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DOCKET NO. 52445

APPLICATION OF HYDROTEX, LLC	§	PUBLIC UTILITY COMMISSION
FOR A CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	OF TEXAS
LIBERTY COUNTY	§	

COMMISSION STAFF’S REQUEST FOR REFERRAL

On August 18, 2021, HydroTex, LLC (HydroTex) filed an application to obtain a water Certificate of Convenience and Necessity (CCN) in Liberty County. The application requests a service area that includes 89 acres and 120 proposed connections.

On July 27, 2022, the administrative law judge filed Order No. 10, establishing a deadline of September 22, 2022, for the Staff (Staff) of the Public Utility Commission (Commission) to file a supplemental recommendation regarding the administrative completeness of the application, along with a proposed procedural schedule. Therefore, this pleading is timely filed.

I. REQUEST FOR REFERRAL

Staff respectfully requests a hearing on whether SVAG Investments, LLC is an affiliated interest or an affiliate of Hydrotex, LLC. In applications for certificates of convenience and necessity, Staff must determine whether an owner or operator of a public utility has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and proposed utility service area.¹ To demonstrate that an owner or operator has the requisite financial resources under 16 TAC § 24.11, the owner or operator must satisfy the leverage and operations tests, unless the commission finds good cause to require only one of the tests.² Both the leverage and operations tests contain the words “affiliated interest” in their respective subsections.

16 TAC § 24.3(3) provides seven subsections under its definition for affiliated interest or affiliate. Staff believes the pertinent subsection, 24.3(3)(F), is likely the only apposite subsection in this docket. However, the language in this subsection requires a determination by the Commission, after notice and hearing, to determine whether the definition of affiliated interest or affiliated is applicable.

16 § 24.3(3)(F) provides

an affiliated interest or affiliate is any person or corporation that the commission, after notice and hearing, determines actually exercises any substantial influence or control over the policies and actions of a utility or over which a utility exercises such control or that is under common control with a utility, such control being the possession directly or indirectly of the power to direct or cause the direction of the management and policies of another, whether that power is established through ownership or voting of securities or by any other direct or indirect means.³

¹ 16 Texas Administrative Code (TAC) § 24.11.

² 16 TAC § 24.11(e)(1).

³ 16 TAC § 24.3(3)(F).

Because Staff believes that SVAG Investments, LLC is an affiliated interest or an affiliate of Hydrotex, LLC only under 16 § 24.3(3)(F), Staff respectfully requests an order setting hearing on this issue. Staff will not be providing a proposed procedural schedule at this time.

II. CONCLUSION

Staff respectfully requests the issuance of an order setting hearing to determine whether SVAG Investments, LLC is an affiliated interest or an affiliate of Hydrotex, LLC.

Dated: September 22, 2022

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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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 September 22, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Phillip Lehmann
Phillip Lehmann