



Control Number: 44870



Item Number: 5

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APPLICATION OF TERRA §
SOUTHWEST INC. AND TOWN OF §
LITTLE ELM FOR SALE, §
TRANSFER, OR MERGER OF §
CERTIFICATE RIGHTS IN DENTON §
COUNTY

PUBLIC UTILITY COMMISSION
2015 JUL 21 AM 9:05
STATE OF TEXAS
FILING CLERK

COMMISSION STAFF'S RESPONSE TO ORDER NO. 1

COMES NOW the Staff of the Public Utility Commission of Texas, representing the public interest, and files Commission Staff's statement on administrative completeness and would show the following:

I. BACKGROUND

On June 23, 2015, Terra Southwest Inc. and the Town of Little Elm filed an application for the sale, transfer, or merger of facilities and certificate of convenience and necessity (CCN) rights in Denton County.¹ In the application, Terra Southwest proposes to transfer a portion of its existing water utility CCN containing the Hilltown subdivision from Terra Southwest CCN No. 11608 to the Town of Little Elm CCN No. 11202. On June 25, 2015, the administrative law judge (ALJ) in Order No. 1 set a deadline of July 23, 2015 for Commission Staff to file comments on the administrative completeness of the application, whether additional notice may be required to comply with all applicable procedural rules, and propose a procedural schedule.

II. COMMENTS ON ADMINISTRATIVE COMPLETENESS OF APPLICATION

Staff has reviewed the application and has found that the application is not administratively complete in accordance with TEX. WATER CODE ANN. § 13.244 (TWC) and Title 16, TEX. ADMIN. CODE § 24.105 (TAC). 16 TAC § 24.8(a) provides that, if the Commission determines that material deficiencies exist in any pleadings, statement of intent, applications, or other requests for Commission action addressed in 16 TAC Chapter 24, regarding a CCN application, the application may be rejected. 16 TAC § 24.105 provides the Commission's required contents of a CCN

¹ Application of Terra Southwest Inc. and Town of Little Elm for Sale, Transfer, or Merger of Certificate Rights in Denton County (June 23, 2015).

application. Staff has reviewed the application for sufficiency and, based on the attached memorandum of Leila Guerrero of the Commission's Water Utility Division, has found that the application contains deficiencies, specifically regarding needed mapping information. As such, Staff recommends that the application be found not administratively complete and recommends that the application be rejected pursuant to 16 TAC § 24.8(a).

Specifically, Staff recommends that applicants submit:

1. A small scale map only showing the location of the proposed water service area with enough detail to accurately locate the service areas in the vicinity of the nearest major highway or street intersection;
2. A list of utilities, districts and municipalities located within a 2-mile buffer of their proposed water service area;
3. A general location map delineating the proposed service area with enough detail to accurately locate the proposed area within the county;
4. A portion of the proposed area overlaps with Mustang SUD (CCN 11856); the Applicant needs to clarify if they intend to have dual certification with Mustang SUD or decertify the portion where overlap exists. For dual certification, an agreement or additional documentation should be provided. If the Applicant does not intend to decertify nor obtain dual certification with a portion of Mustang SUD, revised digital data and hard copy maps are required.
5. A portion of the proposed area's boundary extends outside of the Town of Little Elm's CCN area into an uncertificated area; the Applicant needs to clarify if they want to amend the CCN by including the area shown on the map that extends outside Little Elm's CCN area.

Staff respectfully requests that applicants be given until August 25, 2015 to cure these deficiencies in its application. Staff proposes to file comments on the administrative completeness of the application and proposed notice, and submit a proposed procedural schedule, on or before September 25, 2015.

III. PROCEDURAL SCHEDULE

Staff has reviewed the application and recommends that the application and notice be deemed not administratively complete, and recommends that the application and notice be rejected until the deficiencies are corrected. Accordingly, Staff has not proposed a procedural schedule for this application at this time.


IV. CONCLUSION

Because the application is not administratively complete, Staff recommends that the application be rejected for the reasons described above. Additionally, Staff recommends that applicants be given until August 25, 2015, to cure these deficiencies in the application. Staff proposes to file comments on the administrative completeness of the application and proposed notice on the amended application, and submit a proposed procedural schedule, on or before September 25, 2015.

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

Karen S. Hubbard
Managing Attorney
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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on July 21, 2015,
in accordance with 16 TAC § 22.74.



Katherine Lengieza Gross

PUC Interoffice Memorandum

To: Katherine Gross, Attorney
Legal Division

Thru: Tammy Benter, Director
Lisa Fuentes, Work Leader
Water Utility Regulation

From: Leila Guerrero, Regulatory Accountant/Auditor
Komal Patel, GIS Specialist
Water Utility Regulation

Date: July 16, 2015

Subject: *Docket No. 44870, Application of Terra Southwest, Inc. and Town of Little Elm for Sale, Transfer, or Merger of Facilities and Certificate Rights in Denton County*

On June 23, 2015, Terra Southwest, Inc. ("Terra Southwest" or "Seller") and Town of Little Elm ("Little Elm" or "Buyer") (collectively called "Applicants") filed an application with the Commission for the Sale, Transfer, or Merger (STM) of a portion of the existing water Certificate of Convenience and Necessity (CCN) No. 11608 containing the Hilltown Addition Subdivision held by Terra Southwest to Little Elm in Denton County. As a result of the transaction, Little Elm's water CCN No. 11202 will be expanded to include the facilities and customers of the Terra Southwest's Hilltown Addition Subdivision. Terra Southwest's CCN No. 11608 will be amended to remove the proposed service area. The application is being reviewed under 16 Tex. Admin. Code §§ 24.102, 24.105, 24.106, 24.109 and 24.112 (TAC) and Tex. Water Code §§ 13.241, 13.246, and 13.301 (TWC).

Based on a review of the information in the application, the Applicant has not satisfied the mapping requirements as listed on page 17 of the STM application pursuant to 16 TAC § 24.106(f)(1). The general location (small scale) map shows a different proposed water service area than is shown on the large scale map submitted with the application. The digital data submitted shows the proposed water service area in a different location than is shown on their large scale detailed map. All hard copy maps and digital data must show the same proposed service area in the same location. Therefore, Staff recommends the application be deemed insufficient for filing. In order to cure the mapping deficiencies, Staff recommends the Applicant provide and rectify the following information:

1. A small scale map only showing the location of the proposed water service area with enough detail to accurately locate the service areas in the vicinity of the nearest major highway or street intersection;

2. A list of utilities, districts and municipalities located within a 2-mile buffer of their proposed water service area;
3. A general location map delineating the proposed service area with enough detail to accurately locate the proposed area within the county;
4. A portion of the proposed area overlaps with Mustang SUD (CCN 11856); the Applicant needs to clarify if they intend to have dual certification with Mustang SUD or decertify the portion where overlap exists. For dual certification, an agreement or additional documentation should be provided. If the Applicant does not intend to decertify nor obtain dual certification with a portion of Mustang SUD, revised digital data and hard copy maps are required; and
5. A portion of the proposed area's boundary extends outside of the Town of Little Elm's CCN area into an uncertificated area; the Applicant needs to clarify if they want to amend the CCN by including the area shown on the map that extends outside Little Elm's CCN area.

Applicant should contact PUC mapping staff to discuss the location of the digital data for the proposed water service area in relation to the proposed area location shown on their large scale map.

Based on the information above, I recommend ordering the applicant to rectify the mapping issues and submit corrected mapping information for the application and the additional information requested within 30 calendar days from the date of the order. If the applicant fails to rectify the deficiency during this time frame, I further recommend dismissal of the application.