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**DOCKET NO. 47523**

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**REMAND OF TCEQ APPLICATION NO. §  
37683-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**

**COMMISSION STAFF'S RECOMMENDATION ON ADMINISTRATIVE  
COMPLETENESS**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission),  
representing the public interest, and files this Recommendation.

**I. BACKGROUND**

On August 17, 2017, Maxwell Water Supply Corporation (Maxwell WSC) filed a petition (Petition) to implement an agreement to recertify certain areas that had previously been removed from Maxwell WSC's Certificate of Convenience and Necessity (CCN).<sup>1</sup> The Petition states that, in 2013, the Texas Commission on Environmental Quality had decertified a portion of Maxwell WSC's CCN.<sup>2</sup> That decision was appealed, and a settlement agreement (Contract) was reached on appeal.<sup>3</sup> The parties to the Contract include Maxwell WSC, the Texas General Land Office, Yarrington Partners, Ltd., Wisper Master Community, L.P., and the City of San Marcos.<sup>4</sup>

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<sup>1</sup> Petition on Remand to Recertify Service Area Pursuant to Settlement Agreement (Aug. 17, 2017) (Petition).

<sup>2</sup> *Id.* at 1.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*, Exhibit A at 1.

The Petition requests implementation of provisions of the Contract that contemplate that a portion of the decertified area be recertified as part of Maxwell's CCN.<sup>5</sup> Maxwell requests that this provision of the Contract be implemented using the authority in Tex. Water Code § 13.248 (West Supp. 2016) (TWC) and 16 Tex. Admin. Code § 24.117 (TAC), which state that contracts between retail public utilities designating areas to be served and customers to be served are valid and enforceable.<sup>6</sup>

On August 20, 2017, Order No. 1 was entered, requiring Staff to provide a recommendation regarding administrative completeness by September 18, 2017.<sup>7</sup> This pleading is timely filed.

## **II. ADMINISTRATIVE COMPLETENESS OF THE APPLICATION**

Staff recommends that the Petition be processed using the authority in TWC § 13.248 and 16 TAC § 24.117. Consistent with the attached memorandum of Sean Scaff, Water Utility Regulation Division, Staff recommends that the Petition be deemed administratively complete for the purpose of further processing.

## **III. NOTICE**

Notice of this proceeding is governed by 16 TAC § 24.117. That section states that notice to individuals is required if affected customers will be transferred to another retail public utility as part of the contract.<sup>8</sup> If the decision to enter into the contract was discussed at a meeting of a city council or water supply corporation's board, a copy of the meeting agenda and minutes from the meeting may be considered to be sufficient notice.<sup>9</sup>

The Petition states that the Contract was discussed at meetings of Maxwell WSC's board of directors and at a meeting of the City Council of the City of San Marcos.<sup>10</sup> The Petition provides

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<sup>5</sup> *Id.*

<sup>6</sup> Tex. Water Code § 13.248 (West Supp. 2016) (TWC); 16 Tex. Admin. Code § 24.117(a) (TAC).

<sup>7</sup> Order No. 1 (Aug. 20, 2017).

<sup>8</sup> 16 TAC § 24.117(c)(1).

<sup>9</sup> 16 TAC § 24.117(c)(2).

<sup>10</sup> Petition at 4.

the agenda and minutes of those meetings.<sup>11</sup> The Petition also states that there are no customers affected by the recertification proposed in this proceeding, meaning that no individual notice is required.<sup>12</sup>

Consistent with Mr. Scaff's memorandum, Staff notes that all affected parties have already agreed to the Contract. As a result, Staff recommends that the meeting agendas and minutes be deemed to be sufficient notice and that no additional notice be required.

#### **IV. AGREED PROPOSED PROCEDURAL SCHEDULE**

Order No. 1 also requires Maxwell WSC and Staff to propose a schedule for this proceeding. Staff has conferred with Maxwell WSC, which indicated that it agrees with the below proposed schedule.

<b>Event</b>	<b>Date</b>
Petition filed	August 17, 2017
Intervention deadline; deadline for Intervenors to request a hearing	October 2, 2017
Deadline for Staff to provide draft maps, certificates, and tariffs to applicant	October 17, 2017
Deadline for applicant to file signed consent forms with the Commission	October 24, 2017
Deadline for Staff to request a hearing; if no hearing is requested, deadline for Staff to file a final recommendation on the Application	November 3, 2017
If no hearing is requested, deadline for parties to file joint proposed findings of fact and conclusions of law	November 10, 2017

#### **V. CONCLUSION**

Staff respectfully requests the entry of an order consistent with the above discussion.

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<sup>11</sup> *Id.*, Exhibit B; *id.*, Exhibit C.

<sup>12</sup> *Id.* at 4.

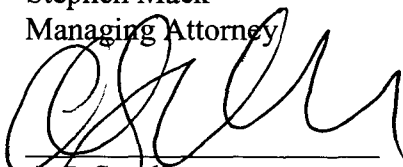
Date: September 18, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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**DOCKET NO. 47523  
CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on September 18, 2017 in accordance with 16 TAC § 22.74.



A. J. Smullen

## PUC Interoffice Memorandum

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**To:** AJ Smullen, Attorney  
Legal Division

**Through:** Lisa Fuentes, Manager  
Water Utility Regulation Division

**From:** Sean Scaff, Engineering Specialist  
Water Utility Regulation Division

**Date:** September 13, 2017

**Subject:** **Docket No. 47523:** *Remand of TCEQ Application No. 37683-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*

On August 17, 2017, Maxwell Water Supply Corporation (Applicant or Maxwell WSC) filed a petition for approval of a contract to recertify service area back to Maxwell WSC in accordance with a settlement agreement reached by the parties in an Agreed Order issued by the 201 st District Court of Travis County, Texas, returning Application No. 37683-C, to the Public Utility Commission of Texas for remand proceedings consistent with the Court's order. The total area being requested include approximately 100 acres and zero customers.

Based on Staff's review of the above referenced application, Staff recommends that the application be deemed sufficient for filing. Further, staff notes the following:

- 1) The mapping information submitted is sufficient for filling.
- 2) The Applicant submitted a signed settlement agreement between all affected parties including (Maxwell WSC, Yarrington Partners, Ltd., Texas General Land Office, Whisper Master Community, L.P., N.O.B. 2016 Holdings, Ltd., and the City of San Marcos).
- 3) The Applicant submitted board meeting notes approving the recertification from both Maxwell WSC and the City of San Marcos.

Staff also recommend that the Commission waive the notice requirement as there are currently no customers in the proposed area, thus no affected customers, and all affected parties have signed onto the agreement noted above.