



Control Number: 48246



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APPLICATION OF NERRO SUPPLY
INVESTORS, LLC TO AMEND A
WATER CERTIFICATE OF
CONVENIENCE AND NECESSITY IN
MONTGOMERY COUNTY

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PUBLIC UTILITY COMMISSION
OF TEXAS

NOTICE OF APPROVAL

This Notice addresses the application of Nerro Supply Investors, LLC to amend its water certificate of convenience and necessity (CCN). The Commission amends Nerro's CCN number 10336 to add 55 acres of land and no customers to its service area in Montgomery County.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Nerro is a domestic limited liability company registered with the Texas secretary of state under file number 802143247.
2. Nerro owns and operates facilities to provide water service in Montgomery County.
3. Nerro provides water service to 2,530 connections through the public water systems it owns and operates.
4. Nerro is authorized to provide water service in Montgomery County under Commission CCN number 10336.

Application

5. On April 9, 2018, Nerro filed an application to amend water CCN number 10336 in Montgomery County.
6. Nerro seeks to add approximately 55 acres to its certificated area, which currently has no customers.
7. The requested area is approximately four miles southeast of downtown Magnolia and is generally bounded on the north by Gossamer Lane, on the east by Adams Lane, on the

south by Farm-to-Market (FM) Road 1774, and on the west by Hazy Meadow Lane and FM 1774.

8. No portion of the service area is located within an incorporated city, a district, or the certificated service area of another utility.
9. The requested amendment will change Nerro's certificated service area to reflect the area it is currently serving.
10. In Order No. 2 issued on May 8, 2018, the administrative law judge (ALJ) deemed Nerro's application administratively complete.

Notice of Application

11. Notice of the application appeared in the April 20, 2018 issue of the Texas Register.
12. Notice of the application was published in *The Courier* on May 26 and June 2, 2018.
13. On June 18, 2018, Nerro filed a publisher's affidavit attesting to notice by publication in *The Courier*, a newspaper of general circulation in Montgomery County on May 26 and June 2, 2018.
14. Notice of the application was sent to neighboring utilities, landowners, and cities on May 25, 2018.
15. On June 18, 2018, Nerro filed an affidavit of Bret W. Fenner, authorized representative of Nerro, attesting that notice was mailed to neighboring utilities, landowners, and cities on May 25, 2018.
16. In Order No. 3 issued on June 29, 2018, the ALJ found notice sufficient.

Evidentiary Record

17. On September 28, 2018, the parties filed a joint motion for admission of evidence.
18. In Order No. 5 issued on January 4, 2019, the ALJ admitted the following evidence into the record of this proceeding: (a) the application of Nerro Supply Investors, LLC filed on April 9, 2018; (b) the amendment to the application, filed on May 1, 2018; (c) the publisher's affidavit and affidavit of notice filed on June 18, 2018; (d) Nerro's financial information filed on June 29, 2018; (e) Nerro's response to Commission Staff's request for

information, filed on July 27, 2018; and (f) Commission Staff's recommendation on final disposition with attachments, filed on September 17, 2018.

Adequacy of Existing Service—TWC § 13.246(c)(1), 16 TAC § 24.227(d)(1)

19. Nerro currently serves no customers in the requested area.
20. Nerro has adequate production and storage as well as a distribution system in place to provide service in the requested area.

Need for Additional Service—TWC § 13.246(c)(2), 16 TAC § 24.227(d)(2)

21. Nerro currently serves no customers in the requested area.
22. The requested service area includes four subdivisions and an industrial park.
23. Nerro has not received any request for service from any person not currently being served in the requested area.
24. The requested service area is being added as part of an agreed settlement in docket number 46322.¹

Effect of Granting the Amendment—TWC § 13.246(c)(3), 16 TAC § 24.227(d)(3)

25. Nerro is an established utility providing service with existing water systems and will not incur additional costs for new facilities.
26. Granting the requested amendment will bring Nerro into compliance with the certification requirements of the TWC.
27. The Commission received no protests or concerns from any other adjacent retail public utility.
28. Granting Nerro's CCN amendment will not affect landowners in the area.

Ability to Serve: Managerial and Technical—TWC §§ 13.246(c)(4), 13.241(a), 16 TAC §§ 24.227(a), 24.227(d)(4)

29. Nerro has two class C certified operators, one class B operator, and one class D operator.
30. The TCEQ database verified that Nerro has no outstanding violations.

¹ *Complaint of Playa Vista Conroe, a Condominium Association, Inc. Against C&R Water Supply, Inc.*, Docket No. 46322, Request to Withdraw and Settlement Agreement (May 10, 2017).

Ability to Serve: Financial Ability and Stability–TWC §§ 13.246(c)(6), 13.241(a), 16 TAC §§ 24.227(a), 24.227(d)(6)

31. Nerro has the financial ability and financial stability to pay for facilities necessary to provide continuous and adequate service to the requested area.
32. Nerro has a debt-to-equity ratio of greater than one.
33. Nerro's balance sheet as of December 31, 2017, reflects a net operating income of \$405,461 after expenses of \$50,149.
34. Nerro submitted projections indicating no operations or maintenance shortages over the next five years.
35. No additional investment is required to provide service.

Financial Assurance–TWC § 13.246(d), 16 TAC § 24.227(e)

36. There is no need to require Nerro to provide a bond or other financial assurance to ensure continuous and adequate service.

Ability to Serve: Water Treatment Plant–TWC § 13.241(c)(4), 16 TAC § 24.227(a)(2)

37. Nerro's water systems are permitted by the TCEQ under permit numbers 1700013, 1700031, 1010213, and 1700036.

Service from Other Utilities–TWC §13.246(c)(5), 16 TAC § 24.227(d)(3)

38. Nerro will continue to serve customers in the requested area using its existing water system.
39. Nerro's application has no effect on any other retail public utility serving the surrounding area because there are no other retail public utilities in the area.

Regionalization or Consolidation–TWC §§ 13.241(d), 16 TAC § 24.227(b)

40. Nerro does not anticipate building any new facilities to continue serving the area.

Environmental Integrity–TWC § 13.246(c)(7), 16 TAC § 24.227(d)(7)

41. Granting Nerro's CCN amendment will not adversely impact the environmental integrity of the requested area as no additional construction is needed to provide service to the requested area.

Improvement in Service–TWC § 13.246(c)(8), 16 TAC § 24.227(d)(8)

42. Granting Nerro's CCN amendment will not affect service to customers because Nerro already serves the requested area.

Lowering of Cost–TWC § 13.246(c)(8), 16 TAC § 24.227(d)(8)

43. Nerro provides service to customers in the requested area under its existing tariff.
44. Customers will continue to pay the rates under Nerro's existing tariff.

Effect on Land–TWC § 13.246(c)(9), 16 TAC § 24.227(d)(9)

45. No additional construction is needed to provide service to the requested area.

Tariff and Map

46. On August 29, 2018, Commission Staff emailed its proposed tariff, map, and certificate to Nerro.
47. On September 7, 2018, Nerro filed its consent to the proposed tariff, map, and certificate.
48. On September 17, 2018, Commission Staff filed the proposed tariff, map, and certificate as an attachment to its recommendation.

Informal Disposition

49. More than 15 days have passed since the completion of notice provided in this docket.
50. No person filed a protest or motion to intervene.
51. Nerro and Commission Staff are the only parties to this proceeding.
52. No party requested a hearing and no hearing is needed.
53. Commission Staff recommended approval of the application.
54. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this application under Texas Water Code (TWC) §§ 13.041, 13.241, 13.242, 13.244, and 13.246.

2. Nerro is a retail public utility as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Notice of this application complies with TWC § 13.246 and 16 TAC § 24.235.
4. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,² the TWC, and Commission rules.
5. Nerro possesses the financial, managerial, and technical capability to provide continuous and adequate service to the requested area as required by TWC § 13.241(a) and 16 TAC § 24.227.
6. The amendment to CCN number 10336 is required for the public convenience and necessity and is necessary for the service, accommodation, convenience, and safety of the public under TWC §§ 13.242 and 13.246.
7. Under TWC § 13.250, Nerro must serve every consumer within the added area under sewer CCN number 10336 and the service must be continuous and adequate service.
8. Nerro must record a certified copy of the approved map for the certificate amendment, along with a boundary description of the service area, in the real property records of Montgomery County within 31 days of receiving this Notice and submit to the Commission evidence of the recording. TWC § 13.257(r), (s).
9. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with the preceding findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission amends Nerro's CCN number 10336 to include the requested area as described in this Notice and shown on the map attached to this Notice.
2. The Commission grants the certificate attached to this Notice.

² Administrative Procedure Act, Tex. Gov't Code §§ 2001.001–.902.

3. The Commission approves the tariff filed by Commission Staff on September 17, 2018.
4. Within ten days after the date of this Notice, Commission Staff must provide a clean copy of the tariff approved in this Notice to central records to be marked *Approved* and filed in the Commission's tariff book.
5. Nerro must provide continuous and adequate service to every consumer within its certificated service area in accordance with its tariff.
6. Nerro must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Montgomery County affected by the application.
7. Nerro must file in this docket proof of the recording required in ordering paragraph 6 not later than 45 days after the date of this Notice.
8. The Commission denies all motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas the 13th day of March 2019.


MAYSON PEARSON
ADMINISTRATIVE LAW JUDGE

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Public Utility Commission of Texas

By These Presents Be It Known To All That

Nerro Supply Investors, LLC

having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Nerro Supply Investors, LLC, is entitled to this

Certificate of Convenience and Necessity No. 10336

to provide continuous and adequate water utility service to that service area or those service areas in Harris and Montgomery Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48246 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of Nerro Supply Investors, LLC, to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this 13th day of March 2019

Nerro Supply Investors, LLC
Portion of Water CCN No. 10336
PUC Docket No. 48246
Amended CCN No. 10336 in Montgomery County



Water CCN

-  10336 - Nerro Supply Investors LLC
-  11768 - Pinehurst Decker Prairie WSC
-  10342 - H-M-W SUD
-  12788 - Johnston Water Utility LLC

Water CCN Facility +200'

-  11768 - Pinehurst Decker Prairie WSC



Public Utility Commission of Texas
1701 N. Congress Ave
Austin, TX 78701

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Feet



Map by: Komal Patel
Date created: August 1, 2018
Project Path: n:\finalmapping\
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