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APPLICATION OF J&S WATER §
COMPANY, LLC AND NERRO §
SUPPLY, LLC FOR SALE, §
TRANSFER, OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN HARRIS, CHAMBERS, §
AND LIBERTY COUNTIES §

PUBLIC UTILITY COMMISSION

OF TEXAS

PUBLIC UTILITY COMMISSION
FILING CLERK

COMMISSION STAFF'S RECOMMENDATION ON APPROVAL OF TRANSACTION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Recommendation on Approval of Transaction. In support thereof, Staff shows the following:

I. BACKGROUND

On July 18, 2018, J&S Water Company, LLC (J&S) and Nerro Supply, LLC (Nerro) (collectively, Applicants), filed an application for sale, transfer, or merger of facilities and certificate rights in Harris, Chambers, and Liberty Counties. Specifically, the Applicants seek approval to transfer a portion of J&S's facilities and water and sewer service areas under water Certificate of Convenience and Necessity (CCN) No. 12085 and sewer CCN No. 20658 to Nerro's water CCN No. 12252 and sewer CCN No. 20366. The requested area includes approximately 154 acres and 553 connections.

On October 9, 2018, Order No. 3 was issued, establishing a deadline of November 16, 2018, for Staff to file a final recommendation on approval of the sale. Therefore, this pleading is timely filed.

II. RECOMMENDATION ON TRANSACTION

As detailed in the attached memorandum of Emily Sears of the Commission's Water Utility Regulation Division, Staff recommends approval of the proposed transaction. Staff's review indicates that the application satisfies Texas Water Code (TWC) §§ 13.241, 13.246, and 13.301 and 16 Texas Administrative Code (TAC) §§ 24.227 and 24.239 (formerly 16 TAC §§ 24.102 and 24.109), and that a hearing is not necessary. If the proposed transaction is permitted to proceed, Staff further recommends that the Applicants be required to file evidence that the sale has been completed. Pursuant to 16 TAC § 24.239(o) (formerly 16 TAC § 24.109(o)), approval of the sale

expires six months from the date of the Commission's written approval allowing the sale to proceed. If the sale is not consummated within that period, the approval is void and the Applicants must re-apply for approval of the sale unless the Applicants request and receive an extension from the Commission.

III. CONCLUSION

Staff respectfully requests that the Administrative Law Judge issue an order consistent with the above recommendation.

Dated: November 16, 2018

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Katherine Lengieza Gross
Managing Attorney

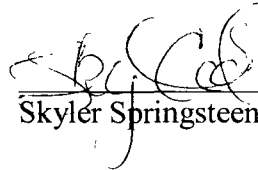


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DOCKET NO. 48532

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on November 16, 2018, in accordance with 16 Texas Administrative Code § 22.74.



Skyler Springsteen Collins

PUC Interoffice Memorandum

To: Skyler Collins, Attorney
Legal Division

Thru: Heidi Graham, Manager
Water Utility Regulation Division

From: Emily Sears, Financial Analyst
Water Utility Regulation Division

Date: November 12, 2018

Subject: **Docket 48532**, *Application of J&S Water Company, LLC and Nerro Supply, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Harris, Chambers, and Liberty Counties*

On July 18, 2018, J&S Water Company, LLC (Seller) and Nerro Supply, LLC (Purchaser) (collectively, Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Harris, Chambers, and Liberty Counties, Texas, pursuant to Texas Water Code Ann. (TWC) § 13.301 and the 16 Texas Administrative Code (TAC) § 24.239 (formerly 16 TAC § 24.109). Specifically, Applicants seek approval to transfer a portion of the Seller's facilities and water and sewer service areas under water Certificate of Convenience and Necessity (CCN) No. 12085 and sewer CCN No. 20658 to the Purchaser's water CCN No. 12252 and sewer CCN No. 20366. The requested area includes approximately 154 acres and 553 connections.

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.

The public water systems being purchased and transferred include Maple Leaf Gardens (PWS ID No. 1011493), Oakland Village (PWS ID No. 1011049), and Woodland Acres (PWS ID No. 0360027). These systems are registered with the Texas Commission on Environmental Quality (TCEQ) and are capable of providing drinking water that meets the requirements of Texas Health and Safety Code, Chapter 341, TCEQ rules, and the TWC. Also, no further facility construction is necessary at this time.

The sewer systems being purchased and transferred include sewer treatment plants with water quality permits WQ12342-001 (Maple Leaf Gardens) and WQ11720-001 (Woodland Acres). These systems are registered with the TCEQ and are capable of meeting the TCEQ design criteria for sewer treatment plants, TCEQ rules, and the TWC. Also, no further facility construction is necessary at this time.

TWC § 13.246(c)(2) requires the Commission to consider the need for additional service in the requested area.

The purpose of the transaction is to transfer Maple Leaf Gardens, Oakland Village, and Woodland Acres subdivisions to the Purchaser. The customers are currently receiving water from the Seller.

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 of the same kind already servicing the proximate area.

There will be no effect on any retail public utility servicing the proximate area as there is no uncertificated area being acquired as part of this transaction.

TWC § 13.246(c)(4) requires the Commission to consider the ability of the Applicant to provide adequate service.

The public water systems being purchased and transferred include Maple Leaf Gardens (PWS ID No. 1011493), Oakland Village (PWS ID No. 1011049), and Woodland Acres (PWS ID No. 0360027). These systems are registered with the Texas Commission on Environmental Quality (TCEQ) and are capable of providing drinking water that meets the requirements of Texas Health and Safety Code, Chapter 341, TCEQ rules, and the TWC. Also, no further facility construction is necessary at this time.

The sewer systems being purchased and transferred include sewer treatment plants with water quality permits WQ12342-001 (Maple Leaf Gardens) and WQ11720-001 (Woodland Acres). These systems are registered with the TCEQ and are capable of meeting the TCEQ design criteria for sewer treatment plants, TCEQ rules, and the TWC. Also, no further facility construction is necessary at this time.

TWC § 13.246(c)(5) requires the Commission to consider the feasibility of obtaining service from an adjacent retail public utility.

The Seller is currently serving customers in the requested area and has sufficient capacity. Therefore, the feasibility of obtaining service from another adjacent retail public utility 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.

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 requested utility service area. 16 TAC § 24.11(e) lists the financial tests.

The Purchaser meets the leverage test outlined in 16 TAC § 24.11(e)(2) with a debt service coverage ratio of 1.30 for the period ending December 31, 2017.

The operations test outlined in 16 TAC § 24.11(e)(3) requires that the owner or operator must demonstrate sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations. The Purchaser shows sufficient cash to cover the projected first year loss, after which no losses are projected. Therefore, the operations test is met.

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.

The environmental integrity of the land will not be effected, as no construction is needed.

TWC § 13.246(8) requires the Commission to consider the probable improvement in service or lowering of cost to consumers.

The Purchaser states in the application that the quality of service will increase, as these water and sewer systems will be operated by the Purchaser's contractor, Gulf Utility Services, after the sale is completed. Gulf Utility Services already operates utility systems located in the region and will be able to respond quickly to emergencies.

The Applicants meet all of the statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules and regulations. Approving this application to transfer a portion of J&S Water Company, LLC's water CCN No. 12085 and sewer CCN No. 20658 to Nerro Supply, LLC and amending Nerro Supply, LLC's water CCN No. 12252 and sewer CCN No. 20366 is necessary for the service, accommodation, convenience and safety of the public.

Recommendation on approval of sale

Pursuant to 16 TAC § 24.239(i) (formerly 16 TAC § 24.109(i), Staff recommends that the Commission find that the transaction will serve the public interest and allow the Applicants to proceed with the proposed transaction. Staff notes there are deposits held by J & S Water Company, LLC for the customers of the Maple Leaf Gardens, Oakland Village and Woodland Acres. Staff further recommends that a public hearing is not necessary. Lastly, the approval of the sale expires six months from the date of the Commission's written approval of the sale. If the sale is not effectuated within that period, and unless the Applicants request and receive an extension from the Commission, the approval is void and the Applicants must re-apply for the approval of the sale. In addition, the Applicants should be informed that the CCN will remain in the name of Seller until the transfer is complete and approved in accordance with the Commission's rules and regulations.