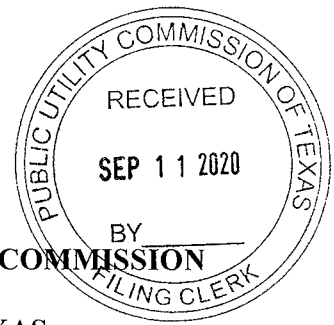


Control Number: 50819



Item Number: 25

Addendum StartPage: 0



**DOCKET NO. 50819**

**APPLICATION OF SHEROLL §  
RICHARDSON, ADMINISTRATOR OF §  
THE ESTATE OF HERB MADISON §  
AND SHEROLL AND ROGER §  
RICHARDSON DBA NORTHTOWN §  
ACRES WATER SUPPLY FOR SALE, §  
TRANSFER, OR MERGER OF §  
FACILITIES AND CERTIFICATE §  
RIGHTS IN NAVARRO COUNTY §**

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION**

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and in response to Order No. 7, files this Recommendation on Final Disposition. In support thereof, Staff shows the following:

**I. BACKGROUND**

On May 5, 2020, Sheroll Richardson, administrator of the Estate of Herb Madison (Estate) and Sheroll and Roger Richardson dba Northtown Acres Water Supply (Northtown Acres) (collectively, Applicants) filed an application for an amendment of a Certificate of Convenience and Necessity (CCN) and a Sale, Transfer, or Merger (STM) of facilities and certificate rights in Navarro County, Texas. The Applicants seek approval to acquire facilities and to transfer all of Northtown Acres' water CCN No. 11704 from the Estate to Northtown Acres. The area to be transferred is currently certificated to Northtown Acres and includes approximately 1,810 acres and 167 current customers. The uncertificated area being requested in this application, located within the North Petty Chapel Subdivision, includes approximately 232 acres and 44 current customers. The total requested area is approximately 2,042 acres and 211 current customers.

On June 11, 2020, the administrative law judge (ALJ) issued Order No. 2, finding the application administratively complete and directing Northtown Acres to provide notice of the application and proof of notice by July 10, 2020. Northtown Acres filed its proof of notice on July 7, 2020 and its supplemental proof of notice on July 22, 2020 and July 24, 2020.

On August 28, 2020, the ALJ issued Order No. 7, finding the notice sufficient and directing Staff to request a hearing or file a recommendation on the approval of the sale and on the CCN amendment by September 11, 2020. Therefore, this pleading is timely filed.

## **II. RECOMMENDATION**

Staff has reviewed the application and, as supported by the attached memorandum of Patricia Garcia, Infrastructure Division, recommends that the proposed transaction be allowed to proceed. Staff's review indicates that the proposed transaction satisfies the criteria in Texas Water Code § 13.246(c) and Texas Administrative Code (TAC) §§ 24.225-24.239. If the transaction is permitted to proceed, Staff further requests that the Applicants be required to file evidence that all assets have been transferred to the acquiring entity, and that the disposition of any remaining customer deposits have been addressed as soon as possible, pursuant to 16 TAC § 24.239(k) and (l).

Staff notes that the approval of the sale expires 180 days from the date of the Commission's written approval of the sale. If the sale is not consummated within that period, and the Applicants do not request and receive an extension from the Commission, the approval is void and the Applicants must re-apply for the approval of the sale.<sup>1</sup>

## **IV. CONCLUSION**

Staff respectfully requests the entry of an order permitting the proposed transaction to proceed.

---

<sup>1</sup> 16 TAC § 24.239(m).

Dated: September 11, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Rachelle Nicolette Robles  
Division Director

Eleanor D'Ambrosio  
Managing Attorney

/s/ Taylor P. Denison  
Taylor P. Denison  
State Bar No. 24116344  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7203  
(512) 936-7268 (facsimile)  
taylor.denison@puc.texas.gov

**DOCKET NO. 50819**

**CERTIFICATE OF SERVICE**

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on September 11, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Taylor P. Denison  
Taylor P. Denison

# *Public Utility Commission of Texas*

---

## **Memorandum**

**To:** Taylor Denison, Attorney  
Legal Division

**From:** Patricia Garcia, Senior Engineering Specialist  
Infrastructure Division

Fred Bednarski, Financial Analyst  
Rate Regulation Division

**Date:** September 11, 2020

**Subject:** **Docket No. 50819** – *Application of Sheroll Richardson, Administrator of the Estate of Herb Madison and Sheroll and Roger Richardson dba Northtown Acres Water Supply for Sale, Transfer, or Merger of Facilities and Certificate Rights in Navarro County*

On May 5, 2020, Sheroll Richardson, administrator of the Estate of Herb Madison (Estate or Seller) and Sheroll and Roger Richardson dba Northtown Acres Water Supply (Northtown Acres or Purchaser) (collectively, Applicants) filed an application for an amendment of a Certificate of Convenience and Necessity (CCN) and Sale, Transfer, or Merger (STM) of facilities and certificate rights in Navarro County, Texas, pursuant to Texas Water Code (TWC) §§ 13.242 to 13.250 and § 13.301 and 16 Texas Administrative Code (TAC) §§ 24.225 to 24.237 and § 24.239.

### **Background**

The Purchaser seeks approval to acquire facilities, to transfer all of the Seller's water service area under CCN No. 11704, and to retain the Seller's CCN. The requested area currently certificated to the Seller includes approximately 1,810 acres and 167 current customers. There is a facility line CCN located wholly within the existing area under CCN No. 11704. The facility line CCN is held by Community Water Company, CCN No. 12222. The Community Water Company facility line CCN is not associated with the Estate or Northtown Acres. There will be no change to the Community Water Company facility line CCN as a result of this application.

The Purchaser is also requesting to amend CCN No. 11704 with additional, area that located within the North Petty Chapel Subdivision and includes approximately 232 acres and 44 current customers. Northtown Acres is already serving this area, a portion of which is uncertificated and a portion of which is located in CCN No. 10776 held by the City of Corsicana. The total area being requested in this application is approximately 2,042 acres and 211 current customers.

This application was submitted in order to correct ownership issues and to add uncertificated area discovered in the rate case submitted for Northtown Acres in Docket No. 48819. Sheroll Richardson inherited Northtown Acres from her father, Herb Madison, in 2013. Since that time, Sheroll and Roger Richardson have continued to provide service to the customers in the area. The rate case is abated until the proper regulatory approvals and accurate certificated area are established in this application.

### **Notice**

The comment period ended September 9, 2020. There were two requests to intervene filed in the docket. One of the intervenors was Elaine Stroube, President of Community Water Company, CCN No. 12222. The administrative law judge (ALJ) granted Community Water Company's request to intervene on August 3, 2020. The second intervenor is a customer of Northtown Acres, Frank Marx, III. Mr. Marx is requesting that this transfer not be allowed until Docket No. 48819, the rate case for Northtown Acres, is "cleared and finalized." Mr. Marx's request to intervene is still pending.

### **Criteria Considered**

TWC Chapter 13 and 16 TAC Chapter 24 require the Commission to consider certain criteria when granting or amending a water or sewer 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 Seller has a Texas Commission on Environmental Quality (TCEQ) approved public water system (PWS), North Town Acres, PWS ID No. 1750037, that serves both the Northtown Acres subdivision located in the certificated area to be transferred, and the North Petty Chapel subdivision located in the uncertificated requested area. The North Town Acres PWS does not have any violations listed in the TCEQ database. The Purchaser

#### ***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 water CCN No. 11704 from the Estate to Northtown Acres. Additionally, Northtown Acres seeks to add the service area for the North Petty Chapel subdivision to CCN No. 11704. All of the customers in the requested areas are currently receiving water service from the North Town Acres PWS. The Seller purchases the water needed to serve the requested areas from the City of Corsicana.

There are currently 211 existing customers in the requested areas; therefore, there is a need for service. No additional service is needed at this time.

#### ***TWC § 13.246(c)(3) requires the Commission to consider the effect of granting an amendment on the recipient of the certificate or amendment, on the landowners in the area, and on any other retail public utility of the same kind already servicing the proximate area.***

A small portion of the service area for the North Petty Chapel subdivision is located within the City of Corsicana's existing service area under CCN No. 10776. The application included a letter from the City Manager of the City of Corsicana consenting to dual certification with CCN No. 11704. There will be no effect on other any retail public utility servicing the proximate area as the existing customers are currently being served by the North Town Acres PWS. There will be no effect on landowners as part of the requested area is currently certificated and the North Petty Chapel area is currently receiving service from the North Town Acres PWS.

#### ***TWC §§ 13.241(b) and 13.246(c)(4) require the Commission to consider the ability of the applicant to provide adequate service.***

The Purchaser has been providing service to the area since it was inherited in 2013. This application is to transfer the area from the Estate to correct the party responsible for providing service to the existing Northtown Acres CCN and the North Petty Chapel subdivision and to ensure CCN No. 11704 includes all area served by the North Town Acres PWS.

***TWC § 13.241(d) requires the applicant to demonstrate to the Commission that regionalization or consolidation with another retail public utility is not economically feasible when construction of a physically separate water or sewer system is required to provide service to the requested area.***

Construction of a physically separate water system is not necessary for the Purchaser to serve the requested area.

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

The Purchaser is currently serving customers in the requested areas and has sufficient capacity through the purchase of water from the City of Corsicana; 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 the 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. The financial tests include a leverage test and operations test. The Commission rules identify five leverage tests.<sup>1</sup> The Purchaser must demonstrate that it meets one of the five tests.<sup>2</sup>

The following shows that the Purchaser meets one out of five leverage tests. This analysis is based on the annual reports for Northtown Acres and North Petty Chapel ending December 31, 2018 and December 31, 2017.

The Purchaser meets the first test with a debt-to-equity ratio calculated as follows: long term debt of \$12,060<sup>3</sup> divided by equity of \$95,937<sup>4</sup> equals 0.13, which is less than one.

16 TAC § 24.11(e)(3) refers to the operations test, which requires the owner or operator to demonstrate that sufficient cash is available to cover any projected operations and maintenance shortages in the first five years of operations. The Purchaser did not submit projected financial statements in its application; however, based on the financial statements, the Purchaser had \$23,158<sup>5</sup> in operating income for 2018 and \$18,427<sup>6</sup> in operating for 2017. No required improvements are needed to provide continuous and adequate service to the requested area. Therefore, the Purchaser meets the operations test.

***TWC § 13.246(d) allows the Commission to require an applicant to provide a bond or other financial assurance in a form and amount specified by the Commission to ensure that continuous and adequate utility service is provided.***

The Purchaser meets the financial tests. Staff does not recommend that the Commission require additional financial assurance.

---

<sup>1</sup> 16 TAC § 24.11(e)(2).

<sup>2</sup> *Id.*

<sup>3</sup> Northtown Acres' Response to Staff's 1st RFI at bates 6 and 7 Jun. 29, 2020).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at page 87 of 111.

<sup>6</sup> *Id.*

*TWC §§ 13.246(c)(7) and (9) require the Commission to consider the environmental integrity and the effect on the land to be included in the certificated area.*

The environmental integrity of the land will not be affected as no additional construction is needed to provide service to the requested areas.

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

The Purchaser will continue to provide water service to the existing customers in the requested areas. The cost to customers will not be changed as a result of this application. However, there is a rate case, Docket No. 48819, pending at the Commission that is currently abated. The rate case will be allowed to continue processing once the transfer to Northtown Acres is complete.

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 the water facilities and associated water service area under CCN No. 11704, and to add the area for the North Petty Chapel subdivision to water CCN No. 11704 is necessary for the service, accommodation, convenience and safety of the public.

**Recommendation on Approval of Sale**

Staff recommends that the transaction will serve the public interest and that the Applicants be allowed to proceed with the proposed transaction. Staff notes that no deposits are held by the Estate for the customers being served by the North Town Acres public water system. Staff further recommends that a public hearing is not necessary.