION

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PUBLIC UTILITY COMMISSION

2019 JAN 17 AM 10:19
OF TEXAS
PUBLIC UTILITY COMMISSION
FILING CLERK

**COMMISSION STAFF'S RECOMMENDATION REGARDING NAME FOR EXEMPT
UTILITY REGISTRATION AND TARIFF**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and, in response to Order No. 5, files this Recommendation Regarding Name for Exempt Utility Registration and Tariff. In support, Staff shows the following:

I. BACKGROUND

On May 21, 2019, Echo Hills P.O.A. (Echo Hills) filed an application for exempt utility registration of the 8976 Ruby Lane Frankston water system pursuant to Texas Water Code (TWC) § 13.242(c) and 16 Texas Administrative Code (TAC) § 24.229(e).

On May 23, 2019, the Commission administrative law judge (ALJ) issued Order No. 1, which required Staff to file, by June 20, 2019, comments on the administrative completeness of the application, how the application should be processed, and propose a procedural schedule, if necessary. On June 20, 2019, Staff recommended that the application be found administratively complete and suggested a procedural schedule. The ALJ issued Order No. 2 on June 26, 2019, which set a deadline of August 14, 2019 for Staff to file its recommendation on final disposition. On that date, Staff recommended that the application be approved. Subsequently, on August 28, 2019, Staff submitted a motion to admit evidence along with a proposed order. Order No. 3, issued on August 30, 2019, granted the motion to admit evidence.

However, Order No. 4, issued on September 3, 2019, required the applicant to submit a pleading explaining: who owns the well and associated equipment for the purpose of selling potable water; Ms. Brown's relationship to Echo Hills POA and the basis of her legal authority, if any, to speak on the POA's behalf; the full name of Echo Hills POA; and provide any additional information that will be helpful in determining in whose name the exempt utility registration and tariff should be issued. The ALJ further ordered that, if Echo Hills POA is a legal entity of some sort, the record be supplemented to reflect that status. Order No. 4 also required Staff to file, by

October 7, 2019, a recommendation regarding in whose name the exempt utility registration and tariff should be issued, including, if appropriate, a revised registration and tariff.

On October 7, 2019, Staff filed its response to Order No. 4. Because Echo Hills had not yet filed a pleading providing the information requested in Order No. 4, Staff requested that the ALJ reiterate its request to the applicant. On October 9, 2019, the ALJ issued Order No. 5, which established November 7, 2019, as the new deadline by which Echo Hill must file a pleading providing the additional information requested in Order No. 4. On December 12, 2019, the ALJ issued Order No. 6, which granted Staff an extension and established a deadline of January 7, 2020, for Staff to provide its recommendation regarding in whose name the exempt utility registration and tariff should be issued, including, if appropriate, a revised registration and tariff. Therefore, this pleading is timely filed.

II. UTILITY NAME

On November 18, 2009, Echo Hills POA Water System was registered as an investor-owned water utility operating under certificate of convenience and necessity (CCN) 12553. On December 18, 2012, the Texas Commission on Environmental Quality issued a letter to Echo Hills POA Water System inactivating its status as a public water system under 30 TAC § 290.38(71), which requires that a water utility have at least 15 connections in order to be considered a public water system. Echo Hills POA Water System was listed as the responsible party for that utility.¹

Echo Hills Property Owners is listed as the owner of the property on which the subject utility is located; the Henderson County Assessor's website gives the legal description of the property as a water system.² Ownership of the property has not changed since the 2009 CCN was issued.

Based on the official application to obtain or amend a CCN, there is no requirement that a utility be registered with the Texas Secretary of State or with the county in which it is located. The option for "Other" is listed in section 4 of the application that must be submitted per 24 TAC

¹ Water Utility Details for Echo Hills POA Water System, <http://www.puc.texas.gov/WaterSearch/Utility?siteId=17550> (last visited January 6, 2020).

² Henderson CAD Property Search, Property ID: I000125980 for Year 2019, <http://esearch.henderson-cad.org/Property/View/I000125980> (last visited January 6, 2020).

§ 24.233. Under current state law, a property owner's association is under no obligation to register with the Texas Secretary of State unless the organizational form of the association would require such registration.³ Staff has no reason to believe that Echo Hills POA, as it currently functions, is required to be registered with the Secretary of State.

Given that Echo Hills POA Water System was the name under which the 2009 CCN was issued, that ownership of the property has not changed since that CCN was issued, and that there is no requirement that a utility be a legal entity, Staff recommends that the exempt utility registration and tariff be issued under the name of Echo Hills POA Water System.

III. CONCLUSION

For the reasons discussed above, Staff believes that a revised tariff is unneeded at this time. Staff respectfully recommends that the exempt utility registration and tariff be issued under the name of Echo Hills POA Water System.

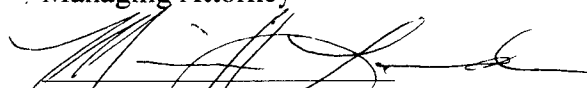
Dated: January 7, 2020

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

Thomas S. Hunter
Division Director

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Managing Attorney



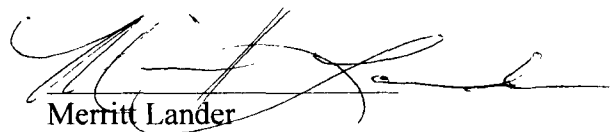
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³ Texas Secretary of State, Home or Property Owners' Association FAQs, "Who regulates home or property owners' associations?", <https://www.sos.state.tx.us/corp/hpoafaqs.shtml> (last visited January 6, 2020).

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on January 7, 2020, in accordance with 16 TAC § 22.74.



Merritt Lander