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DOCKET NO. 47523

2017 NOV 10 AM 11:46

REMAND OF TCEQ APPLICATION §
NO. 37863-C (PETITION FROM TEXAS §
GENERAL LAND OFFICE FOR §
EXPEDITED RELEASE FROM §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY (CCN) NO. 10293 §
HELD BY MAXWELL WATER §
SUPPLY CORPORATION IN HAYS §
COUNTY, TEXAS) §

PUBLIC UTILITY COMMISSION
PUBLIC UTILITY BOARD
OF TEXAS
FILING CLERK

JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

COMES NOW, Maxwell Water Supply Corporation (“Maxwell”), together with the Staff of the Public Utility Commission of Texas (“Staff”), representing the public interest, (collectively, the “Parties”), and files this Joint Motion to Admit Evidence and Proposed Notice of Approval. In support thereof, the Parties show as follows:

I. BACKGROUND

On August 17, 2017, Maxwell filed with the Public Utility Commission of Texas (“PUC” or “Commission”) its Petition on Remand to Recertify Service Area Pursuant to Settlement Agreement (“Application”) for approval pursuant to TEX. WATER CODE § 13.248 and 16 TEX. ADMIN. CODE § 24.117. A portion of Maxwell’s certificated water-service area covered by CCN No. 10293 (“Maxwell’s CCN”) was decertified on an expedited basis and without hearing by an order granting Texas Commission on Environmental Quality (“TCEQ”) Application No. 37683-C (“Decertification Order”).

Subsequent to the issuance of the Decertification Order, Maxwell entered into a settlement agreement (the “Contract”) with the current owner of the land covered by the subject service area, Whisper Master Community, L.P. (“Whisper”); the City of San Marcos (“San Marcos”), a retail public utility, and in whose city limits a portion of the subject service area is located; and the General Land Office (“GLO”), the original applicant for the decertification. The Contract contemplates several conditions which must be met according to a timeline, including the filing of the Application requesting recertification of 100 acres from within the decertified area to Maxwell’s CCN (the “Recertification Area”). Staff filed a final recommendation for approval on November 3, 2017. Pursuant to Order No. 2, the Parties are to file joint proposed findings of fact, conclusions of law, and an order by November 10, 2017. This pleading is timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

The Parties move to admit the following into the record evidence of this proceeding:

- (a) The Application, filed on August 17, 2017 (AIS Item No. 1);
- (b) The Agreed Order for remand from *Maxwell Water Supply Corporation v. TCEQ*, Cause No. D-1-GN-13-003767 in the 201st District Court of Travis County, Texas, filed in this docket on August 23, 2017 (AIS Item No. 2);
- (c) The PUC's Notice of Application to Amend a Water CCN, filed on August 28, 2017 (AIS Item No. 4);
- (d) The consent form to the final map, certificate, and tariff, filed on October 19, 2017 (AIS Item No. 8); and
- (e) Staff's recommendation that the Application be approved, filed on November 3, 2017 (AIS Item No. 9).

III. JOINT PROPOSED NOTICE OF APPROVAL

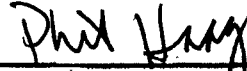
The attached Joint Proposed Notice of Approval would grant Maxwell's Application to add the Recertification Area to Maxwell's water CCN No. 10293 in Hays County, Texas. Also attached are the final map and certificate that were included in Staff's recommendation on final disposition filed on November 3, 2017.

IV. CONCLUSION

The Parties respectfully request that the Commission grant the Joint Motion to Admit Evidence and adopt the attached Joint Proposed Notice of Approval.

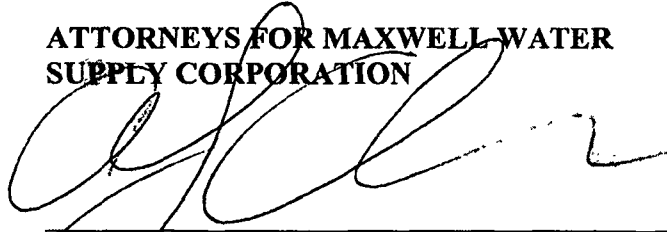
Dated: November 10, 2017

Respectfully submitted,



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**ATTORNEYS FOR MAXWELL WATER
SUPPLY CORPORATION**

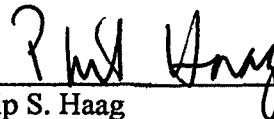


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**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on November 10, 2017 in accordance with 16 TEX. ADMIN. CODE § 22.74.



Philip S. Haag

DOCKET NO. 47523

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| REMAND OF TCEQ APPLICATION NO. 37863-C (PETITION FROM TEXAS GENERAL LAND OFFICE FOR EXPEDITED RELEASE FROM CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 10293 HELD BY MAXWELL WATER SUPPLY CORPORATION IN HAYS COUNTY, TEXAS) | § § § § § § § § | PUBLIC UTILITY COMMISSION OF TEXAS |
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NOTICE OF APPROVAL

This Notice of Approval addresses the petition of Maxwell Water Supply Corporation (“Maxwell”) to recertify by agreement pursuant to TEX. WATER CODE § 13.248 and 16 TEX. ADMIN. CODE § 24.117 (the “Application”). The Public Utility Commission Staff (“Staff”) recommended approval of the Application. The Application is approved.

I. FINDINGS OF FACT

Procedural History

1. On August 17, 2017, Maxwell filed an agreement (the “Contract”) to amend its water CCN in Hays County, Texas as part of the Application filed with the Public Utility Commission of Texas (“PUC” or “Commission”).
2. Previously, a portion of Maxwell’s certificated water-service area covered by CCN No. 10293 (“Maxwell’s CCN”) was decertified on an expedited basis and without hearing by an order granting Texas Commission on Environmental Quality (“TCEQ”) Application No. 37683-C (the “Decertification Order”).
3. Maxwell appealed the Decertification Order in *Maxwell Water Supply Corporation v. TCEQ*, Cause No. D-1-GN-13-003767 in the 201st District Court of Travis County, Texas, and parties to that proceeding reached a settlement agreement, which is contained in the Contract. On August 23, 2017, the Agreed Order for remand from the 201st District Court was filed in this docket.
4. On September 21, 2017, Order No. 2 was issued, deeming the Application administratively complete and establishing a procedural schedule.
5. On October 19, 2017, Maxwell filed a signed consent form evidencing agreement with the revised map and certificate, as prepared by Staff.

6. On November 3, 2017, Staff recommended approval of the Application.
7. The final map and CCN certificate referenced in Finding of Fact No. 4 are attached to this Notice of Approval.

Notice

8. Pursuant to 16 TEX. ADMIN. CODE § 24.117(c)(2), the decision to enter into the Contract was discussed at a meeting of the San Marcos City Council and a meeting of Maxwell's board.
9. On August 17, 2017, Maxwell filed as proof of notice the meeting minutes and agendas from the meetings of the San Marcos City Council and Maxwell's board, along with affidavits of notice from each entity.
10. On August 28, 2017, notice of the Application was published in the *Texas Register*.

Evidentiary Record

11. On November ____, 2017, Order No. ____ was issued, admitting evidence into the record of this proceeding.

Description of the Application

12. Maxwell holds water CCN No. 10293.
13. On October 4, 2013, the Executive Director of the TCEQ signed the Decertification Order granting an application filed by Jerry E. Patterson, in his capacity as Commissioner of the Texas General Land Office and Chairman of the School Land Board (collectively, "GLO"), seeking expedited decertification of 504.853 acres of real property owned by GLO and located within Maxwell's CCN (the "Property").
14. Maxwell timely appealed the Decertification Order along with orders in two related cases concerning adjacent properties.
15. The parties to that appeal subsequently entered into a settlement agreement, which is contained in the Contract and which contemplates several conditions which must be met according to a timeline, including the filing of this Application requesting recertification of 100 acres from within the decertified area to Maxwell's CCN (the "Recertification Area").
16. There are zero current customers in the Recertification Area.

Information Disposition

17. More than 15 days have passed since the completion of the notice provided in this docket.

18. Maxwell and Staff are the only parties to this proceeding.
19. No issues of fact or law remain disputed by any party.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over these matters under TEX. WATER CODE §§ 13.041, 13.042, 13.241, and 13.248.
2. Maxwell is a non-profit water supply corporation organized pursuant to Chapter 67 of the Texas Water Code.
3. Public notice of the Application was provided in compliance with 16 TEX. ADMIN. CODE § 24.117(c).
4. The Application meets the requirements set forth in TEX. WATER CODE §§ 13.248 and 16 TEX. ADMIN. CODE § 24.117.
5. Consistent with the factors in TEX. WATER CODE § 13.248, Maxwell is entitled to approval of the Contract and to add the Recertification Area to its CCN.
6. Under TEX. WATER CODE § 13.257(r) and 16 TEX. ADMIN. CODE § 24.106(e), Maxwell is required to record a certified copy of the approved CCN and map, along with a boundary description of the service area in the real property records of each county in which the service area or a portion of the service area is located, and submit to the Commission evidence of the recording.
7. The requirements for informal disposition pursuant to 16 TEX. ADMIN. CODE § 22.35 have been met in this proceeding.

III. ORDERING PARAGRAPHS

In accordance with these findings of fact and conclusions of law, the Commission issues the following order:

1. Maxwell's Application is approved.
2. Maxwell's CCN No. 10293 is hereby amended, consistent with this Notice.
3. Maxwell shall serve every customer and applicant for service within the areas certified under CCN No. 10293, and such service shall be continuous and adequate.
4. Maxwell shall comply with the recording requirements in TEX. WATER CODE § 13.257(r) for the area in Hays County affected by the Application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.

5. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

Signed at Austin, Texas the _____ day of November, 2017.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE