

Control Number: 43117



Item Number: 24

Addendum StartPage: 0

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)

§  
§  
§  
§  
§  
§  
§  
§

PUBLIC UTILITY COMMISSION

2015 SEP 18 PM 1:09  
PUBLIC UTILITY COMMISSION  
FILING CLERK

OF

TEXAS

COMMISSION STAFF'S PROPOSED NOTICE OF APPROVAL AND REQUEST TO ADMIT EVIDENCE

Staff of the Public Utility Commission (Staff) files this Proposed Notice of Approval and Request to Admit Evidence of the Application for the sale, transfer, or merger of the water system and service area currently owned by Brazos Valley Septic & Water, Inc. (Brazos Valley or Seller), excluding the service area in the Post Oak Subdivision, in Brazos, Burleson, and Robertson Counties, Texas from Brazos Valley to Nerro Supply, LLC (Nerro or Purchaser) pursuant to Tex. Water Code Ann. §§ 13.246 and 13.301 and 16 Tex. Admin. Code (16 TAC) §§ 24.109 and 24.112. Through this application, Purchaser seeks to transfer the water system and service area held by Seller in Brazos, Burleson, and Robertson Counties to Purchaser, to amend Purchaser's water CCN. No. 12252 to include the proposed area, and to amend Brazos Valley's CCN No. 13094 to reflect the area transferred through the transaction. This Proposed Notice of Approval and Request to Admit Evidence includes findings of fact, conclusions of law, and ordering paragraphs. The Proposed Notice of Approval is timely filed on or before September 18, 2015.

I. REQUEST TO ADMIT EVIDENCE

Staff requests to admit the following evidence into the record of this proceeding: (a) Application of Purchaser and Seller and all attachments thereto, filed June 12, 2014; and (b) Commission Staff's Final Recommendation and all attachments thereto, filed September 4, 2015.

II. PROPOSED NOTICE OF APPROVAL

The Proposed Notice of Approval (Attachment 1) would grant Purchaser's application for approval of the transfer of the water system and service area held by Seller in Brazos, Burleson, and Robertson Counties to Purchaser, the amendment of Purchaser's water CCN. No. 12252 to

24

include the proposed area, and the amendment of Brazos Valley's CCN No. 13094 to reflect the area transferred through the transaction.

### III. CONCLUSION

Staff has reviewed the Application and recommends its approval. Staff respectfully requests that the Commission adopt the attached findings of fact and conclusions of law as well as granting the admittance of the specified pieces of evidence.

**Date: September 18, 2015**

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director  
Legal Division

Karen S. Hubbard  
Managing Attorney  
Legal Division

For

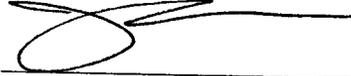


Jessica A. Gray  
State Bar No. 24079236  
Attorney, Legal Division  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7228  
(512) 936-7268 (facsimile)

**DOCKET NO. 43117**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document was served his document was served on all parties of record on September 18, 2015 in accordance with 16 TAC § 22.74.

*For*   
\_\_\_\_\_  
Jessica A. Gray, Attorney

**ATTACHMENT 1**

**DOCKET NO. 43117**

|   |          |                                  |
|---|----------|----------------------------------|
| <b>APPLICATION OF BRAZOS VALLEY</b>       | <b>§</b> | <b>PUBLIC UTILITY COMMISSION</b> |
| <b>SEPTIC &amp; WATER, INC. AND NERRO</b> | <b>§</b> |                                  |
| <b>SUPPLY, LLC FOR SALE, TRANSFER,</b>    | <b>§</b> |                                  |
| <b>OR MERGER OF FACILITIES AND</b>        | <b>§</b> | <b>OF</b>                        |
| <b>TO AMEND A CERTIFICATE OF</b>          | <b>§</b> |                                  |
| <b>CONVENIENCE AND NECESSITY IN</b>       | <b>§</b> |                                  |
| <b>BRAZOS, BURLESON, AND</b>              | <b>§</b> | <b>TEXAS</b>                     |
| <b>ROBERTSON COUNTIES (37948-S)</b>       | <b>§</b> |                                  |

**PROPOSED NOTICE OF APPROVAL**

This Proposed Notice of Approval addresses the application for the sale, transfer, or merger of the water system and service area currently owned by Brazos Valley Septic & Water, Inc. (Brazos Valley or Seller), excluding the service area in the Post Oak Subdivision, in Brazos, Burleson, and Robertson Counties, Texas from Brazos Valley to Nerro Supply, LLC (Nerro or Purchaser) pursuant to Tex. Water Code Ann. §§ 13.246 and 13.301 and 16 Tex. Admin. Code (16 TAC) §§ 24.109 and 24.112. Through this application, Purchaser seeks to transfer the water system and service area held by Seller in Brazos, Burleson, and Robertson Counties to Purchaser, to amend Purchaser's water CCN. No. 12252 to include the proposed area, and to amend Brazos Valley's CCN No. 13094 to reflect the area transferred through the transaction. Public Utility Commission of Texas (Commission) Staff filed a memorandum recommending approval of the application. The Application is approved.

Consistent with the above discussion, the Administrative Law Judge (ALJ) makes the following findings of fact and conclusions of law.

**I. FACT FINDINGS**

1. Seller holds CCN No. 13094 and is a retail public utility in Brazos, Burleson, and Robertson Counties.
2. Purchaser holds CCN No. 12252 and is a retail public utility.
3. The application requested the transfer of the water system and service area held by Seller in Brazos, Burleson, and Robertson Counties to Purchaser, excluding the service area in

the Post Oak Subdivision, the amendment of Purchaser's water CCN. No. 12252 to include the proposed area, and the amendment of Brazos Valley's CCN No. 13094 to reflect the area transferred through the transaction.

4. On September 1, 2014, pursuant to House Bill 1600 and Senate Bill 567 of the 83rd Legislature, Regular Session, functions relating to the economic regulation of water and sewer utilities were transferred from TCEQ to PUC.
5. On August 1, 2014, Purchaser provided sufficient notice to customers, neighboring utilities, and other affected parties.
6. On September 24, 2014, 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.
7. 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.
8. On October 9, 2014, the ALJ issued Order No. 3 establishing the procedural schedule for this matter and directing Staff to file its final recommendation by November 7, 2014.
9. On November 7, 2014, Staff filed its Response to Order No. 3 recommending that the transaction be completed.
10. On November 12, 2014, Staff filed a Request for Extension of Time to File Joint Proposed Order.
11. On November 14, 2014, the ALJ issued Order No. 4 granting Staff's request for extension and directing Staff to file a proposed notice of approval by November 18, 2014.
12. On November 18, 2014, Staff filed a Joint Notice of Approval and Request to Admit Evidence. On November 19, 2014, Staff filed its Response to Order No. 3 and Supplemental Final Recommendation to clarify its prior filing.
13. On November 25, 2014, the ALJ issued Order No. 5 admitting the requested evidence into the record.

14. On December 4, 2014, the ALJ issued Order No. 6 Approving the Sale/Transfer to Proceed and directed the parties to submit proof in the form of closing documents to the Commission that the sale/transfer has been consummated within 365 days of the date of the order. Further, Order No. 6 directed Staff to file a recommendation regarding the sufficiency of these documents and to propose a schedule for the continued processing within ten working days of receipt of closing documents.
15. On April 29, 2015, Purchaser filed Closing Documents in response to Order No. 6.
16. On May 13, 2015, Staff filed a Response to Order No. 6 and Recommendation on Sufficiency of Closing Documents, in which Staff recommended that the closing documents submitted by Purchaser on April 29, 2015 were insufficient because the warranty deed and bill of sale were signed only by Brazos Valley.
17. On May 29, 2015, the ALJ issued Order No. 7 deeming the closing documents insufficient as filed. In Order No. 7, the ALJ directed Purchaser to file a letter signed by both parties showing that the transaction has been completed by June 3, 2015 and directed Staff to file a final recommendation regarding the sufficiency of the closing documents and propose a schedule for the continued processing of this docket by June 17, 2015.
18. On May 27, 2015, Purchaser filed supplemental closing documents signed by both Purchaser and Seller.
19. On June 17, 2015, Staff filed its Response to Order No. 7 in which it recommended that the closing documents provided by Purchaser on May 27, 2015 were sufficient and proposed a procedural schedule for the remainder of the proceeding.
20. On June 24, 2015, the ALJ issued Order No. 8 deeming the closing documents sufficient, adopting the proposed procedural schedule, and directing Staff to file its final recommendation on the application by September 4, 2015.
21. On July 16, 2015 and August 10, 2015, Purchaser and Seller provided signed consent forms on behalf of itself and Seller consenting to the map and certificates for the requested area, as prepared by Commission Staff.

22. The map described in Finding of Fact 21 is attached to this order. The revised CCN certificates are also attached to this order.
23. On September 4, 2015, Commission Staff filed its final recommendation and recommended that the application be approved.
24. On September 18, 2015, Commission Staff filed a request to admit the following evidence: (a) Application of Purchaser and Seller and all attachments thereto, filed June 12, 2014; and (b) Commission Staff's Final Recommendation and all attachments thereto, filed September 4, 2015.
25. On \_\_\_\_\_, 2015, Order No. \_\_\_\_ was issued granting Staff's request to admit evidence.

## II. LEGAL CONCLUSIONS

1. The Commission has jurisdiction over these matters pursuant to Tex. Water Code Ann. §§ 13.246, 13.254, 13.301 and 16 TAC §§24.109 and 24.112.
2. Seller and Purchaser are retail public utilities as defined in Tex. Water Code Ann. § 13.002 and 16 TAC § 24.3(41).
3. Public notice of the application was provided as required by Tex. Water Code Ann. § 13.301(a)(2).
4. The Application was processed in accordance with the requirements of Tex. Water Code Ann. § 13.301 and 16 TAC § 24.109 and 24.112.
5. Seller and Purchaser completed the sale within 365 days from the date of TCEQ's approval of the sale, consistent with 16 TAC § 24.112(e).
6. After considering the factors in Tex. Water Code Ann. § 13.246(c), Purchaser has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area.
7. Seller and Purchaser have demonstrated that the transfer of the water system and service area, excluding the service area in the Post Oak Subdivision, held by Seller in Brazos, Burleson, and Robertson Counties to Purchaser, the amendment of Purchaser's water CCN No. 12252 to include the proposed area, and the amendment of Brazos Valley's CCN No.

13094 to reflect the area transferred through the transaction requested in this application are necessary for the service, accommodation, convenience, and safety of the public.

8. The requirements for informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

### III. ORDERING PARAGRAPHS

In accordance with these findings of fact and conclusions of law, the Commission issues the following Order:

1. The application is approved and the water system and service area held by Seller in Brazos, Burleson, and Robertson Counties, excluding the service area in the Post Oak Subdivision, is transferred to Purchaser, Seller's CCN No. 13094 is amended to remove the transferred area, and Purchaser's CCN No. 12252 is amended to reflect the transferred service area.
2. Purchaser shall serve every customer and applicant for service within the area previously served by Seller, now under CCN No. 12252, and such service shall be continuous and adequate.
3. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.

SIGNED AT AUSTIN, TEXAS the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

PUBLIC UTILITY COMMISSION OF TEXAS

---