



Control Number: 51192



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DOCKET NO. 51192

**APPLICATION OF WHISPERING
OAKS WATER WORKS AND
MIBROMA 3 LLC FOR SALE,
TRANSFER, OR MERGER OF
FACILITIES AND CERTIFICATE
RIGHTS IN GILLESPIE COUNTY** §
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PUBLIC UTILITY COMMISSION

OF TEXAS

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FOR PUBLIC UTILITY COMMISSION
FILED IN GILLESPIE COUNTY

**COMMISSION STAFF'S SECOND SUPPLEMENTAL RECOMMENDATION ON
ADMINISTRATIVE COMPLETENESS AND PROPOSED PROCEDURAL SCHEDULE**

On August 19, 2020, MiBroMa 3 LLC (MiBroMa) and Whispering Oaks Water Works (Whispering Oaks) (collectively, Applicants) filed an application for approval of the sale, transfer, or merger of facilities and certificate rights in Gillespie County. Specifically, Whispering Oaks seeks to sell and transfer all of its facilities and water service area under Certificate of Convenience and Necessity (CCN) No. 12446 to MiBroMa; MiBroMa will retain CCN No. 12446. The requested area includes approximately 51 acres and 69 connections. The Applicants filed supplemental information on August 25, 2020, November 19, 2020 and January 20 and 25, 2021.

On November 23, 2020, the administrative law judge filed Order No. 3, establishing a deadline of January 29, 2021 for Staff to file its second supplemental recommendation on administrative completeness of the application and proposed notice. Therefore, this pleading is timely filed.

I. ADMINISTRATIVE COMPLETENESS

Staff has reviewed the application, as supplemented, and as detailed in the attached memorandum from Alicia Maloy, Infrastructure Division, Staff recommends that it be found administratively complete and accepted for filing. Staff's recommendation on administrative completeness is not a comment on the merits of the application, but only that it is complete for further processing.

II. NOTICE

At this time, Staff recommends that the Applicants proceed with providing public notice to all current customers, landowners, persons, political subdivisions, and other entities listed in the attached memorandum using the notice provided by Ms. Maloy. Along with each individual notice,

Staff recommends that the Applicants provide an accurate map delineating the requested service area. Staff recommends that the Applicants file proof of notice as described in the attached memorandum. Finally, Staff recommends that the Applicants use the attached notice and affidavit to meet this requirement.

III. PROCEDURAL SCHEDULE

Staff recommends the application be found administratively complete; therefore, Staff proposes the following procedural schedule:

Event	Date
Deadline for Applicants to file proof of notice, including a signed affidavit that the notice was given along with a copy of the notice and map sent to the affected parties	March 1, 2021
Deadline for Staff to file a recommendation on sufficiency of notice	March 11, 2021
Deadline to intervene	30 days after notice is issued

IV. CONCLUSION

For the reasons stated above, Staff respectfully recommends that the application, as supplemented, be found administratively complete, that the Applicants be directed to provide notice as detailed above and in the attached memorandum, and that the proposed procedural schedule be adopted.

Dated: January 29, 2021

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

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/s/ Daniel Moore
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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 January 29, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Daniel Moore
Daniel Moore

Public Utility Commission of Texas

Memorandum

TO: Daniel Moore, Attorney
Legal Division

FROM: Alicia Maloy, Senior Infrastructure Analyst
Infrastructure Division

DATE: January 29, 2021

RE: **Docket No. 51192**, *Application of Whispering Oaks Water Works and MiBroMa 3 LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Gillespie County*

On August 19, 2020, MiBroMa 3 LLC (MiBroMa 3) and Whispering Oaks Water Works (Whispering Oaks) (collectively, Applicants) filed an application for the Sale, Transfer, or Merger (STM) of facilities and certificate rights in Gillespie County, Texas, under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239.

Specifically, MiBroMa 3 seeks approval to acquire facilities and to transfer all of the service area under Whispering Oaks's water Certificate of Convenience and Necessity (CCN) No. 12446 and to retain Whispering Oak's CCN number. The requested area includes approximately 51 acres and 69 connections.

Based on the mapping review by Gary Horton, Infrastructure Division, the financial and managerial review by Fred Bednarski, Rate Regulation Division, and my technical and managerial review of the additional information filed on August 25, 2020; November 19, 2020; January 20, 2021; and January 25, 2021, I recommend that the application be deemed administratively complete. I further recommend that the Applicants be ordered to do the following:

- 1) Provide notice of the application by first-class mail to the following:
 - a. Cities, districts, and neighboring retail public utilities providing the same utility service whose corporate boundaries or certificated service area are located within two miles from the outer boundary of the requested area:
 - *Aqua Texas Inc. (CCN No. 13254)*;
 - *Lower Colorado River Authority*; and
 - *Gillespie County WCID 1*

- b. The county judge of each county that is wholly or partially included in the requested area:
 - *Gillespie County Judge*
- c. Each groundwater conservation district that is wholly or partially included in the requested area:
 - *Hill Country Underground Water Conservation District*
- d. Each affected customer, and any other affected party within the requested area.

Addresses can be obtained from the Water Utility Database, <http://www.puc.texas.gov/watersearch>. District information and addresses can be obtained from the Texas Commission on Environmental Quality's (TCEQ) website, <http://www14.tceq.texas.gov/iwud/>.

- 2) Provide notice and proof of notice using the attached notice and affidavit form(s).
- 3) Provide a copy of the map(s) deemed sufficient during administrative review delineating the requested area with each individual notice to neighboring utilities, other affected parties, and customers.
- 4) File in the docket copy of notice and the map(s) deemed sufficient during administrative review along with the signed affidavit specifying every person and entity to whom notice was provided.

Staff may determine that additional information is needed to make a final recommendation in this docket. If additional information is needed, Staff may send requests for information (RFI) to the Applicants. The Applicants will have 20 days from the receipt of the RFI to respond.

Notice to Current Customers, Neighboring Systems, and Cities
MIBROMA 3 LLC NOTICE OF INTENT TO PURCHASE WATER FACILITIES AND TO
TRANSFER WATER SERVICE AREA UNDER CCN NO. 12446 FROM WHISPERING
OAKS WATER WORKS IN GILLESPIE COUNTY, TEXAS

To: _____ Date Notice Mailed: _____, 20____
(Name of Customer, Neighboring System, or City)

(Address)

(City State Zip)

MiBroMa 3 LLC	240 Stoney Hill	Center Point, TX	78010
(Purchaser's Name)	(Address)	(City), (State)	(Zip Code)

has submitted an application with the Public Utility Commission of Texas (Commission) to purchase Whispering Oaks Water Works water facilities and to transfer water certificated service area under CCN No. 12446 in Gillespie County, TX from:

<u>Whispering Oaks Water Works</u>	<u>PO Box 62</u>	<u>Center Point, TX</u>	<u>78010</u>
(Seller's Name)	(Address)	(City), (State)	(Zip Code)

The sale is scheduled to take place if approved by the Commission (Texas Water Code § 13.301). The transaction and the transfer of the CCN includes the following subdivision:
Whispering Oaks.

The requested area is located approximately 6 mile(s) south of downtown Fredericksburg, Texas, and is generally bounded on the north by the terminus of Whispering Oaks Drive; on the east by US 87; on the south by Paradise Ranch Road; and on the west by Paradise Ranch Road. The total requested area includes approximately 51 acres and 69 current customers.

See enclosed map showing the requested area.

This transaction will not have an effect on the current customer's rates and services.

Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date. The letter must include the person's name, address, email address and fax number if applicable.

If a valid public hearing is requested, the Commission will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for final decision. An evidentiary hearing is a legal proceeding similar to a civil trial in state district court.

Si desea información en español, puede llamar al 1-888-782-8477.

Utility Representative

Utility Name

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PUBLIC UTILITY COMMISSION OF TEXAS



AFFIDAVIT OF NOTICE TO CURRENT CUSTOMERS, NEIGHBORING UTILITIES, AND
AFFECTED PARTIES
DOCKET NO. 51192

STATE OF TEXAS

COUNTY OF _____

_____ has provided individual
notice to the following entities and customers:

DATE OF NOTICE

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 forth 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 _____