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DOCKET NO. 51488

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

COMMISSION STAFF'S LIST OF ISSUES

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. On June 30, 2021, the administrative law judge (ALJ) filed Order No. 9, which granted Yancey Water Supply Corporation's (YWSC) motion to intervene, and on August 8, 2021, YWSC filed a request for a hearing on the merits.

On September 9, 2021, Commission Counsel filed an Order, which permitted the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a list of issues to be addressed in this docket and identify any threshold legal and policy issues that should be brief by September 15, 2021. Therefore, this pleading is timely filed.

I. PROPOSED LIST OF ISSUES

Staff submits the following issues for consideration in this proceeding:

1. Has Old Highway 90 given notice consistent with Texas Water Code (TWC) § 13.246 and 16 Texas Administrative Code (TAC) § 24.106?
2. Does Old Highway 90's requested water service area overlap with the certificated service area of other entities? If so, what specific areas will overlap? Has Old Highway 90 received appropriate consent to provide water service within the entities' service boundaries?
3. Does Old Highway 90 possess the financial, managerial, and technical capability to provide continuous and adequate water service to the requested area as required by TWC § 13.241(a) and 16 TAC § 24.102(a)?
4. Does Old Highway 90 possess a TCEQ-approved public water system that is capable of providing drinking water to the requested area that meets the requirements of Texas Health

and Safety Code, chapter 341, TCEQ rules, and the Texas Water Code? TWC § 13.241(b)(1) and 16 TAC § 24.102(a)(1)(A).

5. Does Old Highway 90 have access to an adequate supply of water or have a long-term contract for purchased water with an entity whose system meets the requirements of 16 TAC § 24.102(a)(1)(A)? TWC § 13.241(b)(2) and 16 TAC § 24.102(a)(1)(B).
6. Does the requested area require construction of a physically separate water system? If so, has Old Highway 90 proven that regionalization or consolidation with a retail public utility for water service is not economically feasible? TWC § 13.241(d) and 16 TAC § 24.102(b).
7. Is the requested water CCN amendment necessary for the service, accommodation, convenience, or safety of the public in the served area? TWC § 13.246(b) and 16 TAC § 24.102(c).
8. Does the balance of factors under TWC § 13.246(c) and 16 TAC § 24.102(d) weigh in favor of granting Old Highway 90 a CCN amendment to include the requested area? In answering this issue, please address the following:
 - a. Is the requested area currently receiving adequate water service? TWC § 13.246(c)(1) and 16 TAC § 24.102(d)(2).
 - b. Does the requested area need additional water service? TWC § 13.246(c)(2) and 16 TAC § 24.102(d)(2).
 - i. Have any landowners, prospective landowners, tenants, or residents in the requested area requested water service?
 - ii. Are there economic needs for additional water service in the requested area?
 - iii. Are there environmental needs for additional water service in the requested area?
 - iv. Are there written applications or requests for water service?
 - v. Are there reports or market studies demonstrating existing or anticipated growth in the requested area?
 - c. Under TWC § 13.246(c)(3) and 16 TAC § 24.102(d)(3), what is the effect of granting Old Highway 90 a CCN amendment to include the requested area on
 - i. Old Highway 90;
 - ii. Landowners located within the requested area; and
 - iii. Any retail public utility that provides the same service and that is already serving any area within two miles of the boundary of the requested area?

- d. Does Old Highway 90 have the ability to provide adequate water service, including meeting the standards of the TCEQ and the Commission, taking into consideration the current and projected density and land use of the requested area? TWC § 13.246(c)(4) and 16 TAC § 24.102(d)(4).
 - e. What is the feasibility of obtaining water service in the requested area from an adjacent retail public utility? TWC § 13.246(c)(5) and 16 TAC § 24.102(d)(5).
 - f. Is Old Highway 90 financially able to pay for the facilities necessary to provide continuous and adequate water service to the requested area? TWC § 13.246(c)(6) and 16 TAC § 24.102(d)(6).
 - i. Does Old Highway 90 have existing facilities adequate to provide continuous and adequate service to the requested area?
 - ii. If not, are additional facilities needed to ensure that continuous and adequate service can be provided to the requested area?
 - g. Is Old Highway 90 financially stable? If applicable, is Old Highway 90's debt-to-equity ratio adequate? TWC § 13.246(c)(6) and 16 TAC § 24.102(d)(6).
 - h. How, if at all, would environmental integrity be affected by granting Old Highway 90 a CCN amendment to include the requested area? TWC § 13.246(c)(7) and 16 TAC § 24.102(d)(7).
 - i. Is it probable that water service would be improved or that costs to consumers would be lowered by granting Old Highway 90 a CCN amendment to include the requested area? TWC § 13.246(c)(8) and 16 TAC § 24.102(d)(8).
 - j. How, if at all, would the area be affected by granting Old Highway 90 a CCN amendment to include the requested area? TWC § 13.246(c)(9) and 16 TAC § 24.102(d)(9).
9. Should the Commission require Old Highway 90, in accordance with TWC § 13.246(d) and 16 TAC § 24.102(e), to provide a bond or other financial assurance to ensure that continuous and adequate water service is provided?

II. CONCLUSION

Staff respectfully requests that a preliminary order with the above issues be adopted.

Dated: September 15, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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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 September 15, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Daniel Moore
Daniel Moore