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DOCKET NO. 45781  
SOAH DOCKET NO. 473-16-5010.WS

2016 JUL 22 PM 3: 52

APPLICATION OF CITY OF PORTLAND  
OT AMEND ITS CERTIFICATES OF  
CONVENIENCE AND NECESSITY IN  
SAN PATRICIO COUNTY

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§

PUBLIC UTILITY COMMISSION  
OF TEXAS

### COMMISSION STAFF'S PROPOSED LIST OF ISSUES

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Commission Staff's Proposed List of Issues, and would show the following:

#### I. BACKGROUND

On March 29, 2016, City of Portland. (Applicant) filed with the Commission an application (Application) to amend Certificate of Convenience and Necessity (CCN) No. 20216 in San Patricio County pursuant to Tex. Water Code Ann. (TWC) §§ 13.242-50 and 30 Tex. Admin. Code (TAC) §§ 291.101-07.

On June 15, 2016, Rincon Water Supply Company intervened in this case and requested a hearing. This case was referred to the State Office of Administrative Hearings (SOAH) on July 7, 2016, and the parties were instructed to file with the Commission a list of issues to be addressed in this docket by July 25, 2016. Therefore this list of issues is timely filed.

#### II. LIST OF ISSUES

Staff submits the following issues for consideration in this proceeding:

1. What modifications, if any, must be made to the Applicant's proposed service area to reflect land removed from the proposed service area because of a qualified landowner's election to exclude some or all of the landowner's property, pursuant to TWC § 13.246(h) and 16 TAC § 24.102(h)?
2. Does the Applicant possess the financial, managerial, and technical capability to provide continuous and adequate service? TWC § 13.241(a) and 16 TAC § 24.102(a)
3. Does the Applicant possess a Texas Commission on Environmental Quality (TCEQ)-approved system that is capable of providing drinking water that meets the requirements of Tex. Health and Safety Code, Chapter 341 and TCEQ rules? 16 TAC § 24.102(a)(1)

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4. Does the Applicant have access to an adequate supply of water to serve the certificated area? TWC § 13.241(b)(2) and 16 TAC § 24.102(a)(1)
5. Would the proposed service area require construction of a physically separate water system? If so, has the Applicant proven that regionalization or consolidation with another retail public utility is not economically feasible? TWC § 13.241(d) and 16 TAC § 24.102(b)
6. 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)
7. 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)
    - i. Is the proposed service area currently receiving lawful service? TWC § 13.242(a)
  - 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. the Applicant;
    - ii. landowners in the proposed service area; and

- iii. any retail public utility of the same kind as the Applicant that is already serving the area proximate to the proposed service area?
  - d) Does the Applicant 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 the Applicant 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 the Applicant 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)
8. Should the Commission require the Applicant, 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?
9. If applicable, what were the Applicant's efforts to:
- a) extend service to any economically distressed area, within the meaning of TWC § 15.001, located within the Applicant'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)

**III. ISSUES TO NOT BE ADDRESSED**

Staff has not identified any issues not to be addressed.

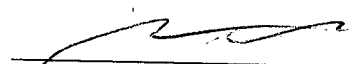
Dated: July 22, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

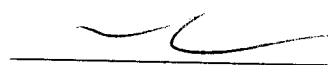
Karen S. Hubbard  
Managing Attorney

  
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Landon J. Lill  
State Bar No. 24092700  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7228  
(512) 936-7268 (facsimile)

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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on July 22, 2016, in accordance with 16 TAC § 22.74.

  
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Landon J. Lill