



# RAILROAD COMMISSION OF TEXAS

## HEARINGS DIVISION

OIL & GAS DOCKET NO. 06-0296976

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**COMMISSION-CALLED HEARING ON THE APPLICATION OF COWBOY PIPELINE OPERATORS, LLC TO CONSIDER THE P-5 FORM FOR A NEW PIPELINE ENTITY; AND FOR AN EXCEPTION TO 16 TEX. ADMIN. CODE 3.1(A)(4)(c)(ii)(I) REGARDING PROOF OF IDENTITY FOR AN INDIVIDUAL WHO IS A CONTROLLING ENTITY OF AN OPERATOR REGULATED BY THE TEXAS RAILROAD COMMISSION.**

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### FINAL ORDER

The Commission finds that after statutory notice the captioned proceeding was heard by the Examiner on July 13, 2015. During the hearing on the merits, Applicant, Cowboy Pipeline Operators, LLC ("Cowboy Pipeline"), represented by Kurary America, Inc. ("Kurary America") and Kurary Holdings, Inc. ("Kurary Holdings"), and the Commission's Office of General Counsel Special Counsel appeared. Applicant applied for an exception to 16 Tex. Admin. Code §3.1(A)(4)(c)(ii)(I) on behalf of its clients Kurary America and Kurary Holdings. Applicant waived issuance of an Examiner's Proposal For Decision.

Pursuant to § 1.49 of the Commission's General Rules of Practice and Procedure [Tex. R. R. Comm'n, 16 Tex. Admin. Code § 1.49] and after being duly submitted to the Railroad Commission of Texas at conference held in its offices in Austin, Texas, the Commission makes the following Findings of Fact and Conclusions of Law.

### FINDINGS OF FACT

1. Cowboy Pipeline Operators, LLC ("Cowboy Pipeline"), requested a hearing for an exception to 16 Tex. Admin. Code §3.1(a)(4)(c)(ii)(i) regarding proof of identity for an individual who is a controlling entity of an operator regulated by the Texas Railroad Commission. Cowboy Pipeline seeks an exception to 16 Tex. Admin. Code §3.1(a)(4)(c)(ii)(i) so that it may file an Organization Report (Form P-5) for designation as a new pipeline entity, in compliance with Commission Statewide Rule 1 (16 Tex. Admin. Code §3.1).
2. At the hearing on the docket, Applicant Cowboy Pipeline was represented by Kurary America, Inc. ("Kurary America") and Kurary Holdings, Inc. ("Kurary Holdings").
3. Kurary America, Inc. is an incorporated entity, incorporated in the State of Delaware.

4. Kurary America, Inc.'s Texas Resident Agent is CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.
5. Kurary America, Inc. is 100% owned by Kurary Holdings U.S.A., Inc. Kurary Holdings U.S.A., Inc.'s business address is 2625 Bay Area Blvd., Suite 600, Houston, Texas 77058.
6. On the proposed Organization Report (Form P-5), the listed officers of Kurary America, Inc. are George Avdey (President and Director), Daisuke Tsukatani (Secretary), Hajime Suzuki (Treasurer and Director), and Yuji Yoshizumi (Director). Each of these officers were served with the Amended Notice of Hearing on January 14, 2015.
7. On the proposed Organization Report (Form P-5), the listed officers of Kurary Holdings U.S.A., Inc. are Nobuo Fujii (President & Director), Daisuke Tsukatani (Secretary), Hajimae Suzuki (Treasurer & Director), and Junichi Fujiwara (Director).
8. Applicant, on behalf of its client Kurary America, Inc., admitted evidence of documentation and identification in conformance with 16 Tex. Admin. Code §3.1(A)(4)(c)(ii)(I), for the officers of Kurary America, Inc. Specifically, identification in conformance with 16 Tex. Admin. Code §3.1(A)(4)(c)(ii)(I) was admitted into the record for officers: George Avdey (President and Director), Daisuke Tsukatani (Secretary), Hajime Suzuki (Treasurer and Director), and Yuji Yoshizumi (Director).
9. Applicant, on behalf of its client Kurary Holdings U.S.A., Inc., presented evidence of documentation and identification in conformance with 16 Tex. Admin. Code §3.1(A)(4)(c)(ii)(I), for the officers of Kurary Holdings U.S.A., Inc. Specifically, identification in conformance with 16 Tex. Admin. Code §3.1(A)(4)(c)(ii)(I) was admitted into the record for three of the four principal officers of Kurary Holdings U.S.A., Inc.: Daisuke Tsukatani (Secretary), Hajimae Suzuki (Treasurer & Director), and Junichi Fujiwara (Director).
10. Applicant, on behalf of its client Kurary Holdings U.S.A., Inc., submitted into evidence a copy of an internationally recognized form of documentation and identification— a valid Japanese passport, for the fourth principal officer: President & Director of Kurary Holdings U.S.A., Inc., Mr. Fujii Nobuo of Osaka, Japan, a copy of which is attached hereto as Attachment I.
11. Testimony presented demonstrated that Mr. Fujii Nobuo is not a resident of Texas or the United States and is therefore ineligible for a valid social security number or Texas State Identification number, as required pursuant to 16 Tex. Admin. Code §3.1(A)(4)(c)(ii)(I).
12. Testimony presented demonstrated that Mr. Fujii Nobuo does not hold a valid drivers license in Texas, the United States, or in Japan, and is therefore ineligible for a valid driver's license number, as required pursuant to 16 Tex. Admin. Code §3.1(A)(4)(c)(ii)(I).
13. Commission General Counsel's office, on behalf of Commission Staff, indicated that Staff does not oppose granting the specific relief requested in allowing an exception to the Statewide Rule 1 requirement of presenting a social security number, valid driver's license, or valid Texas State

Identification. Staff does not oppose the use of Mr. Fujii Nobuo's valid Japanese passport, in lieu of and to satisfy the documentation and identification requirement of Statewide Rule 1.

14. Staff does not oppose allowing Kurary Holdings to file a Form P-5 Organization Report Officer Listing listing Mr. Nobuo Fujii as the President & Director of Kurary Holdings U.S.A., Inc.. Staff does not oppose granting an exception from filing pursuant to 16 Tex. Admin. Code §3.1(A)(4)(c)(ii)(I), a State-issued Identification card, State-issued Driver's License, or a Social Security Card, in instead the allowance of filing a copy of the official Japanese Passport for Mr. Nobuo Fujii, as proof of his identity.
15. The Commission has the general authority to grant an exception a Commission Rule where a corollary statute, such as Tex. Nat. Res. Code §91.142, is less restrictive than the Commission rule.

### **CONCLUSIONS OF LAW**

1. Proper notice was issued by the Railroad Commission to all persons legally entitled to notice.
2. All things necessary to the Commission attaining jurisdiction over the subject matter and the parties in this hearing have been performed or have occurred.
3. Tex. Nat. Res. Code §91.142, generally requires any " person, firm, partnership, joint stock association, corporation, or other domestic or foreign organization operating wholly or partially in this state and acting as principal or agent for another for the purpose of performing operations which are within the jurisdiction of the commission shall file immediately with the commission:(1) the name of the company or organization; (2) the post-office address of the company or organization; (3) the plan under which the company or organization was organized; (4) the names and post-office addresses of the trustee or trustees of the company or organization; (5) the names, unique identifying numbers such as driver's license numbers, and post-office addresses of the officers and directors; and (6) if required by Subsection (b) of this section, the name and address of the resident agent."
4. Statewide Rule 1 (16 Tex. Admin. Code §3.1(A)(4)(c)(ii)(I)), requires a State-issued Identification card, State-issued Driver's License, or a Social Security Card, be filed as part of the organization report (Form P-5) for any officer, director, general partner, owner of more than 25% ownership interest, or trustee of the organization Further, Statewide Rule 1 does not allow for an administrative exception to the identification requirement imposed by Statewide Rule (A)(4)(c)(ii)(I).
5. The Commission has the general authority to grant an exception a Commission Rule where a corollary statute, such as Tex. Nat. Res. Code §91.142, is less restrictive than the Commission rule.

6. The Commission has authority to grant an exception to Statewide rule 1 (A)(4)(c)(ii)(I), which will authorize Kurary Holdings to file a copy of the official Japanese Passport for Mr. Nobuo Fujii, as proof of his identity, and part of its filing its Form P-5 Organization Report Officer Listing listing Mr. Nobuo Fujii as the President & Director of Kurary Holdings U.S.A., Inc., and, Kurary America, Inc..

It is accordingly **ORDERED** that Kurary Holdings is authorized to file a Form P-5 Organization Report Officer Listing listing Mr. Nobuo Fujii as the President & Director of Kurary Holdings U.S.A., Inc., and is hereby excepted from filing pursuant to 16 Tex. Admin. Code §3.1(A)(4)(c)(ii)(I), a State-issued Identification card, State-issued Driver's License, or a Social Security Card. In place of a State-issued Identification card, State-issued Driver's License, or a Social Security Card, Kurary America, Inc. may file a copy of the official Japanese Passport for Mr. Nobuo Fujii, as proof of his identity.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 25 days after the Commission's order is signed, unless the time for filing a motion for rehearing has been extended under Tex. Gov't Code §2001.142, by agreement under Tex. Gov't Code §2001.147, or by written Commission Order issued pursuant to Tex. Gov't Code §2001.146(e). If a timely motion for rehearing of an application is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to Tex. Gov't Code §2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law is hereby extended until 90 days from the date Commission Order is signed.

All requested findings of fact and conclusions of law which are not expressly adopted herein are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

Done this 6<sup>th</sup> day of October, 2015.

RAILROAD COMMISSION OF TEXAS

(Order approved and signatures affixed by Hearings Divisions' Unprotested Master Order dated October 6, 2015)