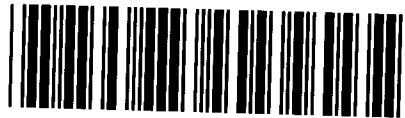




Control Number: 44387



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**DOCKET NO. 44387**

<b>APPLICATION OF NORTHWEST</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>WATER SYSTEMS, INC. AND NERRO</b>	<b>§</b>	
<b>SUPPLY INVESTORS, LLC FOR SALE,</b>	<b>§</b>	<b>OF TEXAS</b>
<b>TRANSFER, OR MERGER OF</b>	<b>§</b>	
<b>FACILITIES AND CERTIFICATE</b>	<b>§</b>	
<b>RIGHTS IN HARRIS AND</b>	<b>§</b>	
<b>MONTGOMERY COUNTIES</b>	<b>§</b>	

**COMMISSION STAFF'S RESPONSE TO ORDER NO. 4**

**COMES NOW** the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Response to Order No. 4 and would show the following:

**I. BACKGROUND**

On January 29, 2015, Northwest Water Systems, Inc. (Northwest) and Nerro Supply Investors, LLC (Nerro) (collectively, Applicants) filed an application for approval of the sale, transfer, or merger (STM) of facilities and certificate rights in Harris and Montgomery Counties, Texas. Nerro seeks approval to purchase the water assets currently held by Northwest under certificate of convenience and necessity (CCN) number 10336 and retain Northwests' CCN. The Applicants state that the rates will not change for the affected customers.<sup>1</sup>

On July 1, 2015, the Administrative Law Judge issued Order No. 4 requiring Staff to request a hearing or file a recommendation on the application by July 29, 2015. Accordingly, this pleading is timely filed.

**II. STAFF'S RECOMMENDATION**

As detailed in the attached memorandum of Jolie Mathis, Engineering Specialist in the Water Utility Regulation Division, Staff recommends the Commission find that the transaction will serve the public interest and allow the Applicants to proceed with the proposed transaction pursuant to 16 Tex. Admin. Code § 24.109(f) (TAC). Staff further recommends that a public hearing is not necessary. Staff also recommends that the Applicants be ordered to file documentation as evidence that all assets have been transferred to the acquiring entity and that the

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<sup>1</sup> Application at 7 (Jan. 29, 2015).

disposition of any remaining deposits have been addressed as soon as possible pursuant to 16 TAC § 24.109(f).

Specifically, Staff finds that Nerro has demonstrated adequate financial, managerial and technical (FMT) capability to provide continuous and adequate service to its existing service area plus the area subject to this application pursuant to TWC §13.246(c). In addition, proper public notice was provided on May 18, 2015 to neighboring systems, landowners, cities and affected parties in accordance with 16 TAC § 24.112(c). The comment period ended June 17, 2015, and no protests or requests for hearing were received.

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 the 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

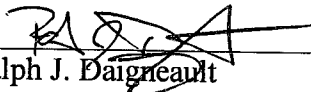
Staff recommends that the transaction be completed and that the Applicants be directed to submit documentation regarding completion of the transaction before Staff makes its final recommendation on the application. Consistent with the procedural schedule established in Order No. 4, Staff intends to file a joint proposed notice of approval on or before August 19, 2015.

**DATED: July 29, 2015**

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director - Legal Division


Karen S. Hubbard  
Managing Attorney - Legal Division

  
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Ralph J. Daigneault  
Attorney-Legal Division  
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Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on July 9, 2015, in accordance with 16 TAC § 22.74.

  
\_\_\_\_\_  
Ralph J. Daigneault

## PUC Interoffice Memorandum

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**To:** Ralph Daigneault, Attorney  
Legal Division

**Thru:** Tammy Benter, Director  
Water Utilities Division

**From:** Jolie Mathis, Engineering Specialist  
Water Utility Regulation Division

**Date:** July 27, 2015

**Subject:** **Docket No. 44387; Application of Northwest Water System, Inc. and Nerro Supply Investors, LLC for Sale, Transfer and Merger of Facilities and Certificate Rights in Harris and Montgomery Counties**

On January 29, 2015, Nerro Supply Investors, LLC (Buyer) and Northwest Water Systems, Inc. (Seller) submitted an application with the Public Utility Commission of Texas (PUC) for approval of the sale, transfer, or merger of facilities and certificate rights in Harris and Montgomery County, Texas. Specifically, Nerro Supply seeks approval to purchase the water assets of Northwest Water Systems, Inc. CCN No. 10336, and retain the sellers' current water certificated service areas. The application was filed pursuant to the criteria in the Tex. Water Code §§ 13.241, 13.246, and 13.301 (TWC), and 16 Tex. Admin. Code §§24.102, 24.109 and 24.112 (TAC).

The application was accepted for filing by the Commission on January 29, 2015. Proper public notice was provided on May 18, 2015, to neighboring systems, landowners, cities and affected parties in accordance with 16 TAC § 24.112(c). The affidavit was received by the Commission on May 27, 2015. The comment period ended June 17, 2015, and no protests or requests for hearing were received.

Pursuant to TWC §13.301 (e), before the expiration of the 120-day notification period, the Commission is required to notify all known parties to the transaction whether the Commission will hold a hearing to determine if transaction will serve the public interest. For this case, I do not believe a hearing is necessary because I believe the transaction will serve the public interest based on my review of the information in the application and the criteria listed below. I believe Nerro Supply Investors demonstrates adequate financial, managerial and technical (FMT) capability to provide service to its existing service area plus the area subject to this application. In my review of the public interest factors and the FMT capability of the Buyer, I reviewed the requested amendment pursuant to TWC §13.246(c). Under this statute, the Commission shall consider the following nine criteria when amending a CCN:

- TWC §13.246(c)(1) requires the Commission to consider the adequacy of service currently provided to the requested area. The requested transaction includes the water utility service from four public water systems (PWSs) currently owned by the Seller. The systems are named Hazy Hollow East Estates (PWS 1700013), Shady Brook Acres (PWS 1700031), Spring Creek Valley Estates (PWS 1010213), White Oak Valley Estates (PWS 1700036), and the area consists of 2050 acres, approximately 1221 connections and facilities. Reviews

of TCEQ records indicate that the PWS has no unresolved violations or complaints. Therefore, I believe adequate service is currently provided in the requested area.

- TWC §13.246(c)(2) requires the Commission to consider the need for service in the requested area. The fact that there are existing customers in the requested area demonstrates the need for service.
- TWC §13.246(c)(3) requires the Commission to consider the effect of granting an amendment on the recipient and on any other retail water utility servicing the proximate area. Only the Applicants and the current customers will be affected by this transaction. There will not be any significant impact on the quality of utility service, as the applicant will operate this water and sewer utility after the sale and transfer of the utility through its affiliated operating company, Gulf Utility Service, Inc. The applicant's operating company is located in the region and will be able to respond quickly to emergencies.
- TWC §13.246(c)(4) requires the Commission to consider the ability of the applicant to provide adequate service. The Buyer is an existing water utility and will provide water service using the existing system, pending the closure and approval of the transaction.
- TWC §13.246(c)(5) requires the Commission to consider the feasibility of obtaining service from an adjacent retail public utility. In this case, the area is already receiving service and no additional service is needed. Therefore, it is not necessary to consider the feasibility of obtaining service from another entity since the area is already being served.
- TWC §13.246(c)(6) requires the Commission to consider the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service. The utility has the financial capability to make any improvements from cash flow generated from its operation and ownership of the water systems acquired in this application.
- TWC §§13.246(7) and (9) require the Commission to consider the environmental integrity and the effect on the land to be included in the certificate. In this situation, there will no impact on the environment and the land as the system is already in place and does not need any repairs or improvements at this time.
- TWC § 13.246(8) required the Commission to consider the probable improvement in service or lowering of cost to consumers. The customers' rates will not be affected by this transaction as they will remain the same. This applicant is a local company which owns and operates a number of water and wastewater systems in the region. The applicant will maintain this utility in compliance with the rules and regulations of the TCEQ, the PUC, as well as federal and local laws, rules and regulations. Since the applicant's affiliated operating company is located in the region and will be able to respond quickly to emergencies.

With respect to the Applicant's financial and managerial capability, Nerro Supply Investors, LLC is a Texas Limited -Liability Company filed on January 26, 2015. The company's filing status is listed as Active and its File Number is 0802143247. The Buyer is duly organized, validly existing and in good standing under the laws of the State of Texas. The Applicant will operate this water and sewer utility after the sale and transfer of the utility through its affiliated operating company, Gulf Utility Service, Inc., a locally owned water and wastewater utility company with an experienced team of managers, operators and customer service. Over the years Gulf Utility Service has provided operation, maintenance and management of systems ranging from Municipal Utility Districts (MUDs) and large county facilities to small, private investor-owned utility and public water systems. The Applicant provided projected financials with the application. The Applicant projects that by the 5<sup>th</sup> year, the Applicant will report total assets of \$727,536.66, total liabilities of \$10,573.64, and net assets of \$716,963.02. These projected totals yield a debt-to-equity ratio of .01. The debt-to-equity ratio is considered a solvency ratio, which assists in discerning an applicant's ability to meet its long-term obligations, as well as its ability to obtain additional borrowings. Essentially, the debt-to-equity ratio compares what an entity owes to what it owns. A

ratio of less than 1 to 1 is preferred for analysis of financial and managerial capabilities. The Applicant provided the 2013 unaudited financial statements with a similar application. 2013 profit and loss statements show a total net income of \$274,478.65. The Applicant reports total assets for 2013 of \$3,515,406.72, total liabilities of \$57,933.03, and net assets of \$3,457,473.69. The Applicant reports 0 (zero) long-term liabilities and the lack of long-term liabilities satisfies the debt-service-coverage ratio analysis. The debt-to-equity ratio was \$57,933.03 (total liabilities) to \$3,182,995.04 (total members equity) or .02:1. As previously stated, a ratio of less than 1 to 1 is preferred for analysis of financial and managerial capabilities.

With respect to the Buyer's technical capability, the Buyer has experienced operators on staff with thorough knowledge about water operations to provide continuous and adequate service to the area subject to this application. The terms of the agreement include exchanging all the facilities and service area associated with the application to the Buyer in return for assuming all liabilities associated with the facilities and area transferred by the Seller. The transaction will serve the public interest by facilitating efficient operation and regulation of a number of water and wastewater systems in the region, and the affiliated operating company will be able to respond quickly to emergencies.

Pursuant to 16 TAC § 24.109(f), Staff recommends the Commission find that the transaction will serve the public interest and allow the Applicant to proceed with the proposed transaction. Staff further recommends that a public hearing is not necessary. Staff also recommends that the Applicant be ordered to file documentation as evidence that all assets have been transferred to the acquiring entity and that the disposition of any remaining deposits have been addressed as soon as possible pursuant to 16 TAC § 24.109(f).