



Control Number: 51488



Item Number: 18

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DOCKET NO. 51488

**APPLICATION OF CHESTER MAPLES §
DBA OLD HIGHWAY 90 WATER §
SERVICE TO AMEND A CERTIFICATE §
OF CONVENIENCE AND NECESSITY IN §
MEDINA AND FRIO COUNTIES §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

2021 MAY 14 AM 10:05
FILED
PUBLIC UTILITY COMMISSION
FRIO COUNTY CLERK

**COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION ON
ADMINISTRATIVE COMPLETENESS, NOTICE, AND PROCEDURAL SCHEDULE**

On November 4, 2020, Chester Maples dba Old Highway 90 Water Service (Old Highway 90) filed an application to amend its water certificate of convenience and necessity (CCN) number 12975 in Medina and Frio counties. The application seeks to decertify 11 acres of Benton City Water Supply Corporation's water CCN number 12587, and to amend Old Highway 90's CCN to add the 11 acres plus 589 acres of uncertificated land. Old Highway 90 supplemented its application on December 9 and 10, 2020 and January 19, March 16, and April 14, 2021.

On May 4, 2021, the administrative law judge filed Order No. 7, which set a deadline of May 14, 2021 for the Staff of the Public Utility Commission of Texas (Staff) to file a supplemental recommendation on administrative completeness, notice, and propose a procedural schedule. Therefore, this pleading is timely filed.

I. ADMINISTRATIVE COMPLETENESS

Staff has reviewed the supplemented application, and as detailed in the attached memoranda of Patricia Garcia, Infrastructure Division, and Fred Bednarski, Rate Regulation Division, Staff recommends that the application be found administratively complete and accepted for filing. Staff's recommendation on administrative completeness is not a comment on the merits of the application but only that it is complete for further processing.

II. NOTICE

At this time, Staff recommends that Old Highway 90 proceed with providing public notice to all persons, political subdivisions, and other entities listed in the attached memorandum and using the notices provided by Ms. Garcia. Along with each individual notice, Staff recommends that Old Highway 90 provide an accurate map delineating the requested service

area. Staff also recommends that Old Highway 90 publish notice once each week for two consecutive weeks in a newspaper of general circulation in Frio and Medina Counties.

Further, Staff recommends that Old Highway 90 file proof of notice as described in the attached memorandum and proof of newspaper publication, including tear sheets. Finally, Staff recommends that Old Highway 90 use the attached notices and affidavits to meet these requirements.

III. PROCEDURAL SCHEDULE

Staff recommends that the application be found administratively complete; therefore, Staff proposes the following procedural schedule:

Event	Date
Deadline for Old Highway 90 to file with the Commission signed affidavits that the notice was given along, with a copy of the notice and map sent to the affected parties, and published in a newspaper of general circulation	June 29, 2021
Deadline for Staff to file a recommendation on sufficiency of notice and propose a supplemental procedural schedule	July 13, 2021
Deadline to intervene	30 days after notice is issued

IV. CONCLUSION

For the reasons detailed above, Staff respectfully recommends that the application, as supplemented, be found administratively complete, that Old Highway 90 be directed to provide notice as detailed above and in the attached memorandum, and that the proposed procedural schedule be adopted.

Dated: May 14, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

Eleanor D'Ambrosio
Managing Attorney

/s/ Daniel Moore
Daniel Moore
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(512) 936-7465
(512) 936-7268 (facsimile)
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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on May 14, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Daniel Moore
Daniel Moore

Public Utility Commission of Texas

Memorandum

TO: Daniel Moore, Attorney
Legal Division

FROM: Fred Bednarski III, Financial Analyst
Rate Regulation Division

DATE: May 14, 2021

RE: Docket No. 51488 - *Application of Chester Maples dba Old Highway 90 Water Service to Amend a Certificate and Necessity in Medina and Frio Counties*

On November 4, 2020, Chester Maples dba Old Highway 90 Water Service filed an application to amend its water Certificate of Convenience and Necessity in Medina and Frio Counties under Subchapter G of Texas Water Code Chapter 13.

I reviewed the answers provided to questions 30 and 31 of the application, and did not identify any deficiencies in those answers for purposes of determining whether the application is administratively complete. Therefore, I recommend that the Commission deem the application administratively complete from a financial perspective.

Public Utility Commission of Texas

Memorandum

TO: Daniel Moore, Attorney
Legal Division

FROM: Patricia Garcia, Senior Engineering Specialist
Infrastructure Division

DATE: May 14, 2021

RE: Docket No. 51488 – *Application of Chester Maples dba Old Highway 90 Water Service to Amend a Certificate of Convenience and Necessity in Medina and Frio Counties*

On November 4, 2020, Chester Maples dba Old Highway 90 Water Service (Old Highway 90) filed with the Public Utility Commission of Texas (Commission) an application to amend its water certificate of convenience and necessity (CCN) No. 12975 in Medina and Frio Counties, under Texas Water Code §§ 13.242 to 13.250 and 16 Texas Administrative Code §§ 24.225 to 24.237. The requested area includes approximately 600 acres, which is comprised of approximately 589 acres of uncertificated land and 11 acres of area to be decertified from Benton City Water Supply Corporation's CCN No. 12587 and amended to CCN No. 12975. The result of the application will be the addition of approximately 600 acres to Old Highway 90's CCN No. 12975 and the subtraction of approximately 11 acres from Benton City WSC's CCN No. 12587.

The application indicates that the total acreage being requested is approximately 994 acres. However, based on the mapping review by Tracy Montes, Infrastructure Division, it was determined that the requested area is approximately 600 acres.

Based on the mapping review by Ms. Montes, the maps and digital data filed on April 14, 2021 are sufficient, and based on my technical and managerial review of the additional information filed by Old Highway 90 on December 9 and 10, 2020, January 19, 2021, March 16, 2021, and April 14, 2021, I recommend that the application be deemed administratively complete. I further recommend that Old Highway 90 be ordered to do the following:

- 1) Provide notice of the application by first-class mail to the following:

- a. Cities, districts, and neighboring retail public utilities providing the same utility service whose corporate boundaries or certificated service area are located within two miles from the outer boundary of the requested area:
 - *Benton City WSC (CCN No. 12587);*
 - *Gusville Mobile Home Park (CCN No. 12292);*
 - *Moore WSC (CCN No. 10212);*
 - *Yancey WSC (CCN No. 11463);*
 - *Bexar-Medina-Atascosa Counties WCID 1;* and
 - *Nueces River Authority*
- b. The county judge of each county that is wholly or partially included in the requested area:
 - *Frio County Judge;* and
 - *Medina County Judge*
- c. Each groundwater conservation district that is wholly or partially included in the requested area:
 - *Evergreen Underground Water Conservation District*
- d. Each landowner of a tract of land that is at least 25 acres and is wholly or partly located in the requested area. Notice must be mailed to the owner of the tract of land according to the most current tax appraisal rolls of the applicable central appraisal district at the time the application was filed.
- e. Any affected customers, and other affected parties in the requested area.

Addresses can be obtained by Old Highway 90 from the Water Utility Database, <http://www.puc.texas.gov/watersearch>. District information and addresses can be obtained from the Texas Commission on Environmental Quality's (TCEQ) website, <http://www14.tceq.texas.gov/iwud/>.

- 2) Publish notice once each week for two consecutive weeks in a newspaper having general circulation in each county where the requested area is located. Proof in the form of a publisher's affidavit must be filed within 30 days of the publication date. The affidavit must state with specificity each county in which the newspaper is of general circulation. Within 30 days of the date the notice was mailed, Old Highway 90 must file an affidavit specifying the notice that was provided to every person and entity to whom notice was provided and the date the notice was mailed.
- 3) Provide notice using the attached notice forms.
- 4) Provide a copy of the map(s) deemed sufficient during administrative review delineating the requested area with each individual notice to neighboring utilities, other affected parties, landowners and customers.
- 5) File in the docket a copy of notice and the map(s) deemed sufficient during administrative review along with the signed affidavit specifying every person and entity

to whom notice was provided, the date that the notice was provided, and the publisher's affidavit and tear sheets for proof of newspaper publication.

- 6) Supplement the application with a copy of the approval letter for the plans and specifications from TCEQ once it is received. Also provide an approval letter for the distribution system to serve the requested area. Old Highway 90 must file the approval letters prior to Staff making a final recommendation on the application.

Staff may determine that additional information is needed to make a final recommendation in this docket. If additional information is needed, Staff may send requests for information (RFI) to Old Highway 90. Old Highway 90 will have 20 days from the receipt of the RFI to respond.

Notice for Publication

NOTICE OF APPLICATION FOR CHESTER MAPLES DBA OLD HIGHWAY 90 WATER SERVICE TO AMEND A CERTIFICATE OF CONVENIENCE AND NECESSITY AND TO DECERTIFY A PORTION OF BENTON CITY WATER SUPPLY CORPORATION'S CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE WATER UTILITY SERVICE IN FRIO AND MEDINA COUNTIES, TEXAS

Chester Maples dba Old Highway 90 Water Service has filed an application with the Public Utility Commission of Texas to amend its Certificate of Convenience and Necessity (CCN) No. 12975 and to decertify a portion of Benton City Water Supply Corporation's CCN No. 12587 for the provision of retail water utility service in Frio and Medina Counties, Texas.

The requested area overlaps the district boundaries of the Nueces River Authority. If Nueces River Authority does not request a public hearing, the Commission shall determine that the district is consenting to Chester Maples dba Old Highway 90 Water Service's request to provide retail water utility service in the requested area.

The requested area includes 0 current customers, is located approximately 4 miles southwest of downtown Devine, Texas, and is generally bounded on the north by 2.1 miles south of FM 2200; on the east by Interstate Highway(IH)-35; on the south by IH-35; and on the west by 2.7 miles west of CR 765 (Black Creek Road).

The requested area includes approximately 600 acres, comprised of 589 acres of uncertificated area and 11 acres of area to be decertified from Benton City Water Supply Corporation's CCN No. 12587, to be amended to CCN No. 12975.

The result of the application will be the addition of approximately 600 acres to CCN No. 12975 and the subtraction of approximately 11 acres from CCN No. 12587.

A copy of the map showing the requested area is available at: Howard Surveying LLC, 402 State Hwy 173 S, Hondo, TX 78861

Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date. The letter must include the person's name, address, email address and fax number if applicable.

If a valid public hearing is requested, the Commission will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for a final decision. An evidentiary hearing is a legal proceeding similar to a civil trial in state district court.

A landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the requested area, may file a written request with the Commission to be excluded from the requested area ("opt out") within (30) days from the date that notice was provided by the Utility. All opt out requests must include a large-scale map, a metes and bounds description of the landowner's tract of land, landowner's name, address, email address and fax number, if applicable.

Persons who wish to request this option should file the required documents with the:
Public Utility Commission of Texas
Central Records
1701 N. Congress, P. O. Box 13326
Austin, TX 78711-3326

In addition, the landowner must also send a copy of the opt out request to the Utility. Staff may request additional information regarding your request.

Si desea información en español, puede llamar al 1-888-782-8477.

Notice to Neighboring Systems, Landowners, Customers, and Cities
NOTICE OF APPLICATION FOR CHESTER MAPLES DBA OLD HIGHWAY 90 WATER
SERVICE TO AMEND A CERTIFICATE OF CONVENIENCE AND NECESSITY AND TO
DECERTIFY A PORTION OF BENTON CITY WATER SUPPLY CORPORATION'S
CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE WATER UTILITY
SERVICE IN FRIO AND MEDINA COUNTIES, TEXAS

To: _____ Date Notice Mailed: _____, 20____
(Neighboring System, Landowner, Customer or City)

(Address)

(City State Zip)

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The requested area overlaps the district boundaries of the Nueces River Authority. If Nueces River Authority does not request a public hearing, the Commission shall determine that the district is consenting to Chester Maples dba Old Highway 90 Water Service's request to provide retail water utility service in the requested area.

The requested area includes 0 current customers, is located approximately 4 miles southwest of downtown Devine, Texas, and is generally bounded on the north by 2.1 miles south of FM 2200; on the east by Interstate Highway(IH)-35; on the south by IH-35; and on the west by 2.7 miles west of CR 765 (Black Creek Road).

The requested area includes approximately 600 acres, comprised of 589 acres of uncertificated area and 11 acres of area to be decertified from Benton City Water Supply Corporation's CCN No. 12587, to be amended to CCN No. 12975.

The result of the application will be the addition of approximately 600 acres to CCN No. 12975 and the subtraction of approximately 11 acres from CCN No. 12587.

See enclosed map showing the requested area.

Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date. The letter must include the person's name, address, email address and fax number if applicable.

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Si desea información en español, puede llamar al 1-888-782-8477.

PUBLIC UTILITY COMMISSION OF TEXAS



AFFIDAVIT OF NOTICE TO CURRENT CUSTOMERS, LANDOWNERS, NEIGHBORING UTILITIES, AND AFFECTED PARTIES DOCKET NO. 51488

STATE OF TEXAS
COUNTY OF _____

_____ has provided individual
notice to the following entities, landowners and customers:

DATE OF NOTICE

OATH

I, _____, being duly sworn, file this form as
_____ (indicate relationship to applicant, that is,
owner, member of partnership, title of officer of corporation, or other authorized representative of
applicant); that in such capacity, I am qualified and authorized to file and verify such form, am
personally familiar with the notices given with this application, and have complied with all notice
requirements in the application and application acceptance letter; and that all such statements made
and matters set for therein are true and correct.

Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant,
or its attorney, a properly verified Power of Attorney must be enclosed.

Subscribed and sworn to before me this _____ day of _____, 20____,
to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____

PUBLIC UTILITY COMMISSION OF TEXAS



PUBLISHER'S AFFIDAVIT
DOCKET NO. 51488

STATE OF TEXAS
COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____,
who being by me duly sworn, deposes and that (s)he is the

_____ of the _____
(TITLE) (NAME OF NEWSPAPER)

that said newspaper is regularly published in _____
(COUNTY/COUNTIES)

and generally circulated in _____, Texas;
(COUNTY/COUNTIES)

and that the attached notice was published in said newspaper on the following dates, to wit:

(DATES)

(SIGNATURE OF NEWSPAPER REPRESENTATIVE)

Subscribed and sworn to before me this _____ day of _____, 20____,
to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____