

Control Number: 43117



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RECEIVED

APPLICATION OF BRAZOS VALLEY
SEPTIC & WATER, INC. AND NERRO
SUPPLY, LLC FOR SALE, TRANSFER,
OR MERGER OF FACILITIES AND
TO AMEND A CERTIFICATE OF
CONVENIENCE AND NECESSITY IN
BRAZOS, BURLESON, AND
ROBERTSON COUNTIES (37948-S)

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PUBLIC UTILITY COMMISSION

PUBLIC UTILITY COMMISSION
FILING CLERK

OF

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COMMISSION STAFF'S RESPONSE TO ORDER NO. 3 AND SUPPLEMENTAL FINAL RECOMMENDATION

Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) files this Response to Order No. 3 and Supplemental Final Recommendation in order to clarify the procedural processing of the application as described in Staff's Response to Order No. 3.

In this pleading, Staff makes no substantive changes to its ultimate recommendation to approve the sale, transfer, merger portion of this proceeding except to delete two sentences in order to clarify the proper procedure for processing the matter after a notice of approval is issued. Staff has filed its final recommendation that the transaction be completed and that the parties be directed to submit documentation regarding completion of the transaction. If the proposed notice of approval filed by Staff on November 18, 2014, is approved, the completed and signed consent forms regarding the transfer and amendment of the certificate of convenience and necessity are conditions to be met following issuance of a notice of approval in this proceeding, and no additional "Final Recommendation" is required once this documentation has been submitted.

I. BACKGROUND

On June 12, 2014, Nerro Supply, LLC (Nerro) and Brazos Valley Septic & Water, Inc. (Brazos Valley) filed a sale, transfer, merger (STM) application with the Texas Commission on Environmental Quality (TCEQ) pursuant to TEX. WATER CODE ANN. § 13.301 and Title 16, TEX. ADMIN. CODE (16 TAC) §§ 24.109 and 24.112. The application requests approval of the sale of all water assets held under Brazos Valley's water certificate of convenience and necessity (CCN) No. 13094 in Brazos, Burleson, and Robertson Counties from Brazos Valley to Nerro and

amendment of Nerro's water CCN No. 12252 service area to reflect these service areas. Nerro sent notice of the application to affected parties on August 1, 2014, triggering the 120-day deadline for STMs required by 16 TAC § 24.109(e). The 120-day deadline for Commission action on the application is November 29, 2014. The comment period ended on August 31, 2014.

Effective September 1, 2014, the Commission began the economic regulation of water and sewer utilities and this case formerly pending at the TCEQ was transferred to the Commission. On September 24, 2014, the Administrative Law Judge (ALJ) issued Order No. 2 Requiring Comments on Status requiring Staff to file an update on the status of the proceeding, to file a recommendation on the need for a hearing or on final disposition of the application, or to propose a procedural schedule by October 8, 2014. On October 8, 2014, Staff filed its Response to Order No. 2 recommending that a public hearing on the application was not required and proposing a procedural schedule for processing the matter. On October 9, 2014, the ALJ issued Order No. 3 establishing the procedural schedule for this matter. In Order No. 3, the ALJ directed Staff to file its final recommendation by November 7, 2014. On November 7, 2014, Staff filed its Response to Order No. 3, which included Staff's final recommendation on the application. On November 12, 2014, Staff filed a Request for Extension of Time to file its proposed order. On November 14, 2014, the ALJ issued Order No. 4 which extended the deadline for Staff to file a proposed order until November 18, 2014.

II. STAFF'S RECOMMENDATION

As stated in the Staff memo (Attachment A) from George Gogonas, Utility Rates Analyst/Auditor in the Commission's Water Utilities Division, Staff recommends that the Applicant has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the proposed area and any existing area currently served by Nerro. Staff notes that proper notice was provided pursuant to 16 TAC §§ 24.109 and 24.112(c). Additionally, Staff recommends that the transaction will serve the public interest and that a public hearing is not necessary. Accordingly, Staff recommends that the proposed transaction be completed.

Staff recommends that the parties be required to, within thirty days after the effective date of the transaction, file a signed contract, bill of sale, or other appropriate documents as evidence that the transaction has been finalized. Staff notes that if this documentation is not

provided within one year of the date of the Notice of Approval or if an extension is not requested and granted, the Commission's approval of the transaction is void pursuant to 16 TAC § 24.112(e). Additionally, the parties must file, under oath, a list showing the names and addresses of all customers served by Nerro who have to their credit a deposit. The list must also include the date such deposit was made, the amount of the deposit, and the amount of unpaid interest on the deposit. All such deposits shall be refunded to the customers or transferred to the new owner, with all accrued interest. Staff also recommends that the Applicant be informed that CCN No. 13094 will remain in the name of Brazos Valley until the transfer is complete in accordance with the Commission's rules.

Once Staff has received documentation evidencing the completion of the sale, Staff will revise the Commission's mapping information to reflect the transaction. Upon completion of mapping, the parties must submit to the Commission signed consent forms evidencing their consent to the revised maps.

III. CONCLUSION

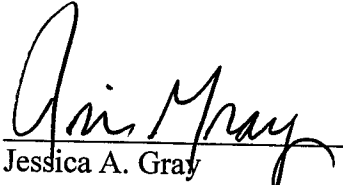
Staff recommends that the transaction be completed and that the parties be directed to submit documentation regarding completion of the transaction. Consistent with the extension granted in Order No. 4, Staff intends to file a proposed order on or before November 18, 2014.

Date: November 19, 2014

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

Shelah J. Cisneros
Managing Attorney
Legal Division



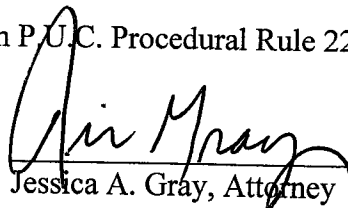
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CERTIFICATE OF SERVICE

I certify that a copy of this document was served his document was served on all parties of record on November 19, 2014 in accordance with P.U.C. Procedural Rule 22.74.



Jessica A. Gray, Attorney

ATTACHMENT A

PUC Interoffice Memorandum

To: Jessica Gray, Attorney
Legal Division

Thru: Tammy Benter, Director
Water Utilities Division

From: George Gogonas, Utility Rates Analyst/Auditor
Water Utilities Division

Date: 10/2/14

Subject: Executive Summary and Staff Recommendation for Commission Approval
of PUC Docket No. 43117

Nerro Supply, LLC, Certificate of Convenience and Necessity (CCN) No. 12252, has filed an application to obtain a portion of Certificate of Convenience (CCN) No. 13094 held by Brazos Valley Septic & Water, Inc. in Brazos, Burleson and Robertson Counties. The application was filed pursuant to the criteria in Texas Water Code, Section §13.301, and PUC Substantive Rules 24.109 and 24.112. Public notice of the application was provided as required by PUC Substantive Rules 24.109 & 24.112 (c). The Applicant has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area as required by PUC Substantive Rules 24.109(b). Based on my review of the information in the application and the applicable laws and rules, I have determined that the purchaser has the capability of providing continuous and adequate service to the proposed area and any existing area already served by Nerro Supply, LLC. Furthermore, I believe the transaction will serve the public interest. Therefore, it is not necessary to hold a hearing on the merits regarding the application and I recommend that the Applicant be allowed to proceed with the proposed transaction and also note that a public hearing is not necessary.

I further recommend that the proposed transaction be completed and the Applicant send documentation as evidence that all assets have been transferred to the acquiring entity and that the disposition of any remaining deposits has been addressed. Pursuant to Title 16, Texas Administrative Code, Section §24.112(e), the approval of the sale expires one year from the date of the Commission's written approval of the sale. If the sale has not consummated within that period and unless the Applicant has requested and received an extension from the Commission, the approval is void and the Applicant must reapply for the approval of the sale. In addition, I recommend the Applicant be informed that the CCN will remain in the name of Brazos Valley Septic & Water Inc., under CCN No. 13094, until the transfer is complete in accordance with the PUC's rules and regulations.