

Control Number 43832



Item Number 47

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

PUBLIC UTILITY COMMISSION
OF TEXAS

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COMMISSION STAFF’S FINAL RECOMMENDATION

COMES NOW the Staff of the Public Utility Commission of Texas, representing the public interest, and files Commission Staff’s Final Recommendation and would show 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 and Wise Counties. On August 10, 2016, Palo Duro filed evidence showing that its outstanding Texas Commission on Environmental Quality (TCEQ) violations have been resolved. Therefore, Staff is now in a position to make a final recommendation and withdraws its previously filed motion to dismiss.

II. FINAL RECOMMENDATION

As supported by the attached memorandum of Debbie Reyes Tamayo, Patricia Garcia and Komar Patal of the Water Utilities Division, Staff has reviewed the application, and recommends that the application be approved. Staff further recommends that the City file a certified copy of the CCN map, along with a written description of the CCN service area, in the county clerk’s office as required by Tex. Water Code § 13.257(r) and (s) (West 2016).

Lastly, Staff recommends Palo Duro be required to true-up the proposed rate for the Aledo Ridge Subdivision by filing a rate/tariff change application within 18 months from the date Palo Duro begins providing retail water service to its first customer in this subdivision.

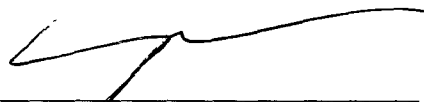
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PUBLIC UTILITY COMMISSION
LEGAL DIVISION

Respectfully Submitted,

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DOCKET NO. 43832

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on August 17, 2016, in accordance with P.U.C. Procedural Rule 22.74.



Landon J. Lill

PUC Interoffice Memorandum

To: Landon Lill
Legal Division

Thru: Tammy Benter, Director
Lisa Fuentes, Manager
Heidi Graham, Engineering Manager
Water Utility Division

From: Debbie Reyes Tamayo, Program Specialist
Patricia Garcia, Staff Engineer
Komal Patal, GIS Specialist
Water Utility Division

Date: August 12, 2016

Subject: Docket No. 43832; *Application of Palo Duro Service Company, Inc. to Amend Its Certificate of Convenience and Necessity in Parker and Wise Counties*

On November 21, 2014, Palo Duro Service Company, Inc. (Applicant) filed with the Commission an application to amend its water CCN No. 12200 in Parker and Wise Counties. On December 1, 2014, the Administrative Law Judge instructed the Applicant to submit their application using the Commission-approved application form available online. On February 9, 2015, the Applicant filed a new application and seeks to amend its CCN No. 12200 in Parker and Wise Counties, Texas. The purpose of the application is to expand its service area to provide service to the proposed Aledo Ridge Subdivision. This application is being reviewed under the PUC's Substantive Rules in Chapter 24, §§24.102, 24.105, 24, 106, and 24.107.

The application was accepted for filing by the PUC Commission on May 8, 2015. Proper public notice was provided on May 20 and May 27, 2015, with the Weatherford Democrat News. Notice was provided on May 28, 2015, to neighboring systems, landowners, cities and affected parties in in Parker and Wise Counties in accordance with 16 TAC § 24.112(c). The affidavit was received by the PUC Commission on June 18, 2015. The comment period ended June 28, 2015.

A request to intervene was filed with the PUC on June 25, 2015, from the City of Fort Worth (City). The City stated it would be adversely affected by the granting of the application because the 33 acre Aledo Ridge tract is located entirely within the City's extra-territorial jurisdiction ("ETJ") where the City has distinct governmental interests in and jurisdiction over health and safety and utility design and service activities. The City was specifically concerned that Palo Duro's design of the water facilities was inconsistent and incompatible with the water facilities that comprise the City's public water system and that, once annexed into the City, the City would need to incur additional costs and delays in correcting these deficiencies and incompatibilities in the Aledo Ridge water facilities constructed by Palo Duro. Furthermore, the City was concerned that any such deficiencies and incompatibilities with the City's system could constitute, or result in, a potential threat to the public health and safety of persons consuming water from the Aledo Ridge water facilities if the Aledo Ridge water facilities constructed by Palo Duro did not meet City code requirements.

On August 7, 2015, the Administrative Law Judge (ALJ) convened a telephonic prehearing conference. The parties indicated that Fort Worth and Palo Duro finalized a settlement, which was to be taken to the next city council meeting.

On September 21, 2015, the City of Fort Worth ("Fort Worth") notified the Administrative Law Judge and all Parties that on September 15, 2015, the Fort Worth City Council approved the settlement agreement with Palo Duro Service Company, Inc. ("Palo Duro") concerning the Aledo Ridge development and issues in this docket. Pursuant to the approved settlement agreement, Fort Worth withdrew its request for hearing in this docket.

On August 18, 2015, Item No. 17, the Commission identified the following issues to be addressed in this proceeding:

1. Has Palo Duro given notice consistent with Texas Water Code (TWC) § 13.246 and 16 Texas Administrative Code (TAC) § 24.106?
 - Notice was provided on May 20 and May 27, 2015, in the Weatherford Democrat News. Notice was provided on May 28, 2015, to neighboring systems, landowners, cities and affected parties in Tarrant County in accordance with 16 TAC § 24.112(c). The affidavit was received by the PUC Commission on June 18, 2015. The comment period ended June 28, 2015
2. Is the proposed Aledo Ridge subdivision partly, or wholly, within the extra-territorial jurisdiction of the city of Fort Worth?
 - Aledo Ridge Subdivision is wholly within the extra-territorial jurisdiction of the city of Fort Worth.
3. Has the City of Fort Worth consented to the amendment to Palo Duro's CCN? If not, may the Commission grant the certificate without the consent of the city as provided in TWC § 13.245?
 - The City of Fort Worth ("Fort Worth") notified the Administrative Law Judge and all Parties that on September 15, 2015, the Fort Worth City Council approved a settlement agreement with Palo Duro Service Company, Inc. concerning the Aledo Ridge development at issue in this docket. The filing was made in supplementation of Fort Worth's Notice of Settlement and a withdrawal of the Hearing Request was filed in this docket on September 21, 2015 (PUC Interchange Item No. 25) respectfully.
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).
 - The application consists of two separate matters. The first consists of a total 328 acres developed in the early 1970's. As this property was developed many homes were built and tied into the Applicant's distribution system. The Applicant has served this area in excess of 30 years. This application seeks to include the entire area in the Applicant's CCN. The second area consists of 33.15 acres held by Aledo Ridge LLC requesting service from the Applicant. Aledo Ridge is being developed and will not be contiguous to the Applicant's current service area.
 - The Applicant provided unaudited financial with their application. The Applicant reports current cash of \$145,000 and total assets of \$1,494,950. The Applicant reports 0 (zero) liabilities and the lack of both current and long-term liabilities satisfies the debt-to-equity and debt-service-coverage ratio analysis.

5. Does Palo Duro possess a Texas Commission on Environmental Quality (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).
- The Applicant is in compliance with TCEQ's minimum capacity requirements. The applicant submitted plans and specifications for the subdivision of Aledo Ridge Water System and a TCEQ public water supply system (PWS) ID 1840185 was approved. Currently no service is being provided to the requested area because the area will be a new developed area. The Applicant filed documentation under Docket 43832 Item No. 36.
 - On January 20, 2015, TCEQ conducted an investigation of the Glider Base Estates PWS TX2490028 to evaluate compliance with applicable requirements for public water supply systems. During the investigation certain outstanding alleged violations were identified. The violation specifies that the PWS failed to provide 0.6 gallons per minute of production capacity. Staff recommended that the Applicant be required to provide a corrective action plan to the TCEQ and PUC. The corrective action plan was to include information on how the Applicant intends to resolve this outstanding violation. A letter dated May 6, 2016, from TCEQ informed the Applicant, that all requirement concerning the enforcement matter for Palo Duro Service Company. Inc. dba Glider Base Estates, have been fulfilled.
6. Does Palo Duro have access to an adequate supply of water? 16 TAC § 24.102(a)(1).
- On February 29, 2016, the Applicant received a response from TCEQ for the proposed water system to serve the amended area. Utility service to the future customers in the requested area will be provided by Aledo Ridge Water System facilities the applicant submitted plans and specifications for the subdivision of Aledo Ridge Water System and TCEQ public water supply system (PWS) ID 1840185 was approved. Currently no service is being provided to the requested area because the area will be a new developed area. In addition, the Applicant has licensed operators, other support labor as required, Part Time Clerical, Billing Clerk, Administrative Assist, and operators are on-call 24-7 for emergency repairs knowledgeable about operations as well as the requirements for continuous and adequate service in Parker and Wise Counties County.
 - The Applicant has four TCEQ issued PWS Identification Numbers:
 - PWS ID: 1840100 Du Chane Chateaux
 - PWS ID: 2490028 Glider Base Estates
 - PWS ID: 1840099 Trinity River Estates
 - PWS ID: 1840185 Aledo Ridge Water System
 - The only water systems that will be affected by this application are the Du Chane Chateaux and Aledo Ridge Water System.
 - A review of the proposed water system facilities and the proposed connection count determined that the proposed water system has the ability to serve the needs of the future customers of Aledo Ridge Water System. In addition a review of the facilities located at the Du Chane Chateaux water system determined that the system has the ability to serve the needs of the customers within the CCN and those in the proposed amended CCN area.

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).
- Upon approval of this application, Applicant's CCN service area boundaries will be amended to include the proposed area. The proposed area has a system already in place and will be able to serve the area. Therefore, it is not necessary to consider the feasibility of obtaining service from another entity since the Applicant will begin to serve the area after the transaction is completed. No other retail water utility providers will be affected.
 - Palo Duro submitted a letter from TCEQ to show they received plan approval for the construction of a physically separate water system for the Aledo Ridge Water System. The Applicant stated other retail water utility providers in the area were unable or unwilling to provide water to this particular area.
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).
- Existing Customers are receiving service from Palo Duro Service Company Inc. Aledo Ridge LLC is developing a thirty-three acre tract at the northeast corner of White Settlement Road and Farmer Road into 24 single-family lots. Retail Public Utility Service would make the home sites in Aledo Ridge more attractive to buyers. The approval of Retail Public Utility Service for this application will allow the homeowners in the subdivision to be served by a Public Utility rather with individual water wells. There is currently significant growth in surrounding areas with strong demand for new homes and will allow the applicant to serve additional customers within the same general area and provide service more efficiently.
 - A request for service from a developer Haddock Interests, Inc was provided by letter dated December 19, 2014.
 - The Applicant owns and operates the DuChane Chateaux water system in Parker County (PWS ID No. 1840100) and the Glider Base Estates Water System in Wise County (PWS ID No. 2490028). Applicant will integrate the system into their existing operations.
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?
- Yes, a request for service from a developer Haddock Interests, Inc was provided by letter dated December 19, 2014.

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).
- The Applicant has been providing water service in the area since 1974 and currently provides retail water service to 79 customers in their Du Chane Chateaux system less than one mile from the Aledo Ridge project. They also serve 75 customers in the Glider Base Estates system in Wise County within 18 miles of the Aledo Ridge project. The proposed area has a system already in place and will be able to serve and provide adequate service.
 - The application seeks to obtain approval to add additional water service connections to the proposed subdivision Aledo Ridge LLC. The Applicant will have the capacity to serve the new subdivision based on the customers and has demonstrated there is currently infrastructure in place to serve the additional connections.

- b. Does the proposed service area need additional service? TWC § 13.246(c)(2) and 16 TAC § 24.102(d)(2).
- A request for service from a developer Haddock Interests, Inc was provided by letter dated December 19, 2014.
- i. Have any landowners, prospective landowners, tenants, or residents requested service?
- Yes, a request for service from a developer Haddock Interests, Inc was provided by letter dated December 19, 2014.
- ii. Are there economic needs for additional service?
- The approval of Retail Public Utility Service for this application will allow the homeowners in the subdivision to be served by a Public Utility rather with individual water wells. There is currently significant growth in surrounding areas with strong demand for new homes and will allow the applicant to serve additional customers within the same general area and provide service more efficiently.
- iii. Are there environmental needs for additional service?
- Yes, a request for service from a developer Haddock Interests, Inc was provided by letter dated December 19, 2014.
- iv. Are there written applications or requests for service?
- Yes, a request for service from a developer Haddock Interests, Inc was provided by letter dated December 19, 2014.
- v. Are there reports or market studies demonstrating existing or anticipated growth in the area?
- A business plan for the proposed public water supply for Aledo Ridge addition in Parker County, Texas was provided.
- 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 Palo Duro, landowners in the proposed service area, and any retail public utility of the same kind as Palo Duro that is already serving the area proximate to the proposed service area?
- The Applicant's CCN No. 12052 will be amended to include the proposed area. A new subdivision in the proposed area will be developed. This application will allow the homeowners in the subdivision to be served by a Public Utility rather with individual water wells. There is currently significant growth in surrounding areas with strong demand for new homes and will allow the applicant to serve additional customers within the same general area and provide service more efficiently. No other retail water utilities will be affected by this application.
- 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).
- The Applicant is in compliance with TCEQ's minimum capacity requirements.
 - The applicant submitted plans and specifications for the subdivision of Aledo Ridge Water System and TCEQ public water supply system (PWS) ID 1840185 was approved. Currently no service is being provided to the requested area because the area will be a new developed area. Currently the system has construction approval for the water treatment plant and distribution plans.
 - A review of TCEQ's Central Registry and Drinking Water Watch found that the Applicant has no pending violations.

- 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).
- TWC §13.246(c)(5) requires the Commission to consider the feasibility of obtaining service from an adjacent retail public utility. Since the Applicant will provide water from new facility, the applicant did not request service from the neighboring utilities.
- 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).
- The application consists of two separate matters. The first consists of a total 328 acres developed in the early 1970's. As this property was developed many homes were built and tied into the Applicants distribution system. The Applicant has served this area in excess of 30 years. This application seeks to include the entire area in the Applicant's CCN. The second area consists of 33.15 acres held by Aledo Ridge LLC requesting service from the Applicant. Aledo Ridge is being developed and will not be contiguous to the Applicant current service area.
 - The Applicant provided unaudited financial with their application. The Applicant reports current cash of \$145,000 and total assets of \$1,494,950. The Applicant reports 0 (zero) liabilities and the lack of both current and long-term liabilities satisfies the debt-to-equity and debt-service-coverage ratio analysis.
- 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).
- The Applicant reports current cash of \$145,000 and total assets of \$1,494,950. The Applicant reports 0 (zero) liabilities and the lack of both current and long-term liabilities satisfies the debt-to-equity and debt-service-coverage ratio analysis.
- 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).
- Land in the proposed area will be developed into a residential subdivision which will receive retail water service from the Applicant.
- 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).
- Future customers will be charged Commission approved rates as referenced in the Applicant's approved water tariffs.
- 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).
- The land in the proposed area will be developed into a residential subdivision which will receive retail water service from applicant.
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?
- The Applicant reports 0 (zero) liabilities and the lack of both current and long-term liabilities satisfies the debt-to-equity and debt-service-coverage ratio analysis. No bond or other financial assurance is needed.

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);
 - Not applicable: The Applicant is not located in any economically distressed areas within the requested service area. Not applicable
- b. Enforce rules adopted under TWC § 16.343, regarding minimum standards for safe and sanitary water supply? TWC § 13.246(e)?
 - Not applicable: See Above

Based on my review of the information provided by the Applicant, I believe the Palo Duro Service Company, Inc. meets all of the statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules and regulations, and is capable of providing continuous and adequate service as detailed above. Approving this application to amend Palo Duro Service Company, Inc. CCN No. 12000 is necessary for the service, accommodation, convenience and safety of the public.

Staff recommends approval of the application because as discussed above the Applicant has adequately demonstrated the financial, managerial, and technical capabilities of providing continuous and adequate service to the proposed service area considering the nine criteria established in TWC §13.246(c). The Applicant consented to the revised map, certificate, and tariff on August 10, 2016.

Based on the above information, Staff recommends the Commission do the following:

- Issue an order;
- Provide the attached water tariff; and
- Provide the attached map to the Applicant

Staff also recommends that the Applicant file certified copies of the CCN map along with a written description of the CCN service area in the county clerk's office pursuant to TWC § 13.257 (r) and (s).

Lastly, Staff recommends Palo Duro Service Company, Inc. be required to true-up the proposed rate for the Aledo Ridge Subdivision by filing a rate/tariff change application within 18 months from the date Palo Duro Service Company, Inc. begins providing retail water service to its first customer.