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DOCKET NO. 50816

**APPLICATION OF VINTON HILLS
ALEGRE, LLC AND VILLAGE OF
VINTON FOR SALE, TRANSFER, OR
MERGER OF FACILITIES AND
CERTIFICATE RIGHTS IN EL PASO
COUNTY**

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**BEFORE THE

PUBLIC UTILITY COMMISSION

OF TEXAS**

**JOINT SUPPLEMENTAL MOTION TO ADMIT EVIDENCE AND PROPOSED
NOTICE OF APPROVAL**

COMES NOW, the Village of Vinton (the Village), together with the Staff (Staff) of the Public Utility Commission of Texas (Commission) (collectively, the Parties), and files this Joint Supplemental Motion to Admit Evidence and Proposed Notice of Approval. In support thereof, the Parties would respectfully show as follows:

I. BACKGROUND

On May 5, 2020, Vinton Hills Alegre, LLC (Vinton Hills) and the Village (collectively, the Applicants) filed with the Commission their application for sale, transfer, or merger of facilities and certificate rights in El Paso County, Texas, requesting approval to sell and transfer all of the assets and facilities currently held under Vinton Hills' water Certificate of Convenience and Necessity (CCN) No. 12563 to the Village's water CCN No. 13269.

On May 28, 2021, the Administrative Law Judge issued Order No. 7, requiring the Parties to jointly file a proposed notice of approval, including proposed findings of fact, conclusions of law, and ordering paragraphs by July 30, 2021. Therefore, this pleading is timely filed.

II. SUPPLEMENTAL MOTION TO ADMIT EVIDENCE

The Parties respectfully request the entry of the following items of evidence into the record of this proceeding:

1. Applicants' Proof of Closing, filed on May 12, 2021 (Interchange Item No. 22);
2. Commission Staff's Recommendation on Sufficiency of the Closing Documents, filed on May 27, 2021 (Interchange Item No. 23);
3. The Village's Notice of Consent, filed on July 15, 2021 (Interchange Item No. 25);
4. Vinton Hills' Notice of Consent, filed on July 19, 2021 (Interchange No. 26); and
5. The attached final map and certificate.

II. PROPOSED NOTICE OF APPROVAL

The Parties respectfully request that the Commission adopt the findings of fact, conclusions of law, and ordering paragraphs contained in the attached Proposed Notice of Approval.

III. CONCLUSION

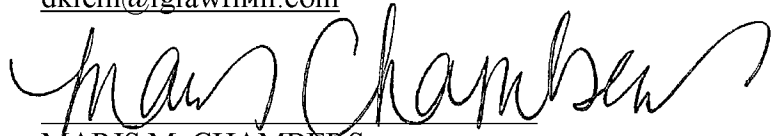
The Parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the attached Proposed Notice of Approval be adopted.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE &
TOWNSEND, P.C.**

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ATTORNEYS FOR VILLAGE OF VINTON

CERTIFICATE OF CONFERENCE

I, the undersigned counsel, certify that I have conferred with legal counsel for Commission Staff regarding this Joint Proposed Notice of Approval and Motion to Admit Evidence and such counsel agrees to the relief requested herein.



Maris M. Chambers

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on July 30, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.



Maris M. Chambers

DOCKET NO. 50816

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ALEGRE, LLC AND VILLAGE OF
VINTON FOR SALE, TRANSFER, OR
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COUNTY**

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**BEFORE THE

PUBLIC UTILITY COMMISSION

OF TEXAS**

PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of Vinton Hills Alegre, LLC and the Village of Vinton, Texas for the sale, transfer, or merger of facilities and certificate rights in El Paso County. The Commission approves the sale and transfer of all of Vinton Hills' water facilities and service area under water certificate of convenience and necessity (CCN) number 12563 to the Village of Vinton, the cancellation of Vinton Hills' water CCN number 12563, and the amendment of the Village of Vinton's water CCN number 13269 to include the area previously included in Vinton Hills' CCN.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. Vinton Hills is a domestic limited liability company registered with the Texas secretary of state under file number 800704510.
2. Vinton Hills operates, maintains, and controls facilities for providing retail water service in El Paso County, Texas under CCN number 12563.
3. Vinton Hills owns three public water systems registered with the Texas Commission on Environmental Quality (TCEQ) under identification numbers 07100151, 0710169, and 07100172.
4. Village of Vinton is a municipally-owned water utility in El Paso County.
5. Village of Vinton operates, maintains, and controls facilities that provide water service in El Paso County under CCN number 13269.
6. Village of Vinton owns a public water system registered with the TCEQ under identification number 0710050.

Application

7. On May 5, 2020, the applicants filed an application for approval to transfer all facilities and service area held under Vinton Hills' CCN number 12563 to Village of Vinton and to subsequently cancel Vinton Hills' CCN number 12563. The application originally requested that Village of Vinton be granted a new CCN as a result of the transfer.
8. On June 11, 2020, the applicants filed an amendment to the application, clarifying that the requested area should be transferred into Village of Vinton's existing CCN number 13269.
9. The requested area subject to this transaction is located in downtown Village of Vinton, and is generally bounded on the north by Valley Chile Road; on the east by Lovena Road; on the south by Cap Carter Road; and on the west by State Highway 20.
10. The total requested area being transferred comprises approximately 310 acres and 299 current customers in Villa Alegre Estates, Vinton Hills subdivision, and Vinton Village Estates in El Paso County.
11. In Order No. 3 filed on July 6, 2020, the Administrative Law Judge (ALJ) deemed the application administratively complete.

Notice

12. On July 17, 2020, the applicants filed the affidavit of Christina Thompson, paralegal of Lloyd Gosselink Rochelle & Townsend, P.C., attorneys for Village of Vinton, attesting that notice was mailed to all current customers, neighboring utilities, and affected parties on July 13, 2020.
13. In Order No. 4 filed on August 18, 2020, the ALJ deemed the notice sufficient.

Evidentiary Record

14. On October 20, 2020, Village of Vinton filed an agreed motion to admit evidence on behalf of all of the parties.
15. In Order No. 5 filed on October 23, 2020, the ALJ admitted the following evidence into the record of this proceeding: (a) applicants' application and confidential attachments, filed on May 5, 2020; (b) applicants' amendment to the application filed on June 11, 2020; (c) Commission Staff's recommendation on administrative completeness and proposed

procedural schedule filed on July 2, 2020; (d) applicants' proof of notice filed on July 17, 2020; (e) Commission Staff's recommendation on sufficiency of notice and proposed procedural schedule filed on August 17, 2020; and (f) Commission Staff's recommendation on approval of the sale filed on September 16, 2020.

16. On July 30, 2021, the parties filed a joint supplemental motion to admit evidence.
17. In Order No. __ filed on _____, 2021, the ALJ admitted the following additional evidence into the record of this proceeding: (a) applicants' proof of closing filed on May 12, 2021; (b) Commission Staff's Recommendation on sufficiency of the closing documents filed on May 27, 2021; (c) Village of Vinton's notice of consent filed on July 15, 2021; (d) Vinton Hills' notice of consent filed on July 19, 2021; and (e) the final map and certificate attached to the parties' joint supplemental motion to admit evidence and proposed notice of approval filed on July 30, 2021.

Sale

18. In Order No. 6 filed on October 23, 2020, the ALJ approved the sale and transaction to proceed and required the applicants to file proof that the transaction had closed, and customer deposits had been addressed.
19. On May 12, 2021, the applicants filed notice that the sale had closed on April 19, 2021, and confirmed there were no customer deposits to be addressed.
20. In Order No. 7 filed on May 28, 2021, the ALJ found the closing documents sufficient.

System Compliance

21. Applicants have not been subject to any enforcement action by the Commission, TCEQ, Texas Department of State Health Services, the Office of the Attorney General, or United States Environmental Protection Agency in the past five years.
22. Applicants have no outstanding violations listed in the TCEQ database.
23. Applicants have demonstrated a compliance status that is adequate for approval of the transaction.

Adequacy of Existing Service

24. Vinton Hills is currently providing water service to 299 customers in the requested area through its three public water systems and such service has been continuous and adequate.
25. Construction is not necessary to provide adequate service to the requested area at this time, but Village of Vinton is planning for future upgrades to the water system.

Need for Additional Service

26. There is a need for the 299 current customers to continue receiving water service in the requested area.
27. Village of Vinton has received no new requests for service and does not seek to include additional uncertificated area beyond the area requested in this application.
28. The application transfers only existing facilities, customers, and service area.

Effect of Approving the Transaction and Granting the Amendment

29. Vinton Hills is already operating and maintaining the three public water systems subject to the transfer; therefore, there will be no effect on any other retail public utility serving the proximate area.
30. The requested area is already certificated; therefore, there will be no effect on existing landowners.
31. Approving the transaction and granting the CCN amendment will enable Village of Vinton to serve the approximately 299 current customers and obligate Village of Vinton to provide service to any future customers in the requested area.

Ability to Serve: Managerial and Technical

32. Vinton Hills has three public water systems, which currently serve the 299 customers and have adequate capacity to meet the demands in the requested area.
33. The Village employs a sufficient number of TCEQ-licensed operators who will operate the three additional water systems.

34. Village of Vinton has access to an adequate supply of water and is capable of providing drinking water that meets the requirements of Chapter 341 of the Texas Health and Safety Code, Chapter 13 of the TWC, and the TCEQ's rules.
35. Village of Vinton has the managerial and technical capability to provide continuous and adequate retail water service to the requested area.

Feasibility of Obtaining Service from Adjacent Retail Public Utility

36. The requested area is currently being served by Vinton Hills with existing facilities.
37. Notice was provided to utilities within a two-mile radius and no protests or requests to opt out were received regarding the proposed transaction.
38. It is not feasible for an adjacent utility or retail public utility to provide service to the requested area.

Ability to Serve: Financial Ability and Stability

39. Village of Vinton has a debt-to-equity ratio of less than one.
40. Village of Vinton has sufficient cash available to cover any projected operations and maintenance shortages during the first five years after completion of the proposed transaction, satisfying the operations test.
41. Village of Vinton has acquired a USDA loan for future improvements to the water system and any additional improvements will be paid for through its budgeting process using project funds included in the budget.
42. Village of Vinton has demonstrated the financial capability and stability to provide continuous and adequate retail water service the requested area.

Financial Assurance

43. There is no need to require Village of Vinton to provide a bond or other financial assurance to ensure continuous and adequate service.

Environmental Integrity and Effect on the Land

44. There will be no effect on environmental integrity and on the land because the requested area is already receiving service.

45. Village of Vinton plans future upgrades to the water system; however, the effect on the land will be minimal during the upgrades and Village of Vinton has pledged to restore the disturbances to the land to substantially the same condition that existed before the upgrades.

Improvement in Service or Lowering Cost to Consumers

46. The transaction will improve the current level of service by allowing for the installation of a looped water system, connecting customers to a more reliable water supply provided by El Paso Water Utilities under a wholesale purchase agreement.
47. There will be no change in daily customer service and operations as a result of the proposed transaction.

Regionalization or Consolidation

48. Construction of a physically separate water system is not necessary to continue providing water service in the requested area.
49. As a result of the transaction, Village of Vinton will be able to reduce its reliance on groundwater wells and instead obtain a more reliable water supply for public drinking water from El Paso Water Utilities through a wholesale purchase agreement.

Maps and Certificates

50. On June 30, 2021, Commission Staff emailed the final proposed map and certificate related to this docket to Village of Vinton and Vinton Hills.
51. On July 15, 2021, Village of Vinton filed its consent to the proposed final map and certificate.
52. On July 19, 2021, Vinton Hills filed its consent to the proposed final map and certificate.
53. On July 30, 2021, the parties filed the final maps, certificates, and tariffs as attachments to the joint supplemental motion to admit evidence and proposed notice of approval.

Informal Disposition

54. More than 15 days have passed since the completion of notice provided in this docket.
55. No person filed a protest or motion to intervene.

56. Village of Vinton, Vinton Hills, and Commission Staff are the only parties to this proceeding.
57. No party requested a hearing and no hearing is needed.
58. Commission Staff recommended approval of the application.
59. The decision is not averse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this proceeding under Texas Water Code (TWC) §§ 13.041, 13.241, 13.244, 13.246, 13.251, and 13.301.
2. Village of Vinton and Vinton Hills are retail public utilities as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. Village of Vinton and Vinton Hills provided notice of the application in compliance with TWC §§ 13.246 and 13.301(a)(2) and 16 TAC § 24.239(a) through (c).
4. Regionalization and consolidation requirements under TWC § 13.241(d) do not apply in this proceeding because the construction of a physically separate water system or wastewater system is not required.
5. The Commission processed the application as required by the TWC, the Administrative Procedure Act,¹ and Commission Rules.
6. Village of Vinton and Vinton Hills completed the sale with the timeframe required by 16 TAC § 24.239(m).
7. Village of Vinton and Vinton Hills complied with the requirements of 16 TAC § 24.239(k) with respect to customer deposits.
8. After consideration of the factors in TWC § 13.246(c) and 16 TAC §§ 24.11(e) and 24.227(e) and 24.239(h)(5), Village of Vinton has demonstrated adequate financial,

¹ Tex. Gov't Code §§ 2001.001-.903.

- managerial, and technical capability to provide continuous and adequate service to the requested area as required by TWC § 13.301(b) and 16 TAC § 24.239(e).
9. It is not necessary for Village of Vinton to provide bond or other financial assurance under TWC §§ 13.246(d) and 13.301(c).
 10. Village of Vinton and Vinton Hills demonstrated that the sale and transfer of Vinton Hills' water facilities and service area under CCN number 12563 from Vinton Hills to Village of Vinton and the amendment of Village of Vinton's CCN number 13269 will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.301(d) and (e).
 11. Under TWC § 13.257(r) and (s), Village of Vinton must record a certified copy of its certificates granted and maps approved by this Notice of Approval, along with a boundary description of its service areas, in the real property records of El Paso County no later than the 31st day after the date that Village of Vinton receives this Notice of Approval and must submit to the Commission evidence of the recording.
 12. The requirements of informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission approves the sale and transfer of all of Vinton Hills' facilities and water service area under water CCN number 12563 to Village of Vinton, the cancellation of Vinton Hills' water CCN number 12563, and the amendment of Village of Vinton's water CCN number 13269 to include the facilities and service area previously included in Vinton Hills' water CCN number 12563, to the extent provided in this Notice of Approval.
2. The Commission issues the certificate attached to this Notice of Approval.
3. The Commission approves the map attached to this Notice of Approval.
4. Village of Vinton must provide service to every customer or applicant for service within the approved area under water CCN number 13269 that requests water service and meets

the terms of Village of Vinton's water service, and such service must be continuous and adequate.

5. Village of Vinton must file in this docket proof of the recording required in TWC § 13.257(r) and (s) within 45 days of the date of this Notice of Approval.
6. Within ten days of the date of the Notice of Approval, Commission Staff must file a clean copy of the approved tariffs to Central Records to be marked *Approved* and filed in the Commission's tariff books.
7. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

SIGNED AT AUSTIN, TEXAS on the _____ day of _____, 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

**GREGORY R. SIEMANKOWSKI
ADMINISTRATIVE LAW JUDGE**

Village of Vinton
 Portion of Water CCN No. 13269
 PUC Docket No. 50816
 Transferred all of Vinton Hills Alegre, LLC., CCN No. 12563 in El Paso County



Water CCN



13269 - Village of Vinton

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 Feet





Public Utility Commission of Texas

By These Presents Be It Known To All That

Village of Vinton

having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Village of Vinton is entitled to this

Certificate of Convenience and Necessity No. 13269

to provide continuous and adequate water utility service to that service area or those service areas in El Paso County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 50816 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the Village of Vinton to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.