



Control Number: 46441



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P.U.C. DOCKET NO. 46441

RECEIVED

APPLICATION OF TERRA  
SOUTHWEST, INC. TO AMEND A  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY IN DENTON  
COUNTY

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PUBLIC UTILITY COMMISSION

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PUBLIC UTILITY COMMISSION  
OFFICE OF THE  
FILING CLERK

### STAFF'S FINAL RECOMMENDATION

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this response to Order No. 8 and would show the following:

#### I. Background

On October 14, 2016, Terra Southwest, Inc. (Terra) filed an application to amend its water certificate of convenience (CCN) No. 11608 in Denton County, Texas. On November 9, 2017, the Administrative Law Judge (ALJ) issued Order No. 8 requiring Staff to file its final recommendation by November 20, 2017. Therefore, this recommendation is timely filed.

#### II. Recommendation

Staff has reviewed Terra's application and, as supported by the attached memorandum of Jonathan Ramirez and Kristi Nguyen of the Water Utilities Division, recommends that Terra's application be approved.

#### III. Conclusion

Staff requests the entry of an order consistent with the above recommendation.

PUBLIC UTILITY COMMISSION  
LEGAL DIVISION

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director

Karen S. Hubbard  
Managing Attorney

*WITH PERMISSION*

*Landon Lill* *KRB*

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**P.U.C. DOCKET NO. 46441**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on November 20, 2017, in accordance with P.U.C. Procedural Rule 22.74.

*WITH PERMISSION*

*Landon Lill* *KRB*

Landon J. Lill

## PUC Interoffice Memorandum

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**To:** Landon Lill, Attorney  
Legal Division

**Thru:** Tammy Benter, Director  
Lisa Fuentes, Manager  
Water Utilities Division

**From:** Jonathan Ramirez, Financial Analyst  
Water Utilities Division

**Date:** November 14, 2017

**Subject:** **Docket No. 46441:** *Application of Terra Southwest, Inc. To Amend a Certificate of Convenience and Necessity in Denton County*

On October 14, 2016, Terra Southwest (Applicant), filed an application to amend its water Certificate of Convenience and Necessity (CCN) No. 11608 in Denton County, Texas. The Applicant is seeking to amend water CCN service area containing approximately 35 acres and 98 current customers. The application is being reviewed under Texas Water Code §§ 13.242-250 (TWC) and 16 Tex. Admin Code §§ 24.101-107 (TAC). The Applicant already provides retail water service to the customers in the requested area.

The comment period ended January 11, 2017, and no protests or requests to opt out were received.

### **Criteria Considered**

TWC § 13.246(c) requires the Commission to consider nine criteria when granting or amending a CCN. Therefore, the following criteria were considered:

***TWC § 13.246(c)(1) requires the commission to consider the adequacy of service currently provided to the requested area.*** No additional construction is necessary for the Applicant to serve the requested area. The Applicant currently operates two Texas Commission on Environmental Quality (TCEQ) approved water systems, Public Water System (PWS) No. 0610112 and PWS No. 0610161. As the Applicant is operating a ground water system serving more than 1,000 connections, it are required to retain two operators each with the minimum of a “Class C” operator’s license. The Applicant has one “Class A” operator and six “Class C” licensed operators.

***TWC § 13.246(c)(2) requires the commission to consider the need for service in the requested area.*** The Applicant is already providing service to the customers in the requested area.

***TWC § 13.246(c)(3) requires the commission to consider the effect of granting an amendment on the recipient and on any other retail public utility servicing the proximate area.*** The Applicant’s CCN will be amended to include the requested area.

***TWC § 13.246(c)(4) requires the commission to consider the ability of the Applicant to provide adequate service.*** The Applicant currently provides adequate service to the customers in the requested area under PWS ID No. 0610161 and PWS ID No. 0610112.

***TWC § 13.246(c)(5) requires the commission to consider the feasibility of obtaining service***

*from an adjacent retail public utility.* The Applicant is currently providing service to the customers in the requested area therefore receiving service from other providers in the area was not considered.

***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.*** Based on the review of the application and information provided, the Applicant has demonstrated adequate financial and managerial capabilities to provide service to the area being requested as detailed below.

#### **Financial Test**

Texas Water Code § 13.246(c)(6) (TWC) requires the Commission to consider the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service and the financial stability of the applicant. 16 TAC § 24.11 establishes criteria to demonstrate that an owner or operator of a retail public utility has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and proposed utility service area. 16 TAC § 24.11(e) lists the financial tests. The following discussion, based on the projected financial statements provided, shows that the applicant meets the criteria:

- 1) 16 TAC § 24.11(e)(2) refers to the leverage test in which the applicant must meet one or more of four criteria as applicable to this application. 16 TAC § 24.11(e)(2)(A) states that the owner or operator must have a debt to equity ratio of less than one, using long term debt and equity or net assets. Terra Southwest meets this criterion because there is no long term debt, and therefore, the leverage test is met.
  - a. Equity is \$624,375.00; and
  - b. Long-term Liabilities are \$0.00.
- 2) 16 TAC § 24.11(e)(3) refers to the operations test. This states that the owner or operator must demonstrate that sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations. Cash shortages were not reflected in the financial statements for the years ended 2015, 2014, and 2013. Terra Southwest demonstrates there is sufficient cash available to cover any projected operations and maintenance shortages, therefore the applicant meets this criterion.

***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.*** There will be no effect on the environmental integrity of the land since the Applicant is currently providing service in the requested area.

***TWC § 13.246(8) requires the commission to consider the probable improvement in service or lowering of cost to consumers.*** The Applicant is currently providing adequate service to the customers in the requested area. There will be no change in the cost or level of service for the consumers.

The Applicant meets all of the statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules and regulations. Approval of this application will result the amendment of the Applicant's CCN No. 11608 in Denton County.

The Applicant consented to the attached map, tariffs, and certificate on March 13, 2017.

Based on the above information, Staff recommends the Commission issue an order approving the application and provide the attached map, tariffs and certificate to the Applicant.

Staff also recommends the Applicant file a copy of each CCN map along with a written description of the CCN service area in the county clerks' office pursuant to TWC §§ 13.257 (r) and (s).