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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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COMMISSION STAFF'S RECOMMENDATION ON SUFFICIENCY OF NOTICE

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. Applicants filed proof of notice on February 10 and March 4, 2021.

On February 2, 2021, the administrative law judge filed Order No. 4, which found the application administratively complete, ordered Applicants to issue notice, and set a deadline of March 11, 2021 for the Staff of the Public Utility Commission of Texas (Staff) to file its recommendation on sufficiency of notice. Therefore, this pleading is timely filed.

I. SUFFICIENCY OF NOTICE

Staff has reviewed the proof of notice filed by Applicants and recommends that it be found insufficient. Under 16 Texas Administrative Code (TAC) § 24.239(c), notice must be given to each effected customer and other affected parties as required by the Commission. Order No. 4 directed Applicants to provide notice as detailed in Alicia Maloy's January 29, 2021 memorandum. Ms. Maloy's memorandum stated that a copy of the maps delineating the requested area that were deemed sufficient should be sent out with the notice. The map Applicants attached to the affidavit of notice are not the maps that were found to be sufficient. The supplemental mapping filed on August 25, 2020 are the sufficient maps and should have accompanied the notice documents. Therefore, Staff recommends that Applicants be ordered to re-issue notice to all affected parties and customers using the maps filed by Applicants on August 25, 2020.

Second, Ms. Maloy's January 29, 2021 memorandum stated that notice should be provided to the Lower Colorado River Authority (LCRA). Applicants' list of customers, affected parties, and affected entities who were noticed does not include LCRA. Staff, therefore, recommends that LCRA be noticed using the notice attached to Ms. Maloy's January 29, 2021 memorandum.

Finally, Ms. Maloy's January 29, 2021 memorandum stated that Applicants should "[p]rovide notice of the application by *first-class mail*" to customers, affected parties, and affected entities. The Applicant's list of customers, affected parties, and affected entities who were noticed states that personal notice was given to the Gillespie County Judge, Gillespie County WCID1, and Hill County Underground Water Conservation District and that email notice was provided to Aqua Texas, Inc. Personal notice does not comply with Order No. 4 because it directed Applicants to provide notice as detailed in Ms. Maloy's January 29, 2021 memorandum, and the memorandum stated that notice should be provided by first-class mail. Additionally, email notice does not comply with Order No. 4 for the same reason personal notice does not comply. Therefore, Staff recommends that Applicants be order to provide notice via first-class mail to the Gillespie County Judge, Gillespie County WCID1, Hill County Underground Water Conservation District, and Aqua Texas, Inc.

II. PROCEDURAL SCHEDULE

Staff recommends that notice be found insufficient; therefore, Staff proposes the following procedural schedule:

Event	Date
Deadline for Applicants to file proof that notice was issued in compliance with 16 TAC § 24.239(c)	April 12, 2021
Deadline for Staff to file a supplemental recommendation on sufficiency of notice	April 22, 2021

III. CONCLUSION

For the reasons detailed above, Staff respectfully recommends that notice be found insufficient and that Applicants be ordered to provide notice via-first class mail only to all customers, affected parties, and affected entities using the maps that were found sufficient. Staff further, recommends that the proposed procedural schedule be adopted.

Dated: March 11, 2021

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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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 March 11, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Daniel Moore

Daniel Moore