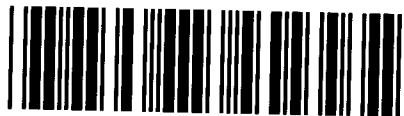


Control Number: 44870



Item Number: 8

Addendum StartPage: 0

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

PUBLIC UTILITY COMMISSION: 10
OF TEXAS
FILED IN PUBLIC UTILITY DIVISION
FILING CLERK

COMMISSION STAFF’S RESPONSE TO ORDER NO. 2

COMES NOW the Staff of the Public Utility Commission of Texas, representing the public interest, and files Commission Staff’s Response to Order No. 2 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 July 23, 2015, the administrative law judge (ALJ) in Order No. 2 set a deadline of September 25, 2015 for Commission Staff to file comments on the administrative completeness of the application and propose a procedural schedule.

II. COMMENTS ON ADMINISTRATIVE COMPLETENESS OF APPLICATION AND NOTICE

Staff has reviewed Applicants’ application and recommends that the Application be found administratively complete in accordance with TEX. WATER CODE ANN. § 13.246 and 16 TAC § 24.106. 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.

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).

16 TAC § 24.106 provides the Commission's notice requirements for CCN applications. Staff has reviewed the application and recommends that Applicant use the notice Staff has drafted, attached, to provide notice of this proceeding.

III. NOTICE REQUIREMENTS AND ISSUES FOR TECHNICAL REVIEW

Applicant has cured its notice deficiencies; therefore Staff recommends that the Applicant send notice to all affected parties (notices attached). As detailed in the memorandum of Leila Guerrero and Kristy Nguyen of the Commission's Water Utilities Division, Staff recommends the following:

- 1) Applicants notice the following entities, in addition to those entities listed in the application, located within a 2-mile buffer of the proposed water service area requested with this application.
 - a) Community Water Service Inc.
 - b) Town of Little Elm
 - c) Denton County FWSD No. 8A
 - d) Denton County FWSD No. 11B
 - e) Denton County MUD No. 4
 - f) Oak Point WCID No. 1
 - g) Oak Point WCID No. 2
 - h) Oak Point WCID No. 3
 - i) Oak Point WCID No. 4
 - j) Upper Trinity Regional Water District
 - k) Valencia on the Lake WCID
 - l) North Texas GCD
 - m) Denton County

- 2) Applicants provide the correct notice of the application to the following:
 - a) any districts, groundwater conservation districts, counties, utilities, cities, cities with an extraterritorial jurisdiction within two (2) miles of the proposed service areas;
 - b) any city with an extraterritorial jurisdiction which overlaps the proposed service areas; and
 - c) any customers transferred, or other affected parties in the requested area.

Within 30 days of the Commission order, the Applicant should submit a copy of the actual notice issued and the signed affidavit (copy attached), indicating that the notice was given. Staff will continue to review the application pursuant to 16 TAC §§24.102 - 24.109 as applicable.

IV. PROCEDURAL SCHEDULE

Staff proposes the following procedural schedule:

Event	Deadline
Applicant files with the Commission a copy of the notice sent to the affected parties with attached signed affidavit that the notice was given.	October 19, 2015
Deadline for Commission Staff to file a supplemental procedural schedule	October 26, 2015
Intervention deadline, and deadline for intervenors to file comments or request a hearing	30 days after the mailing of notice

V. CONCLUSION

Because the application and attached notice is administratively complete, Staff recommends that the application and notice be approved. Additionally, Staff recommends that Staff's proposed procedural schedule be adopted.

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

Karen S. Hubbard
Managing Attorney
Legal Division



Katherine Lengieza Gross
Attorney-Legal Division
State Bar No. 24065610
(512) 936-7277
(512) 936-7268 (facsimile)
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 September 18, 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
Kristy Nguyen, GIS Specialist
Water Utility Regulation

Date: September 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 Certificate of Convenience and Necessity (CCN) No. 11608 held by Terra Southwest in Denton County. If approved, this application will result in the amendment of Little Elm's water CCN No. 11202 to include the facilities and customers of the Hilltown Addition Subdivision and Terra Southwest's boundaries for CCN No. 11608 will be amended/reduced to reflect the transferred service area. The application is being reviewed under 16 Tex. Admin. Code §§ 24.102, 24.109 and 24.112 (TAC) and Tex. Water Code §§ 13.241, 13.246, and 13.301 (TWC).

On August 25, 2015, the Applicant filed new maps, mapping data and hard copy maps.

Staff has reviewed the new mapping information and recommends the application be deemed sufficient for filing. The notice to current customers, neighboring systems and cities are attached. The Applicant should be ordered to:

- 1) Notice the following entities, in addition to those entities listed in the application, located within a 2-mile buffer of the proposed water service area requested with this application.
 - a) Community Water Service Inc.
 - b) Town of Little Elm
 - c) Denton County FWSD No. 8A
 - d) Denton County FWSD No. 11B
 - e) Denton County MUD No. 4
 - f) Oak Point WCID No. 1

- g) Oak Point WCID No. 2
- h) Oak Point WCID No. 3
- i) Oak Point WCID No. 4
- j) Upper Trinity Regional Water District
- k) Valencia on the Lake WCID
- l) North Texas GCD
- m) Denton County

- 2) Provide the correct notice of the application to the following:
- a) any districts, groundwater conservation districts, counties, utilities, cities, cities with an extraterritorial jurisdiction within two (2) miles of the proposed service areas;
 - b) any city with an extraterritorial jurisdiction which overlaps the proposed service areas; and
 - c) any customers transferred, or other affected parties in the requested area.

Within 30 days of the Commission order, the Applicant should submit a copy of the actual notice issued and the signed affidavit (copy attached), indicating that the notice was given.

Notice to Current Customers, Neighboring Systems, and Cities

TERRA SOUTHWEST, INC., CCN NO. 11608, NOTICE OF INTENT TO SELL WATER FACILITIES, AND TO TRANSFER A PORTION WATER CERTIFICATES OF CONVENIENCE AND NECESSITY IN DENTON COUNTY, TEXAS

To: _____ Date Notice Mailed: _____, 2015
(Name of Customer, Neighboring System, or City)

(Address)

(City State Zip)

Terra Southwest, Inc. PO Box 140, Alvord, TX 76225
(Seller's or Transferor's Name) (Address) (City) (State) (Zip Code)

has submitted an application with the Public Utility Commission of Texas (Commission) to sell water facilities, and transfer a portion of water Certificate of Convenience and Necessity service area in Denton, Texas to:

Town of Little Elm 100 W Eldorado Pkwy Little Elm, TX 75068
(Purchaser's or Transferee's Name) (Address) (City) (State) (Zip Code)

The sale is scheduled to take place as approved by the Commission (V.T.C.A., Water Code § 13.301). The transaction and the transfer includes the following subdivision: Hilltown Subdivision

The area subject to this transaction is located approximately 2.6 miles west of downtown Little Elm, Texas and is **generally** bounded on the north by Cedar Lane; on the east by Shahan Prairie Rd.; on the south by FM 720; and on the west by FM 720.

The total area being requested includes approximately 164 acres and serves 16 current customers. This transaction will have the following effect on the current customers' rates and services: There will be no effect on the rates of current customers.

Affected persons may file written protests and/or request a public hearing within 30 days of this notice.

To request a hearing, you must:

- (1) state your name, mailing address and daytime telephone number;
- (2) state the applicant's name, application number or another recognizable reference to this application;
- (3) the statement "I/we request a public hearing";
- (4) write a brief description of how you, the persons you represent, or the public interest would be adversely affected by the proposed transaction and transfer of the CCN; and

- (5) state your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Only those persons who submit a written request to be notified of a hearing will receive notice if a hearing is scheduled.

Persons who wish to intervene or comment should file a request in writing with the:

Filing Clerk
Public Utility Commission of Texas
1701 North Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the Commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, Commission will not transfer the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

Si desea informacion en Espanol, puede llamar al 1-888-782-8477

Utility Representative

Utility Name

PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE TO NEIGHBORING UTILITIES, CUSTOMERS AND AFFECTED PARTIES
DOCKET NO. _____

STATE OF TEXAS
COUNTY OF _____

_____ has provided individual notice to the following entities and customers:

	DATE
_____	_____
_____	_____
_____	_____
_____	_____

OATH

I, _____, being duly sworn, file this form as

_____ (indicate relationship to applicant, that is, owner, member of partnership, title of officer of corporation, or other authorized representative of applicant); that in such capacity, I am qualified and authorized to file and verify such form, am personally familiar with the notices given with this application, and have complied with all notice requirements in the application and application acceptance letter; and that all such statements made and matters set for therein are true and correct.

Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant, or its' attorney, a properly verified Power of Attorney must be enclosed.

Subscribed and sworn to before me this _____ day of _____, 20____, to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____