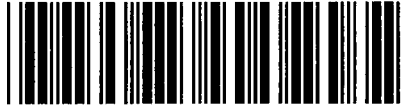




Control Number: 51488



Item Number: 25

Addendum StartPage: 0

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**

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COMMISSION STAFF'S RECOMMENDATION ON SUFFICIENCY OF NOTICE

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 17, 2021, the administrative law judge (ALJ) filed Order No. 8, which set a deadline of July 13, 2021 for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a recommendation on the sufficiency of Old Highway 90's notice. Therefore, this pleading is timely filed.

I. SUFFICIENCY OF NOTICE

Staff has reviewed the proof of notice filed by Old Highway 90 on June 22, 2021. Old Highway 90 filed an affidavit attesting to the provision of notice to current customers, neighboring utilities, and affected parties. Old Highway 90 also filed a copy of the notice and maps sent, and a list of persons and entities that received notice. Under 16 Texas Administrative Code (TAC) § 24.235(b)(4), the affidavit attesting to the provision of notice to current customers, neighboring utilities, and affected parties must be filed within 30 days of the date of notice. Old Highway 90's affidavit stated that notice was set to current customers, neighboring utilities, and affected parties on May 19, 2021, however, it was not filed until 33 days later on June 22, 2021. On July 8, 2021, Old Highway 90 requested a waiver of 16 TAC § 24.235(b)(4)'s 30-day time period. Staff is unopposed to Old Highway 90's waiver request and notes two reasons why this three-day delay should not make notice deficient. First, the three-day delay did not affect the notices because the

25

proof of notice was filed within 30 days of when notice was complete.¹ Second, Old Highway 90 filed the affidavit attesting to the provision of notice within the timeline provided by Order No. 8.

Further, Old Highway 90 filed a publisher's affidavit showing that notice was published in the *Devine News*, a newspaper of general circulation in Medina, Atascosa, and Frio Counties, on May 26 and June 2, 2021. Old Highway 90 filed the publisher's affidavit in the docket within 30 days of the last publication date.²

Staff has reviewed Old Highway 90's proof of notice and recommends that the portion of Old Highway 90's notice that was published in a newspaper of general circulation be deemed sufficient. Staff further recommends that the ALJ grant Old Highway 90's waiver request and that Old Highway 90's notice to current customers, neighboring utilities, and affected parties be deemed sufficient.

II. PROCEDURAL SCHEDULE

Staff proposes the following procedural schedule contingent on the ALJ granting Old Highway 90's waiver.

Event	Date
Notice Completed	June 2, 2021
Deadline to Intervene	July 2, 2021 ³
Deadline for Commission Staff to provide final maps, certificates, and tariffs (if applicable), to the applicant for review and consent	August 6, 2021
Deadline for Old Highway 90 to file signed consent forms with the Commission	August 20, 2021
If no hearing is requested, deadline for Commission Staff to file a final recommendation on the application	September 1, 2021
If no hearing is requested, deadline for the parties to file joint proposed findings of fact and conclusions of law	September 10, 2021

¹ Under 16 TAC § 24.235(a)(3), notice was not complete until June 2, 2021 when Old Highway 90 published its second consecutive notice in the *Devine News*.

² 16 TAC § 24.235(c).

³ Under 16 TAC § 24.235(a)(3), the intervention deadline is 30 days after the mailing or publication of notice, whichever occurs later. Notice was mailed on May 19, 2021 and published on May 26 and June 2, 2021. Therefore, 30 days after June 2, 2021 is July 2, 2021.

III. CONCLUSION

For the reasons stated above and contingent on Old Highway 90's waiver being granted, Staff respectfully recommends that Old Highway 90's notice be found sufficient and that the proposed procedural schedule be adopted.

Dated: July 13, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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DOCKET NO. 51488

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 July 13, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Daniel Moore
Daniel Moore