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

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PUBLIC UTILITY COMMISSION  
FILED IN OFFICE OF  
ADMINISTRATIVE HEARINGS

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

BEFORE THE STATE OFFICE OF  
ADMINISTRATIVE HEARINGS

COMMISSION STAFF'S RESPONSE TO SOAH ORDER NO. 2 AND REQUEST FOR  
EXTENSION

COMES NOW, Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) files this Response to SOAH Order No. 2 and Request for Extension. In support thereof, Staff shows the following:

I. BACKGROUND

On November 21, 2014 Palo Duro Service Company (Palo Duro) filed with the Public Utility Commission of Texas (Commission) a request for correction of maps related to water certificate of convenience (CCN) No. 12200 in Parker County, Texas. On December 1, 2014, the Administrative Law Judge (ALJ) issued Order No. 1 and deemed the application as not filed because Palo Duro did not submit its application on the Commission-approved application form. On February 9, 2015, Palo Duro filed with the Commission, on the Commission-approved application form, an application to amend CCN No. 12200, in Parker and Wise Counties, Texas. At this time, Palo Duro seeks to amend its CCN to update its current certificated service area and to expand its service area to provide service to the proposed Aledo Ridge Subdivision.

On February 13, 2015, Order No. 2 Requiring Comments on Administrative Completeness and Notice, Requesting Procedural Schedule, and Addressing Other Procedural Matters was issued requiring Staff to file a recommendation on the application by March 11, 2015. On March 11, 2015, Commission Staff filed comments on the application, recommending the application be deemed not administratively complete because it contained material deficiencies. On March 13, 2015, the ALJ issued Order No. 3 finding the application incomplete and deficient and directed Palo Duro to amend its application by April 8, 2015. Order No. 3 also established May 12, 2015 as the deadline for Commission Staff to file a supplemental recommendation regarding administrative completeness of the amended application and notice along with a proposed procedural schedule. Palo Duro subsequently supplemented its application on April 8, 2015. On

May 6, 2015, Commission Staff recommended the application be deemed sufficient and on May 8, 2015, Order No. 4 was issued deeming the application administratively complete and accepted for filing. On June 25, 2015, the City of Fort Worth (City) requested a public hearing because the requested area is located within the City's extra-territorial jurisdiction. This proceeding was then referred to the State Office of Administrative Hearings (SOAH) on July 16, 2015. On August 4, 2015 the SOAH ALJ convened a telephonic prehearing conference where the City and Palo Duro indicated they were finalizing a settlement that would be taken to the next city council meeting. SOAH Order No. 2 memorialized the prehearing conference and ordered, Commission Staff, if the settlement was finalized, to conduct an administrative review of the application and on or before October 16, 2015, Commission Staff file a recommendation in this matter, and ordered the Parties, if there were no contested issues, to submit a joint proposed order with findings of fact and conclusions of law. Therefore, this request is timely filed.

## **II. REQUEST FOR EXTENSION**

On September 21, 2015, the City provided notice that the City and Palo Duro had come to a settlement and that the City was withdrawing its request for a hearing. At this time Commission Staff is in the process of conducting its technical review of the application. During Staff's review, Staff has identified a technical capability concern that must be rectified before Staff can make a final recommendation on the application. Pursuant to 16 Tex. Admin. Code § 24.102(a)(1), the Commission must ensure the Applicant has a Texas Commission on Environmental Quality (TCEQ) approved system that is capable of providing drinking water that meets the requirements of the Texas Health and Safety Code, Chapter 341, before granting or amending a CCN. On April 27, 2015, and May 21, 2015, Palo Duro filed plans and specifications with the TCEQ seeking approval to construct facilities to serve the proposed Aledo Ridge Subdivision. Per TCEQ letter dated July 29, 2015, the plans and specifications for the proposed public water system were not approved. The letter states the TCEQ will retain the Applicant's submittals for 60 calendar days; however, if the revisions or additional information are not submitted in that timeframe, the entire plans and specifications package would have to be resubmitted for review. Due to the need for the approval of the plans and specifications for the proposed system by the TCEQ, Commission Staff respectfully requests an extension to its deadline for filing a recommendation on this matter. At this time, Commission Staff requests Palo Duro be given until January 16, 2016 (90 days from

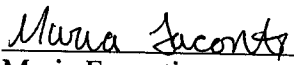
October 16, 2015) to demonstrate TCEQ approval for construction of the facilities to serve the Aledo Ridge Subdivision. In addition, Commission Staff requests it have until February 16, 2016 to complete its review and either file a recommendation in this matter, or if there are no contested issues, for Commission Staff to either draft, or aid Palo Duro in drafting, a jointly proposed order with findings of fact and conclusions of law.

### III. CONCLUSION

Staff respectfully requests that the ALJ grant Commission Staff's request for an extension and provide Palo Duro until January 16, 2016 to demonstrate TCEQ approval for construction of the proposed facilities and Commission Staff until February 16, 2016 to complete its review and either file a recommendation or prepare a joint proposed order.

**Date: October 13, 2015**

Respectfully Submitted,  
Margaret Uhlig Pemberton  
Division Director- Legal Division

  
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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this the 13<sup>th</sup> day of October, 2015, in accordance with P.U.C. Procedural Rule 22.74.

  
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Maria Faconti