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PUBLIC UTILITY COMMISSION
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OPEN MEETING COVER SHEET

MEETING DATE: August 14, 2015

DATE DELIVERED: August 7, 2015

AGENDA ITEM NO.: 25

CAPTION: Docket No. 43832; SOAH Docket No. 473-15-4782.WS - Application of Palo Duro Service Company, Inc. to Amend a Certificate of Convenience and Necessity in Parker and Wise Counties

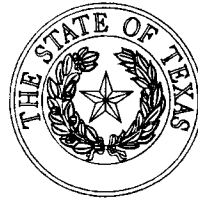
ACTION REQUESTED: Discussion and possible action with respect to Preliminary Order

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Public Utility Commission of Texas

PUBLIC UTILITY COMMISSION
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TO: Chairman Donna L. Nelson
Commissioner Kenneth W. Anderson, Jr.
Commissioner Brandy Marty Marquez

All Parties of Record

FROM: John Kramer
Commission Advising

RE: August 14, 2015, Open Meeting Agenda Item No. 25
Draft Preliminary Order, P.U.C. Docket No. 43832; SOAH Docket No. 473-15-4782.WS – *Application of Palo Duro Service Company, Inc. to Amend its Certificate of Convenience and Necessity in Parker and Wise Counties*

DATE: August 7, 2015

Please find enclosed the draft preliminary order filed by Commission Advising in the above-referenced docket. The Commission will consider this draft preliminary order at the August 14, 2015 open meeting. Parties shall not file responses or comments addressing this draft preliminary order.

Any modifications to the draft preliminary order that are proposed by one or more Commissioners will be filed simultaneously prior to the consideration of the matter at the August 14, 2015 open meeting.

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SOAH DOCKET NO. 473-15-4782.WS
PUC DOCKET NO. 43832

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APPLICATION OF PALO DURO
SERVICE COMPANY, INC. TO AMEND
ITS CERTIFICATE OF CONVENIENCE
AND NECESSITY IN PARKER AND
WISE COUNTIES

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PUBLIC UTILITY COMMISSION
COMMISSION
FILING CLERK
OF TEXAS

DRAFT PRELIMINARY ORDER

On February 9, 2015, Palo Duro Service Company filed with the Commission an application to amend its CCN No. 12200 in Parker and Wise Counties, Texas. Palo Duro seeks to update its current certificated service area and to expand its service area to provide service to the proposed Aledo Ridge subdivision.

On June 25, 2015, the city of Forth Worth requested a public hearing stating it would be adversely affected by the granting of Palo Duro’s application because the proposed Aledo Ridge subdivision is located entirely within the city’s extra-territorial jurisdiction in which the city has distinct governmental interests and jurisdiction over health and safety and utility design and service activities.

On July 16, 2015, the Commission issued an order referring this proceeding to the State Office of Administrative Hearings (SOAH) to conduct a hearing. Commission Staff timely filed a list of issues on July 30, 2015, and the city of Fort Worth filed comments also on July 30.

I. Issues to be Addressed

The Commission must provide to the administrative law judge (ALJ) a list of issues or areas to be addressed in any proceeding referred to the SOAH.¹ After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

¹ Tex. Gov’t Code Ann. § 2003.049(e) (West 2008 & Supp. 2014).

1. Has Palo Duro given notice consistent with Texas Water Code (TWC) § 13.246 and 16 Texas Administrative Code (TAC) § 24.106?
2. Is the proposed Aledo Ridge subdivision partly, or wholly, within the extra-territorial jurisdiction of the city of Forth Worth?
3. Has the city of Forth Worth consented to the amendment to Palo Duro's CCN? TWC § 13.245(b). If not, may the Commission grant the certificate without the consent of the city as provided in TWC § 13.245?
4. Does Palo Duro possess the financial, managerial, and technical capability to provide continuous and adequate service? TWC § 13.241(a) and 16 TAC § 24.102(a).
5. Does Palo Duro possess a TCEQ-approved system that is capable of providing drinking water that meets the requirements of Texas Health and Safety Code, chapter 341 and TCEQ rules? 16 TAC § 24.102(a)(1).
6. Does Palo Duro have access to an adequate supply of water? 16 TAC § 24.102(a)(1).
7. Would the proposed service area require construction of a physically separate water system? If so, has Palo Duro proven that regionalization or consolidation with another retail public utility is not economically feasible? TWC § 13.241(d) and 16 TAC § 24.102(b).
8. Is the requested certificate amendment necessary for the service, accommodation, convenience, or safety of the public? TWC § 13.246(b) and 16 TAC § 24.102(c).
9. Does the balance of factors under TWC § 13.246(c) and 16 TAC § 24.102(d) weigh in favor of granting the requested certificate amendment? In answering this issue, please address the following sub-issues:
 - a. Is the proposed service area currently receiving adequate service? TWC § 13.246(c)(1) and 16 TAC § 24.102(d)(1).
 - b. Does the proposed service area need additional service? TWC § 13.246(c)(2) and 16 TAC § 24.102(d)(2).
 - i. Have any landowners, prospective landowners, tenants, or residents requested service?
 - ii. Are there economic needs for additional service?
 - iii. Are there environmental needs for additional service?

- iv. Are there written applications or requests for service?
 - v. Are there reports or market studies demonstrating existing or anticipated growth in the area?
 - c. What is the effect, under TWC § 13.246(c)(3) and 16 TAC § 24.102(d)(3) of granting the requested certificate amendment on
 - i. Palo Duro,
 - ii. landowners in the proposed service area, and
 - iii. any retail public utility of the same kind as Palo Duro that is already serving the area proximate to the proposed service area?
 - d. Does Palo Duro have the ability to provide adequate service, including meeting the standards of the TCEQ, taking into consideration the current and projected density and land use of the proposed service area? 16 TAC § 24.102(d)(4).
 - e. What is the feasibility of obtaining service from an adjacent retail public utility? TWC § 13.246(c)(5) and 16 TAC § 24.102(d)(5).
 - f. Is Palo Duro financially able to pay for the facilities necessary to provide continuous and adequate service? TWC § 13.246(c)(6) and 16 TAC § 24.102(d)(6).
 - g. Is Palo Duro financially stable including, if applicable, its debt-to-equity ratio? TWC § 13.246(c)(6) and 16 TAC § 24.102(d)(6).
 - h. How would environmental integrity be affected, if at all, by granting the requested certificate amendment? TWC § 13.246(c)(7) and 16 TAC § 24.102(d)(7).
 - i. Is it probable that service would be improved or costs to consumers in that service area would be lowered by granting the requested certificate amendment? TWC § 13.246(c)(8) and 16 TAC § 24.102(d)(8).
 - j. How would the land in the proposed service area be affected, if at all, by granting the requested certificate amendment? TWC § 13.246(c)(9) and 16 TAC § 24.102(d)(9).
10. Should the Commission require Palo Duro, pursuant to TWC § 13.246(d) and 16 TAC § 24.102(e), to provide a bond or other financial assurance to ensure that continuous and adequate utility service is provided?

11. If applicable, what were Palo Duro's efforts to:

- a. extend service to any economically distressed area, within the meaning of TWC § 15.001, located within Palo Duro's certificated service area(s); and
- b. enforce rules adopted under TWC § 16.343, regarding minimum standards for safe and sanitary water supply? TWC § 13.246(e)?

This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary, subject to any limitations imposed by the ALJ, or by the Commission in future orders issued in this docket. The Commission reserves the right to identify and provide to the ALJ in the future any additional issues or areas that must be addressed, as permitted under Tex. Gov't Code Ann. § 2003.049(e).

II. Effect of Preliminary Order

This Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from this Order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this Order may be appealed to the Commission. The Commission will not address whether this Order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

SIGNED AT AUSTIN, TEXAS the _____ day of August 2015.

PUBLIC UTILITY COMMISSION OF TEXAS

DONNA L. NELSON, CHAIRMAN

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY MARTY MARQUEZ, COMMISSIONER