



General Information and Instructions on the

## **APPLICATION FOR SALE, TRANSFER OR MERGER OF A RETAIL PUBLIC UTILITY**

- \* Registry Number (RN) and Customer Number (CN). The TCEQ has begun systematically removing requests for basic information from registration, permitting and licensing forms - one program at a time. Instead, we are requesting this information on a **Core Data Form**. As data is transferred into the Central Registry, the registry will automatically assign a unique number to each customer and regulated entity. **You will be given identification numbers** which can then be used when updating information, completing other agency forms, or otherwise contacting the agency. **Numbers issued by the Central Registry do not replace current permit, license, or registration numbers. Each utility will have a RN number.** Each CCN holder will have a CN number. If you do not already have a RN and or CN number, please fill out TCEQ-10400 and a number will be assigned. This form is available at the [following website](#).
- ☞ **If the application is downloaded from the TCEQ web site or via E-mail, it shall not be changed, altered or amended from its original form only available from the Commission.**

### ***GENERAL INFORMATION***

Pursuant to V.T.C.A., Water Code Section 13.301, this application must be filed with the Commission and notice must be provided to each customer being transferred and each utility within 2 miles at least 120 days before the effective date of any sale, acquisition, lease or rental, merger or consolidation of any water or sewer system required by law to possess a public certificate of convenience and necessity (CCN). A transaction that has taken place since September 1, 1991, and has not been completed in accordance with Section 13.301 of the Texas Water Code including the 120 day prior notice, is void.

### ***INSTRUCTIONS***

Please answer each question on the attached forms completely. You may attach additional sheets, if necessary, but each sheet should be marked with the applicant's name and mailing address, clearly labeled "Attachment 1", Questions 16, Attachment 2, Question 17;" etc., and accompanied by a brief explanation of the attachment. If a question is not applicable, please mark "N/A" and explain why the question does not apply. The applicant should not assume any knowledge of their specific water or sewer utility by the Texas Commission on Environmental Quality (TCEQ or Commission). **DO NOT LEAVE ANY QUESTIONS BLANK**

***A complete application will include:***

1. An original and three (3) copies of the completed application, and all required attachments, maps and exhibits;
2. Four copies of the agreement between parties, contingent contract, or other documents supporting the proposed transaction (**Do not execute sale prior to Commission approval, See above.**);
3. An original and three (3) copies of the proposed tariff for the purchased system. For utilities subject to the Commission's original rate jurisdiction, the tariff's rates must reflect the current rates being charged to the customers. Water supply or sewer service corporations, districts and municipalities must file a schedule of rates to be charged after the transfer. Districts and municipalities need not file a full tariff, but WSCs who do not have a complete tariff on file with the Commission for information purposes must file a copy of their current tariff. Water and sewer utility tariff forms may be obtained from the Utilities and Districts Section;
4. An original and three (3) copies of your proposed notice provided to customers and neighboring utilities;
5. **No required filing fee.**
6. **If the system being sold or acquired does not have a CCN, no required filing fee is required to cover issuance of a CCN.** The notice form labeled *Notice to Current Customers, Neighboring Systems and Cities - Form B* should be used to notify customers and neighboring utilities;
7. Four copies of the latest TCEQ annual inspection report for the systems being acquired and your response letter if any;
8. For corporations, four (4) copies of "Certification of Account Status";
9. An original and three (3) copies of each of the sworn affidavits of the transferor and transferee utilities' representatives.

***Mail these items to:***

Texas Commission on Environmental Quality  
Water Supply Division  
Utilities and Districts Section, MC-153  
P. O. Box 13087  
Austin, TX 78711-3087

***PROCESSING YOUR STM APPLICATION***

Your application will go through an Administrative Review and, when accepted for filing, through a Technical Review. For uncontested applications, processing time depends on the response time of the applicant. Contested applications generally take longer because of the need for scheduling a public hearing, and processing time depends on whether a settlement agreement between the applicant and the protestor(s) is reached.

## ***ADMINISTRATIVE REVIEW OF YOUR STM APPLICATION***

Your application will be reviewed for administrative completeness by the staff within ten working days after receipt. If the application is determined to be incomplete or deficient, you will be notified of the deficiencies by mail and will have **thirty** days in which to amend the application and correct the deficiencies. Failure to correct the deficiencies will result in your application being returned for failure to prosecute.

## ***NOTICE***

Notice of the proposed transaction must be given to the public at least 120 days prior to the effective date.

**\* Do not send these proposed notices or maps or publish, if applicable to neighboring utilities and utilities or customers until you are notified to do so in writing by the Commission staff after the proposed notices have been reviewed.**

Enclosed in this packet are two notice forms labeled *Notice to Current Customers, Neighboring Systems and Cities* - Form A and Form B. Form A should be used if the seller utility has a CCN. Form B should be used if the seller utility does not have a CCN and the purchaser utility will obtain it or will amend its current CCN as a result of the transaction. When in doubt, please contact the Utilities and Districts Section for assistance. The executive director may also request that notice be published and/or provided to other affected parties.

## ***TECHNICAL REVIEW OF YOUR STM APPLICATION***

Prior to the expiration of the 120 day notification period, the staff will investigate the proposed transaction. If the application is technically complete, you will receive notice of the executive director's decision as to whether a public hearing will be held. The executive director may request a hearing (as outlined in V.T.C.A. Water Code Section 13.301(c)) if: (1) the notification to the commission or the public notice was improper; (2) the person purchasing or acquiring the water or sewer system is inexperienced as a utility service provider; (3) the person or an affiliated interest of the person purchasing or acquiring the water or sewer system has a history of noncompliance with the requirements of the commission or the Texas Department of Health or of continuing mismanagement or misuse of revenues as a utility service provider; (4) the person purchasing or acquiring the water or sewer system cannot demonstrate the financial ability to provide the necessary capital investment to ensure the provision of continuous and adequate service to the customers of the water or sewer system; or (5) there are concerns that the transaction may not serve the public interest, after the application of the considerations provided by Section 13.246(c) for determining whether to grant a certificate of convenience and necessity.

If the application is technically incomplete, you will be sent a letter that outlines the application's deficiencies and describing what you need to do to correct the deficiencies. After receiving that letter, you will have **thirty (30)** days to make the necessary corrections. **If you fail to make the corrections in full, the application will be returned, and the application fee will be forfeited.**

Unless a public hearing is held, the transaction may be completed as proposed at the end of the 120 day period following proper notice or any time after you receive notice that a hearing will not be requested. If a hearing is requested or if proper notice is not provided, the transaction may not be completed without a determination by the Commission that the transaction serves the public interest.

If the application is contested and a hearing is requested, the application will be referred to the State Office of Administrative Hearings (SOAH). During the preliminary hearing, the presiding Administrative Law Judge (ALJ) may give the parties time to negotiate a settlement. If a settlement is reached, the application will be remanded to staff for administrative processing. If a settlement is not reached, a discovery schedule and a date for an evidentiary hearing will be set. The ALJ will take testimony from each party and present a report to the Commission to consider in making a final decision on the application.

### ***FILING OF SIGNED CONTRACT***

Within 30 days after the effective date, the parties must file a signed contract, bill of sale, or other appropriate documents as evidence that the transaction has been made final and also file documents supporting the transfer of customer deposits or other disposition and a sworn affidavit explaining the disposition of customer deposits. The Commission cannot issue or transfer the CCN without evidence that the transaction had been executed.