

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 31, 2015

Ms. Bridget Bohac, Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC-105
Austin, Texas 78711-3087

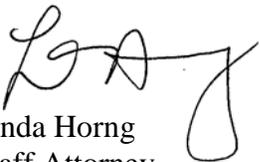
Re: TCEQ Docket No. 2015-1117-DIS; The Executive Director's Response to Corix Utilities (Texas) Inc.'s Motion to Overturn

Dear Ms. Bohac:

Enclosed for filing with the Texas Commission on Environmental Quality (Commission) is the original plus seven copies of The Executive Director's Response to Corix Utilities (Texas) Inc.'s Motion to Overturn.

Please do not hesitate to contact me at (512) 239-0676 if you have any questions regarding this material. Thank you for your attention to this matter.

Respectfully submitted,


Linda Horng
Staff Attorney
Environmental Law Division

Enclosure

cc: Mailing List

TCEQ DOCKET NO. 2015-1117-DIS

IN THE MATTER OF	§	BEFORE THE TEXAS COMMISSION
CORIX UTILITIES (TEXAS) INC.'S	§	
REGIONAL PROVIDER	§	ON
CERTIFICATION REQUEST	§	ENVIRONMENTAL QUALITY

THE EXECUTIVE DIRECTOR'S RESPONSE TO CORIX UTILITIES (TEXAS) INC.'S MOTION TO OVERTURN

The Executive Director of the Texas Commission on Environmental Quality ("ED") files this response to the Motion to Overturn filed by Corix Utilities (Texas), Inc. ("Movant"). The ED recommends that the Motion to Overturn be granted and the application for regional provider certification be approved.

I. BACKGROUND

On April 16, 2015, Corix Utilities (Texas), Inc. ("Corix") submitted an application for certification as a regional water and wastewater provider to the ED pursuant to TEX. TAX CODE §151.355(5) seeking tax-exempt status. Corix is an investor owned utility and the sole owner of 18 regulated water and wastewater systems, each providing service to one or more communities or subdivisions.

On July 3, 2015, the ED's staff notified Corix that they could not approve Corix's application for regional provider certification because Corix is not a political subdivision. Pursuant to the TCEQ Resolution entitled "A Resolution Delegating to the Executive Director the Authority to Certify Certain Political Subdivisions as Providing Regional Water and/or Wastewater Service," dated May 13, 2002 ("Resolution"), the ED has been delegated the authority to certify certain political subdivisions, as defined by TEX. WATER CODE §15.001, as providing regional water or wastewater services. On July 23, 2015, Movant filed a Motion to Overturn the ED's decision regarding certification as a regional provider.

II. LEGAL ANALYSIS

The ED's staff reviewed Corix's application in accordance with the Commission Resolution and TEX. TAX CODE § 151.355(5). TEX. TAX CODE § 151.355 was originally enacted by SB 2 and SB 312 in 2001. SB 2 limited regional certification to political subdivisions only, while SB 213 did not. The Commission's 2002 Resolution specified that the authority of the ED to grant requests for regional certification applied to requests from political subdivisions. In 2003, HB 2424 reenacted and amended TEX. TAX CODE § 151.355. The version of § 151.355 adopted by HB 2424 did not include SB 2's limitation of certification to only political subdivisions. As a result, the current statute does not limit regional provider certification to political subdivisions.

TEX. TAX CODE § 151.355(5) provides sales tax exemption for equipment, services, or supplies used solely to construct or operate a water or wastewater system certified by the Texas Commission on Environmental Quality as a regional system. The 2002 Commission Resolution utilizes the following criteria to determine whether an entity is a regional provider:

1. one owner and one large system serves several different communities or subdivisions or,
2. one owner and several isolated systems each provide service to one or more communities or subdivisions or,
3. several owners, each with individual systems operated through a centrally coordinated operating system or,
4. several owners, each with an isolated system, all served by a central wholesale provider.

In its application, Corix states that it satisfies the criteria for regionalization because it is the sole owner of 18 water and wastewater utility systems, each providing service to one or more communities or subdivisions. The ED agrees that Corix has shown it qualifies as a regional provider.

III. CONCLUSION

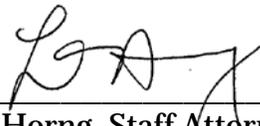
The ED respectfully recommends that this matter be set on the next available Agenda and that Corix's application for certification as a regional provider be approved.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Richard A. Hyde, P.E.
Executive Director

Robert Martinez, Director
Environmental Law Division

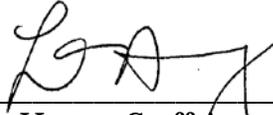
By:  _____

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Representing the Executive Director of the
Texas Commission on Environmental Quality

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of July, 2015 a true and correct copy of the "Executive Director's Response to Corix Utilities (Texas) Inc.'s Motion to Overturn" was filed with the Chief Clerk of the Texas Commission on Environmental Quality and sent by first class mail, agency mail, electronic mail, and/or facsimile to the persons on the attached mailing list.



Linda Horng, Staff Attorney
Environmental Law Division

MAILING LIST

**Docket No. 2015-1117-DIS
The Executive Director's Response to
Corix Utilities (Texas) Inc.'s Motion to Overturn**

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