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DOCKET NO. 51192

**APPLICATION OF LULA MAE
HEILIGMANN DBA 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**

COMMISSION STAFF’S SUPPLEMENTAL MOTION TO ADMIT EVIDENCE

The Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, files this supplemental motion to admit the additional evidence into the record and show the following:

I. BACKGROUND

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.

On October 5, 2021, the Applicants filed closing documents reflecting the consummation of the sale of Whispering Oaks water system to MiBroMa and the transfer of service area and customer. On April 28, 2022, the administrative law judge (ALJ) filed Order No. 16, requiring Commission Staff to file a copy of the proposed tariff and a motion to admit the tariff and consent forms into the record. Therefore, this pleading is timely filed.

II. SUPPLEMENTAL MOTION TO ADMIT ADDITIONAL EVIDENCE

Commission Staff moves to admit the following additional evidence into the record of this proceeding:

- a) MiBroMa’s consent form filed on April 25, 2022 (Interchange Item No. 46);
- b) Whispering Oaks’ consent form filed on April 27, 2022 (Interchange Item No. 47); and
- c) The attached tariff.

III. CONCLUSION

Commission Staff respectfully requests that the Commission admit this supplemental information into evidence. Furthermore, in accordance with this supplemental motion to admit evidence, the parties respectfully request that it be included as an additional finding of fact after Finding of Fact No. 19 in the Joint Proposed Notice of Approval, filed on March 13, 2022.

Dated: May 16, 2022

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Keith Rogas
Division Director

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/s/ Forrest Smith
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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 May 16, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Forrest Smith
Forrest Smith

CONSENT FORM

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

- I concur with the map, tariff, and certificate transmitted by e-mail on **April 25, 2022**.
- I do not concur with the map, tariff, and certificate transmitted by e-mail on **April 25, 2022**.

I understand that I have until **May 2, 2022** to provide my response.

I am authorized by MiBroMa 3 LLC to sign this form.

Signature: _____bajr_____

Printed Name: ___Bonifacio Arreola jr_____

Relationship to Applicant: _____president_____

Date signed: _____4 25 22_____

Please upload the signed consent form to the PUC Interchange Filer at:
<https://interchange.puc.texas.gov/filer> .

You can find instructions for E-Filing the consent form at:
<http://www.puc.texas.gov/industry/filings/E-Filing%20Instructions.pdf> .

CONSENT FORM

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*

- I concur with the map, tariff, and certificate transmitted by e-mail on April 25, 2022.
- I do not concur with the map, tariff, and certificate transmitted by e-mail on April 25, 2022.

I understand that I have until May 2, 2022 to provide my response.

I am authorized by MiBroMa 3 LLC to sign this form.

Signature: Carrie Schmerbeck

Printed Name: Carrie Schmerbeck

Relationship to Applicant: _____

Date signed: April 27, 2022

Please upload the signed consent form to the PUC Interchange Filer at:
<https://interchange.puc.texas.gov/filer>.

You can find instructions for E-Filing the consent form at:
<http://www.puc.texas.gov/industry/filings/E-Filing%20Instructions.pdf>.



**WATER UTILITY TARIFF
Docket Number 51192**

MiBroMa3 LLC
(Utility Name)

240 Stoney Hill
(Business Address)

Center Point, TX 78010
(City, State, Zip Code)

830-377-3191
(Area Code/Telephone)

This tariff is effective for utility operations under the following Certificate of Convenience and Necessity:

12446

This tariff is effective in the following county(ies):

Gillespie

This tariff is effective in the following cities or unincorporated towns (if any):

N/A

This tariff is effective in the following subdivisions or systems:

Whispering Oaks Subdivision: PWS ID # 0860006

TABLE OF CONTENTS

The above utility lists the following sections of its tariff (if additional pages are needed for a section, all pages should be numbered consecutively):

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APPENDIX A – DROUGHT CONTINGENCY PLAN

APPENDIX B – APPLICATION FOR SERVICE

NOTE: Appendix A – Drought Contingency Plan (DCP) is approved by the Texas Commission on Environmental Quality (TCEQ); however the DCP is included as part of your approved tariff pursuant to PUCT rules. If you are establishing a tariff for the first time, please contact the TCEQ to complete and submit a DCP for approval.

SECTION 1.0 -- RATE SCHEDULE

Section 1.01 - Rates

| <u>Meter Size</u> | <u>Monthly Minimum Charge</u> (Includes <u>1,000</u> gallons all meters) | <u>Gallonage Charge</u> |
|-------------------|---|--|
| 5/8" or 3/4" | <u>\$25.00</u> | <u>\$2.00</u> per 1,000 gallons thereafter |

FORM OF PAYMENT: The utility will accept the following forms of payment:

Cash , Check X, Money Order , Credit Card , Other (specify)

THE UTILITY MAY REQUIRE EXACT CHANGE FOR PAYMENTS AND MAY REFUSE TO ACCEPT PAYMENTS MADE USING MORE THAN \$1.00 IN SMALL COINS. A WRITTEN RECEIPT WILL BE GIVEN FOR CASH PAYMENTS. AT THE CUSTOMER'S OPTION, ANY BILLING TRANSACTION OR COMMUNICATION MAY BE PERFORMED ON THE INTERNET. THIS INCLUDES THE UTILITY SENDING PAPERLESS BILLS BY EMAIL.

REGULATORY ASSESSMENT.....1.0%

PUCT RULES REQUIRE THE UTILITY TO COLLECT A FEE OF ONE PERCENT OF THE RETAIL MONTHLY BILL AND TO REMIT FEE TO THE TCEQ.

Section 1.02 – Miscellaneous Fees

TAP FEE\$0.00

TAP FEE IS BASED ON THE AVERAGE OF THE UTILITY'S ACTUAL COST FOR MATERIALS AND LABOR FOR STANDARD RESIDENTIAL CONNECTION OF 5/8" METER PLUS UNIQUE COSTS AS PERMITTED BY PUCT RULE AT COST.

TAP FEE (Large Meter).....Actual Cost

TAP FEE IS BASED ON THE UTILITY'S ACTUAL COST FOR MATERIALS AND LABOR FOR METER SIZE INSTALLED.

METER RELOCATION FEEActual Relocation Cost

THIS FEE MAY BE CHARGED IF A CUSTOMER REQUESTS RELOCATION OF AN EXISTING METER.

METER TEST FEE (actual cost of testing the meter up to).....\$25.00

THIS FEE MAY BE CHARGED IF A CUSTOMER REQUESTS A SECOND METER TEST WITHIN A TWO-YEAR PERIOD AND THE TEST INDICATES THAT THE METER IS RECORDING ACCURATELY.

SECTION 1.0 -- RATE SCHEDULE (CONTINUED)

RECONNECTION FEE

THE RECONNECT FEE WILL BE CHARGED BEFORE SERVICE CAN BE RESTORED TO A CUSTOMER WHO HAS BEEN DISCONNECTED FOR THE FOLLOWING REASONS:

- a) Non-payment of bill (Maximum \$25.00).....\$0.00
- b) Customer's request\$0.00
or other reasons listed under Section 2.0 of this tariff

TRANSFER FEE\$0.00

THE TRANSFER FEE WILL BE CHARGED FOR CHANGING AN ACCOUNT NAME AT THE SAME SERVICE LOCATION WHEN THE SERVICE IS NOT DISCONNECTED.

LATE CHARGE\$5.00

A ONE-TIME PENALTY MAY BE MADE ON DELINQUENT BILLS BUT MAY NOT BE APPLIED TO ANY BALANCE TO WHICH THE PENALTY WAS APPLIED IN A PREVIOUS BILLING.

RETURNED CHECK CHARGE\$5.00

CUSTOMER DEPOSIT RESIDENTIAL (Maximum \$50)\$0.00

COMMERCIAL AND NON-RESIDENTIAL DEPOSIT1/6TH ESTIMATED ANNUAL BILL

METER CONVERSION FEE.....Actual Cost to Convert Meter

THIS FEE MAY BE CHARGED IF A CUSTOMER REQUESTS CHANGE OF SIZE OF AN EXISTING METER OR CHANGE IS REQUIRED BY MATERIAL CHANGE IN CUSTOMERS SERVICE DEMAND.

SEASONAL RECONNECTION FEE:

BASE RATE FOR METER SIZE TIMES NUMBER OF MONTHS OFF THE SYSTEM NOT TO EXCEED SIX MONTHS WHEN LEAVE AND RETURN WITHIN A TWELVE MONTH PERIOD.

GOVERNMENTAL TESTING, INSPECTION AND COSTS SURCHARGE CLAUSE:

WHEN AUTHORIZED IN WRITING BY PUCT AND AFTER NOTICE TO CUSTOMERS, THE UTILITY MAY INCREASE RATES TO RECOVER INCREASED COSTS FOR INSPECTION FEES AND WATER TESTING [16 TEXAS ADMINISTRATIVE CODE (TAC) § 24.25(b)(2)(G)].

LINE EXTENSION AND CONSTRUCTION CHARGES:

REFER TO SECTION 3.0 EXTENSION POLICY FOR TERMS, CONDITIONS, AND CHARGES WHEN NEW CONSTRUCTION IS NECESSARY TO PROVIDE SERVICE.

SECTION 2.0 - SERVICE RULES AND REGULATIONS

Section 2.01 – Commission Rules

The utility will have the most current Public Utility Commission of Texas (PUCT or commission) rules relating to Water and Wastewater Utility regulations, available at its office for reference purposes. The Rules and this tariff shall be available for public inspection and reproduction at a reasonable cost. The latest Rules or commission approved changes to the Rules supersede any rules or requirements in this tariff.

Section 2.02 - Application for and Provision of Water Service

All applications for service will be made on the utility's standard application or contract form (attached in the Appendix to this tariff), will be signed by the applicant, any required fees (deposits, reconnect, tap, extension fees, etc. as applicable) will be paid and easements, if required, will be granted before service is provided by the utility. A separate application or contract will be made for each service location.

After the applicant has met all the requirements, conditions and regulations for service, the utility will install tap, meter and utility cut-off valve and/or take all necessary actions to initiate service. The utility will serve each qualified applicant for service within 5 working days unless line extensions or new facilities are required. If construction is required to fill the order and if it cannot be completed within 30 days, the utility will provide the applicant with a written explanation of the construction required and an expected date of service.

Where service has previously been provided, service will be reconnected within one working day after the applicant has met the requirements for reconnection.

The customer will be responsible for furnishing and laying the necessary customer service pipe from the meter location to the place of consumption. Customers may be required to install a customer owned cut-off valve on their side of the meter or connection.

Section 2.03 - Refusal of Service

The utility may decline to serve an applicant until the applicant has complied with the regulations of the regulatory agencies (state and municipal regulations) and for the reasons outlined in the PUCT Rules. In the event that the utility refuses to serve an applicant, the utility will inform the applicant in writing of the basis of its refusal. The utility is also required to inform the applicant that a complaint may be filed with the commission.

Section 2.04 - Customer Deposits

If a residential applicant cannot establish credit to the satisfaction of the utility, the applicant may be required to pay a deposit as provided for in Section 1.02 of this tariff. The utility will keep records of the deposit and credit interest in accordance with PUCT Rules.

Residential applicants 65 years of age or older may not be required to pay deposits unless the applicant has an outstanding account balance with the utility or another water or sewer utility which accrued within the last two years.

Nonresidential applicants who cannot establish credit to the satisfaction of the utility may be required to make a deposit that does not exceed an amount equivalent to one-sixth of the estimated annual billings.

SECTION 2.0 - SERVICE RULES AND REGULATIONS (CONTINUED)Section 2.04 - Customer Deposits (continued)

Refund of deposit - If service is not connected, or after disconnection of service, the Utility will promptly refund the customer's deposit plus accrued interest or the balance, if any, in excess of the unpaid bills for service furnished. The Utility may refund the deposit at any time prior to termination of utility service but must refund the deposit plus interest for any residential customer who has paid 18 consecutive billings without being delinquent.

Section 2.05 - Meter Requirements, Readings, and Testing

All water sold by the utility will be billed based on meter measurements. The utility will provide, install, own and maintain meters to measure amounts of water consumed by its customers. One meter is required for each residential, commercial, or industrial connection.

Service meters will be read at monthly intervals and as nearly as possible on the corresponding day of each monthly meter reading period unless otherwise authorized by the Commission.

Meter tests. The utility will, upon the request of a customer, and, if the customer so desires, in his or her presence or in that of his or her authorized representative, make without charge a test of the accuracy of the customer's meter. If the customer asks to observe the test, the test will be made during the utility's normal working hours at a time convenient to the customer. Whenever possible, the test will be made on the customer's premises, but may, at the utility's discretion, be made at the utility's testing facility. If within a period of two years the customer requests a new test, the utility will make the test, but if the meter is found to be within the accuracy standards established by the American Water Works Association, the utility will charge the customer a fee which reflects the cost to test the meter up to a maximum \$25 for a residential customer. Following the completion of any requested test, the utility will promptly advise the customer of the date of removal of the meter, the date of the test, the result of the test, and who made the test.

Section 2.06 - Billing

Bills from the utility will be mailed monthly unless otherwise authorized by the Commission. The due date of bills for utility service will be at least sixteen (16) days from the date of issuance. The postmark on the bill or, if there is no postmark on the bill, the recorded date of mailing by the utility will constitute proof of the date of issuance. Payment for utility service is delinquent if full payment, including late fees and the regulatory assessment, is not received at the utility or the utility's authorized payment agency by 5:00 p.m. on the due date. If the due date falls on a holiday or weekend, the due date for payment purposes will be the next workday after the due date.

A late penalty of \$5.00 will be charged on bills received after the due date. The penalty on delinquent bills will not be applied to any balance to which the penalty was applied in a previous billing. The utility must maintain a record of the date of mailing to charge the late penalty.

Each bill will provide all information required by the PUCT Rules. For each of the systems it operates, the utility will maintain and note on the monthly bill a local telephone number (or numbers) to which customers can direct questions about their utility service. At the utility's option, a or toll-free telephone number or the equivalent may be provided.

In the event of a dispute between a customer and a utility regarding any bill for utility service, the utility will conduct an investigation and report the results to the customer. If the dispute is not resolved, the utility will inform the customer that a complaint may be filed with the Commission.

SECTION 2.0 - SERVICE RULES AND REGULATIONS (CONTINUED)Section 2.07 - Service Disconnection

Utility service may be disconnected if the bill has not been paid in full by the date listed on the termination notice. The termination date must be at least 10 days after the notice is mailed or hand delivered.

The utility is encouraged to offer a deferred payment plan to a customer who cannot pay an outstanding bill in full and is willing to pay the balance in reasonable installments. However, a customer's utility service may be disconnected if a bill has not been paid or a deferred payment agreement entered into within 26 days from the date of issuance of a bill and if proper notice of termination has been given.

Notice of termination must be a separate mailing or hand delivery in accordance with the PUCT Rules.

Utility service may also be disconnected without notice for reasons as described in the PUCT Rules.

Utility personnel must be available to collect payments and to reconnect service on the day of and the day after disconnection of service unless service was disconnected at the customer's request or due to a hazardous condition.

Section 2.08 - Reconnection of Service

Service will be reconnected within 24 hours after the past due bill and any other outstanding charges are paid or the conditions which caused service to be disconnected are corrected.

Section 2.09 - Service Interruptions

The utility will make all reasonable efforts to prevent interruptions of service. If interruptions occur, the utility will re-establish service within the shortest possible time. Except for momentary interruptions due to automatic equipment operations, the utility will keep a complete record of all interruptions, both emergency and scheduled and will notify the commission in writing of any service interruptions affecting the entire system or any major division of the system lasting more than four hours. The notice will explain the cause of the interruptions.

Prorated Bills - If service interrupted or seriously impaired for 24 consecutive hours or more, the utility will prorate the monthly base bill in proportion to the time service was not available to reflect this loss of service.

Section 2.10 - Quality of Service

The utility will plan, furnish, and maintain production, treatment, storage, transmission, and distribution facilities of sufficient size and capacity to provide a continuous and adequate supply of water for all reasonable consumer uses. Unless otherwise authorized by the TCEQ, the utility will maintain facilities as described in the TCEQ Rules and Regulations for Public Water Systems.

Section 2.11 - Customer Complaints and Disputes

If a customer or applicant for service lodges a complaint, the utility will promptly make a suitable investigation and advise the complainant of the results. Service will not be disconnected pending completion of the investigation. If the complainant is dissatisfied with the utility's response, the utility must advise the complainant that he has recourse through either the TCEQ or PUCT complaint

SECTION 2.0 - SERVICE RULES AND REGULATIONS (CONTINUED)

Section 2.11 - Customer Complaints and Disputes (continued)

process, depending on the nature of the complaint. Pending resolution of a complaint, the commission may require continuation or restoration of service.

The utility will maintain a record of all complaints which shows the name and address of the complainant, the date and nature of the complaint and the adjustment or disposition thereof, for a period of two years after the final settlement of the complaint.

SECTION 2.20 – SPECIFIC UTILITY SERVICE RULES AND REGULATIONS

This section contains specific utility service rules in addition to the rules previously listed under Section 2.0. It must be reviewed and approved by the Commission and in compliance with Commission rules to be effective.

SECTION 3.0--EXTENSION POLICY

Section 3.01 - Standard Extension Requirements

LINE EXTENSION AND CONSTRUCTION CHARGES: No contribution in aid of construction may be required of any customer except as provided for in this approved extension policy.

The customer will be given an itemized statement of the costs, options such as rebates to the customer, sharing of construction costs between the utility and the customer, or sharing of costs between the customer and other applicants prior to beginning construction.

The utility will bear the full cost of any over-sizing of water mains necessary to serve other customers in the immediate area. The individual residential customer shall not be charged for any additional production, storage, or treatment facilities. Contributions in aid of construction may not be required of individual residential customers for production, storage, treatment or transmission facilities unless otherwise approved by the Commission under this specific extension policy.

COST UTILITIES SHALL BEAR. Within its certificate area, the utility will pay the cost of the first 200 feet of any water main or distribution line necessary to extend service to an individual residential customer within a platted subdivision. However, if the residential customer requesting service purchased the property after the developer was notified of the need to provide facilities to the utility, the utility may charge for the first 200 feet. The utility must also be able to document that the developer of the subdivision refused to provide facilities compatible with the utility's facilities in accordance with the utility's approved extension policy after receiving a written request from the utility.

Developers may be required to provide contributions in aid of construction in amounts sufficient to furnish the development with all facilities necessary to comply with TCEQ's "Rules and Regulations for Public Water Systems."

SECTION 3.20—SPECIFIC UTILITY EXTENSION POLICY

This section contains the utility's specific extension policy which complies with the requirements utility already stated under Section 3.01. It must be reviewed and approved by the Commission and in compliance with Commission rules to be effective.

Residential customers not covered under Section 3.01 will be charged the equivalent of the costs of extending service to their property from the nearest transmission or distribution line even if that line does not have adequate capacity to serve the customer. However, if the customer places unique, non-standard service demands upon the system, the customer may be charged the full cost of extending service to and throughout their property, including the cost of all necessary transmission and storage facilities necessary to meet the service demands anticipated to be created by that property.

Developers will be required to provide contributions in aid of construction in amounts sufficient to furnish the development with all facilities necessary to provide for reasonable local demand requirements and to comply with the TCEQ minimum design criteria for facilities used in the production, transmission, pumping, or treatment of water or TCEQ minimum requirements. For purposes of this subsection, a developer is one who subdivides or requests more than two meters on a piece of property. Commercial, industrial, and wholesale customers will be treated as developers.

APPENDIX A - DROUGHT CONTINGENCY PLAN

(This page incorporates by reference the utility's Drought Contingency Plan, as approved and periodically amended by the Texas Commission on Environmental Quality.)

APPENDIX B -- APPLICATION FOR SERVICE
(Utility Must Attach Blank Copy)