



Control Number: 46472



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APPLICATION OF MJ WOOTAN §
(ESTATE) AND DEER COUNTRY §
WATER SUPPLY CORPORATION §
FOR SALE, TRANSFER, OR MERGER §
OF FACILITIES AND CERTIFICATE §
RIGHTS IN LLANO COUNTY §

PUBLIC UTILITY
COMMISSION OF TEXAS
PUBLIC UTILITY COMMISSION
CLERK

**COMMISSION STAFF'S
RECOMMENDATION ON ADMINISTRATIVE COMPLETENESS**

Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) files its Recommendation on Administrative Completeness. In support of its Recommendation on Administrative Completeness, Staff states the following:

I. Background

On October 25, 2016, the Estate of MJ Wootan and Deer Country Water Supply Corporation request the approval of the sale and transfer of certain water assets and a corresponding water certificate of convenience and necessity (CCN No. 12465) for a certificated service area in Llano County, Texas. The Estate of MJ Wootan is the seller, and Deer Country Water Supply Corporation is the purchaser.

On November 10, 2016, the Administrative Law Judge issued Order No. 2, which requires Staff to file a recommendation on administrative completeness by November 23, 2016.

II. Applicable Statutes and Rules

A. Administrative Completeness

In order for a sale and transfer application to be processed, the Commission's substantive rules require that the Commission make a determination of administrative completeness. The Commission's substantive rules state:

Notice of rate/tariff change; report of sale, acquisition, lease, rental, merger, or consolidation; and sale, assignment of, or lease of a certificate; and applications for certificates of convenience and necessity shall be reviewed for administrative completeness within ten working days of receipt of the application. A notice or an application for rate/tariff change; report of sale, acquisition, lease, rental, merger, or consolidation; and applications for certificates of convenience and necessity are

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not considered filed until received by the commission, accompanied by the filing fee, if any, required by statute or commission rules, and a determination of administrative completeness is made. Upon determination that the notice or application is administratively complete, the applicant shall be notified by mail of that determination. If the commission determines that material deficiencies exist in any pleadings, statement of intent, applications, or other requests for commission action addressed by this chapter, the notice or application may be rejected and the effective date suspended until the deficiencies are corrected.¹

A sale and transfer application is not considered filed with the Commission “until the commission makes a determination of administrative completeness.”² “If the commission determines that material deficiencies exist in any pleadings, statement of intent, applications, or other requests for commission action addressed by this chapter, the notice or application may be rejected and the effective date suspended until the deficiencies are corrected.”³

B. Notice

An applicant requesting approval of the sale and transfer of assets and accompanying CCN must send notice “on the form required by the commission”⁴ The Commission’s form requires notice to be sent to current customers, neighboring systems, and municipalities. With regard to the transfer of a CCN, notice must be sent to “cities and neighboring retail public utilities providing the same utility service whose corporate limits or certificated service area boundaries are within two miles of the requested service area boundaries, and any city with an extraterritorial jurisdiction which overlaps the proposed service area boundaries.”⁵ Additionally, the Commission may require notice to be published “once each week for two consecutive weeks in a newspaper of general circulation in the area in which the retail public utility being transferred is located”⁶

¹ 16 Tex. Admin. Code § 24.8(a).

² 16 Tex. Admin. Code § 24.8(d).

³ 16 Tex. Admin. Code § 24.8(b).

⁴ 16 Tex. Admin. Code § 24.109(a). The form notice is available on the Commission’s website: <http://www.puc.texas.gov/industry/water/Forms/Forms.aspx>.

⁵ 16 Tex. Admin. Code § 24.112(c)(3). A “retail public utility” is defined as: “Any person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation.” 16 Tex. Admin. Code § 24.3(41).

⁶ 16 Tex. Admin. Code § 24.112(c)(2).

III. Staff's Recommendation

Staff has reviewed the Estate of MJ Wootan and Deer Country Water Supply Corporation's application and accompanying documents. Staff recommends that the application be deemed administratively complete.⁷

With regard to notice, Staff recommends that the Estate of MJ Wootan and Deer Country Water Supply Corporation be required to send notice of the application to the following entities and individuals:

- a. Any districts, utilities, and cities within two (2) miles of the proposed service area;
- b. The county judge of each county that has the proposed service area;
- c. Any groundwater conservation districts that is wholly or partially included in the proposed service area;
- d. Each city with an extraterritorial jurisdiction that is wholly or partially included in the proposed service area;
- e. Any customers transferred or other affected parties in the proposed service area;
- f. The Lower Colorado River Authority; and
- g. Llano County.

The form notice and form affidavit of notice to be used are included with Ms. Tamayo's memorandum.

IV. Proposed Procedural Schedule

To assist in the processing of the application, Staff requests that the Commission adopt the following procedural schedule:

Event	Deadline
Deadline for the Estate of MJ Wootan and Deer Country Water Supply Corporation's to file affidavits regarding the provision of notice	January 9, 2017
Deadline for Staff to file a supplemental procedural schedule	January 23, 2017
Intervention deadline, and deadline for intervenors to file comments or request a hearing	30 days after the mailing of notice

⁷ Staff's recommendation is based on the attached memorandum of Debbie Reyes Tamayo of the Water Utilities Division.

V. Conclusion

Staff recommends that: (1) the Estate of MJ Wootan and Deer Country Water Supply Corporation's application be deemed administratively complete; (2) the Estate of MJ Wootan and Deer Country Water Supply Corporation use the form notice and form affidavit attached Ms. Tamayo's memorandum; and (3) the Commission adopt the above-mentioned procedural schedule.

Date: November 21, 2016

Respectfully Submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Margaret Uhlig Pemberton
Division Director
Legal Division

Stephen Mack
Managing Attorney
Legal Division

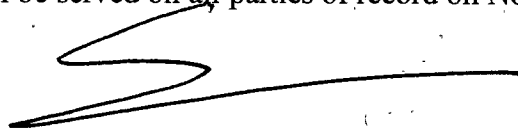


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DOCKET NO. 46472

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on November 21, 2016, in accordance with 16 TAC § 22.74.

A handwritten signature in black ink, appearing to be 'Sam Chang', written over a horizontal line.

Sam Chang

PUC Interoffice Memorandum

To: Sam Chang, Attorney
Legal Division

Thru: Tammy Benter, Director
Lisa Fuentes, Manager
Debi Loockerman, Manager
Heidi Graham, Manager
Water Utilities Division

From: Debbie Reyes Tamayo, Program Specialist
Tracy Montes, GIS Specialist
Jonathan Ramirez, Financial and Managerial Review Specialist
Ricky Herrera, Engineering Specialist
Water Utilities Division

Date: November 18, 2016

Subject: **Docket 46472**, *Application of Deer Country Water Supply Corporation (WSC) and MJ Wootan (Estate) for Sale, Transfer, and Merger of Facilities and Certificate of Convenience and Necessity (CCN) Rights in Llano County*

On October 25, 2016, Deer Country Water Supply Corporation (Deer Country or Buyer), and MJ Wootan (Estate) (Wootan or Seller), holding CCN 12465, (collectively, Applicants) filed an application for approval of the sale, transfer, or merger (STM) of facilities and certificate rights in Llano County, Texas, pursuant to Texas Water Code (TWC) §§ 13.241, 13.246, 13.301 and 16 Tex. Admin. Code §§ 24.102, 24.109 and 24.112. Specifically, Deer Country seeks approval to acquire all of the water system assets and service area and to retain Wootan's CCN No. 12465.

Staff has reviewed the required application and mapping information and recommends that the application be deemed administratively complete and sufficient for filing. Staff further recommends the Applicants be ordered to do the following:

- 1) Provide notice to the following:
 - a) any districts, utilities, and cities within two (2) miles of the proposed area;
 - b) the county judge of each county and each groundwater conservation district that is wholly or partly included in the proposed area to be certified;
 - c) each city with an extraterritorial jurisdiction (ETJ) that is wholly or partly included in the proposed area to be certified; and
 - d) any customers transferred, or other affected parties in the requested area.
- 2) Provide correct notice of the application to the following entities:
 - Lower Colorado River Authority
 - Llano County

Within 30 days of the Commission order, Staff recommends that the Applicants be required to file a copy of the actual individual notice sent with attached signed and notarized affidavit that the notice was given.

During the technical review phase of the application, the Applicants must provide the following additional information:

Application Content

- A copy of the proposed agreement between the Buyer and the Seller, contingent contract, or other documentation supporting the fact that the parties agree to the proposed transaction.
- A copy of the Seller's most current approved tariff.
- A copy of the most recent Texas Commission on Environmental Quality (TCEQ) inspection reports for each water system owned by the Applicant.
- A copy of the Articles of Incorporation
- A copy of By-Laws

Financial Content

- A complete historical Balance Sheet if available (Deer Country).
- Projected long term debt (Deer Country)

Notice to Current Customers, Neighboring Systems and Cities

**MJ WOOTAN (ESTATE) NOTICE OF INTENT TO SALE, TRANSFER, AND MERGE OF
FACILITIES AND CERTIFICATE OF CONVENIENCE AND NECESSITY(CCN) WATER
SERVICE AREA TO DEER COUNTRY WATER SUPPLY CORPORATION (WSC) IN
LLANO COUNTY**

<u>MJ Wootan (Estate)</u>	<u>P. O. Box 927</u>	<u>Llano, Texas</u>	<u>78643-0927</u>
(Seller's or Transferor's Name)	(Address)	(City) (State)	(Zip Code)

has submitted an application with the Public Utility Commission of Texas for approval to sell facilities and transfer water service under CCN No. 12465 in Llano County to:

<u>Deer Country WSC</u>	<u>215 Wootan Lane</u>	<u>Llano, Texas</u>	<u>78643-2547</u>
(Purchasers 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 proposed service area include the following subdivision: Deer Country Subdivision

The area subject to this transaction is located approximately 6.5 miles west(direction) of downtown Llano, Texas and is generally bounded on the north by Country Road 406 (.45 miles south of); on the east by County Road 402; on the south by W State Highway 29 and on the west by 3 miles west of Wootan Lane.

Total area approximately 310 acres and serves 23 current customers.

This transaction will have the following effect on the current customers' rates and services:
The current rates will remain in effect once transferred. A membership fee for water supply corporation member will be implemented.

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) include 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. The Commission will issue the CCN requested in the referenced application unless a hearing is scheduled to consider the transaction. If no protests or requests for hearing are filed during the comment period, the Commission may issue the CCN 30 days after publication of this notice.

Persons who wish to protest or request a hearing on this application should write the:

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

**Se desea informacion en Espanol, puede llamar al
512-936-7221**

Merle Carlson -325-248-5623
Utility Representative

Deer Country WSC
Utility Name

PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE TO CURRENT CUSTOMERS, NEIGHBORING UTILITIES AND AFFECTED PARTIES

Docket No. 46472

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 _____