



Control Number: 43117



Item Number: 8

Addendum StartPage: 0

DOCKET NO. 43117

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 OF TEXAS

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COMMISSION STAFF'S RESPONSE TO ORDER NO. 3

Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) files this Response to Order No. 3. In support of this Response, Staff states the following:

I. BACKGROUND

On June 12, 2014, Nerro Supply, LLC (Nerro) 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 addresses the proposed sale of water assets owned by Brazos Valley Septic & Water, Inc. (Brazos Valley) in Hood, Johnson, and Tarrant Counties, Texas from Brazos Valley to Nerro. The application also addresses the sale and transfer of a portion of CCN No. 13094 currently owned by Brazos Valley in Hood, Johnson, and Tarrant Counties, Texas from Brazos Valley to Nerro and to amend Nerro's current water certificated service area to reflect these service areas. Nerro sent notice of the application to its customers 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. This Response is timely filed.

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. Once Staff has received the completed and signed consent forms from the parties, Staff will issue its final recommendation on the application.

III. CONCLUSION

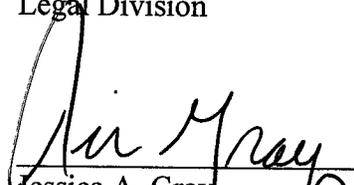
Staff recommends that the transaction be completed and that the parties be directed to submit documentation regarding completion of the transaction before Staff makes its final recommendation on the application. Consistent with the procedural schedule established in Order No. 3, Staff intends to file a proposed order on or before November 12, 2014.

Date: November 7, 2014

Respectfully Submitted,

Joseph P. Younger
Division Director
Legal Division

Shelah J. Cisneros
Managing Attorney
Legal Division

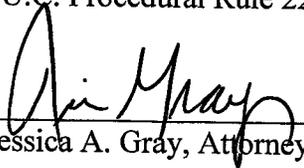

Jessica A. Gray
State Bar No. 24079236
Attorney, Legal Division

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 November 7, 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.