

Filing Receipt

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#### **DOCKET NO. 51973**

PETITION OF RODNEY EARL	§	PUBLIC UTILITY COMMISSION
MOHNKE, STEPHEN LEE MOHNKE,	§	
MELVIN MAX MOHNKE, KENNETH	§	OF TEXAS
WAYNE MOHNKE, KATHLEEN ANN	§	
MOHNKE-BLAKELY, AND MEL	§	
MOHNKE, TRUSTEES OF THE	§	
MOHNKE LIVING TRUST, TO	§	
AMEND H-M-W SPECIAL UTILITY	§	
DISTRICT'S CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	
HARRIS COUNTY BY EXPEDITED	§	
RELEASE	§	

## COMMISSION STAFF'S SUBMISSION OF APPRAISAL REPORT

Commission Staff respectfully submits its appraisal report in this matter attached to this filing. Staff apologizes for any delay caused by its untimely submission.

Dated: March 18, 2022

Respectfully submitted,

# PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Marisa Lopez Wagley Managing Attorney

/s/ Kevin R. Bartz

Kevin R. Bartz State Bar No. 24101488 1701 N. Congress Avenue P.O. Box 13326 Austin, Texas 78711-3326 (512) 936-7203 (512) 936-7268 (facsimile) kevin.bartz@puc.texas.gov

## **DOCKET NO. 51973**

## **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 March 18, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Kevin R. Bartz
Kevin R. Bartz

B & D ENVIRONMENTAL, INC. 200 HARBOR CIRCLE GEORGETOWN, TEXAS 78633 PHONE NO: (512) 917-7541 FAX NO: (512) 692-1967

EMAIL: bretfenner@yahoo.com

March 18, 2022

Mr. Kevin R. Bartz Attorney III, Legal Division Public Utility Commission of Texas 1701 N. Congress P.O. Box 13326 Austin, Texas 78711-3326

Re: PUC Docket No. 51973: Petition of Rodney Earl Mohnke, Stephen Lee Mohnke, Melvin Max Mohnke, Kenneth Wayne Mohnke, Kathleen Ann Mohnke-Blakely and Mel Mohnke, Trustees of the Mohnke Living Trust to amend H-M-W Special Utility District Certificate of Convenience and Necessity in Harris County by Expedited Release

Dear Mr. Bartz:

Per your request B & D Environmental, Inc. is please to submit this report for the third-party engineering appraisal to determine a compensation value for the expediated release of a portion of Certificate of Convenience Necessity (CCN) No. 10342 per the Order in Public Utility Commission (PUC) Docket No. 51973.

#### BACKGROUND

Rodney Earl Mohnke, Stephen Lee Mohnke, Melvin Max Mohnke, Kenneth Wayne Mohnke, Kathleen Ann Mohnke-Blakely and Mel Mohnke, Trustees of the Mohnke Living Trust (collectively, the petitioners) requested and were granted per Commission Order in Docket No. 51973 a streamlined expedited release from the certificated service area of H-M-W Special Utility District (HMW) for a tract of land located in Harris County. This third-party appraisal is to determine the total amount of just and adequate compensation to be paid to HMW for the loss of the tract of land in question from its CCN service area. This third-party appraisal was prepared per Texas Water Code §13.254 and 30 Tex. Admin. Code §24.245. This engineering appraisal is based on the requirements of Texas Water Code §13.254(g-1). The total value of compensation will be determined using the factors in Texas Water Code §13.254(g) and only those factors. No compensation was given to any recoverable cost requested that is outside of those listed in the determination of value based on these factors. This engineering appraisal was conduct only for the purpose of determining the value for the decertification of this tract of land from HMW's service areas and does not represent an appraisal of determined value for the sale of real property.

Mr. Kevin R. Bartz March 18, 2022 Page 2 of 5

#### **DOCUMENTS REVIEWED**

Documents reviewed for the preparation of this valuation include, but are not limited to:

- 1. Zak Wright. ASA, NewGen Strategies & Solutions, Compensation for Decertification of a Portion of HMW Special Utility District's Certificate of Convenience and Necessity. Dated January 10, 2022
- 2. Jon Tyler, Stanton, Park Advisors, LLC, HMW Special Utility District Economic Damages Report Fair Market Value as of December 31, 2021. Dated January 6, 2022
- 3. Filings with the Public Utility Commission of Texas in Docket No. 51973
- 4. Section 13.254 of the Texas Water Code
- 5. 30 Tex. Admin. Code §24.245

#### VALUATION DETERMINATION

This valuation to determine the just and adequate compensation to HMW for the decertification of the tract of land in question from its certified service area. This valuation was based on the factors provided in Texas Water Code §13.254(g) and 30 Tex. Admin. Code §24.245(j) and only those factors. Based on 30 Tex. Admin. Code §24.245(g)(4)(B) this determination cannot be less than the lower appraisal nor higher than the highest appraisal of the appraisers engaged by the former CCN holder and prospective retail public utility. Both parties submitted appraisals for their calculation of just and adequate compensation. The value established for each factor in this determination is based on the values provided by each parties' appraisal.

# Factor 1: The value of real property per the standards set forth in chapter 21 of the Texas Property Code:

The compensation appraisal for the petitioners stated that no real property was being transferred nor rendered useless as a result of this expediated release and assigned no value for this factor. The compensation appraisal of HMW did not provide any analysis nor recommendation for this factor. Thus, no value should be applied for this factor.

The value for this Factor: \$0.

### Factor 2: The amount of retail public utility's debt allocable for service in the area in question:

The compensation appraisal for the petitioners conducted a detailed analysis based on available data provided to determine an amount of just compensation based on this factor. The amount determined was

<sup>&</sup>lt;sup>1</sup> Zak Wright. ASA, NewGen Strategies & Solutions, Compensation for Decertification of a Portion of HMW Special Utility District's Certificate of Convenience and Necessity. Dated January 10, 2022, Pages 3-1 to 3-2.

Mr. Kevin R. Bartz March 18, 2022 Page 3 of 5

\$648. HMW's compensation appraisal did not provided any analysis nor recommendation for the just compensation based on this factor. Therefore, the recommended value for this factor should be \$648.

The value for this Factor: \$648.

#### Factor 3: The value of service facilities of the retail public utility located within the area in question:

The compensation appraisal for the petitioners suggested that no value be assigned for this factor. The compensation appraisal of HMW did not provide any analysis nor recommendation for this factor. Thus, no value is applied for this factor.

The value for this Factor: \$0.

# Factor 4: The amount of any expenditure for planning, design, or construction of service facilities that are allocable to service to the area in question:

The compensation appraisal for the petitioners stated that HMW did not identify any expenses related to this factor. The compensation appraisal of HMW did not provide any analysis nor recommendation for this factor. Since both compensation appraisals agreed that no value be assigned to this factor, no value was allocated for this factor.

The value for this Factor: \$0.

# Factor 5: The amount of the retail public utility's contractual obligations allocable to the area in question:

The compensation appraisal of HMW did not provide any analysis nor recommendation for this factor. The compensation appraisal for the petitioners indicated it could not find any contractual obligations for HMV that would be assigned to this factor and thus would not allocate any value for this factor. Based on these two recommendations, no value should be allocated for this factor.

The value for this Factor: \$0.

# Factor 6: Any demonstrated impairment of service or increased of cost to consumers of the retail public utility remaining after the decertification:

The compensation appraisal for the petitioners determined that the service to HMW's existing consumers would not change as a result of this decertification and thus, would not allocate any values for this factor. The compensation appraisal of HMW did not provide any analysis nor recommendation for this factor. No compensation value total should be allocated for this factor.

The value for this Factor: \$0.

Mr. Kevin R. Bartz March 18, 2022 Page 4 of 5

#### Factor 7: The impact on future revenues lost from existing customers:

The compensation appraisal for the petitioners stated that no value should be assigned to this factor given that HMW was losing any existing customers due to this expediated release of the tract of land from its service area. The compensation appraisal of HMW did not provide any analysis nor recommendation for this factor. Therefore, no value should be assigned for this factor.

The value for this Factor: \$0.

#### Factor 8: Necessary and reasonable legal expenses and professional fees

The compensation appraisal of HMW did not provide any analysis nor recommendation for this factor. The compensation appraisal for the petitioners agreed that HMW was entitled to recover any necessary and reasonable legal and professional fees related to this expeditated release of a portion of its service area. However, the compensation appraisal of HMW did not provide any expenses for any legal and professional fees. If HMW can show that it incurred any necessary and reasonable fee associated with the expeditated release of this tract from its service area then the value for this factor should be increased to include those expenses.

The value for this Factor: \$0.

#### **Factor 9: Other relevant factors:**

The petitioner's compensation appraisal stated that no value should be assigned to this factor because it did not find any other relevant factors that would require compensation. HMW did not identify any other relevant factors in its compensation appraisal. It submitted an analysis based on the fair market value of economic damages for the decertification of the Mohnke tract from its CCN service area. However, in its "Response to Owner Comments / Objections to Appraisal Filing" in Docket 51973, HMW claimed that its fair market value determination for economic damages should be considered as another relevant factor<sup>2</sup>.

The fair market value for estate purposed is defined as the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.<sup>3</sup> HMW did not suffer the loss of any real property nor water facility assets due to the expeditated release of this tract of land. Nor did it indicate it would loss any existing customers. HMW is endeavoring to use a fair market analysis determination to derive a value for projected loss from any future customers in the tract being part of the expeditated release. Given that HMW will not lose any real property nor facilities or customers within the expeditated release of this tract from its certified service area, no value should be allocated for this factor.

The value for this Factor: \$0.

<sup>&</sup>lt;sup>2</sup>Patrick F. Timmons, Jr., P.C., Response to Owner Comments / Objections to Appraisal Filing, Docket No. 51973, Dated January 31, 2022, Pages 1 & 2.

<sup>&</sup>lt;sup>3</sup> Appraisers Association, Definitions of Value, Dated January, 2019, Page 1.

### **CONCLUSION**

Per 30 Tex. Admin. Code §24.245(g) (4)(B), this third-party appraisal determination cannot be less than the lower appraisal nor higher than the highest appraisal of the appraisers engaged by the former CCN holder and prospective retail public utility. Based on the value for each factor determined in this third-party engineering appraisal, the recommended just and adequate compensation HMW should receive for the decertification of this tract from its CCN service area should be \$ 648 as summarized in Table 1.

Table 1: Value per Determining Factor

Factor 1:	\$ 0
Factor 2:	648
Factor 3:	0
Factor 4:	0
Factor 5:	0
Factor 6:	0
Factor 7:	0
Factor 8:	0
Factor 9:	\$ 0
Total Value:	\$ 648

If HMW can provide proof of any necessary and reasonable legal expenses and professional fees associated with the decertification of this tract from its CCN service area, then it would be recommended that these fees be approved as a part of its compensation.

Should you have any further questions concerning this evaluation, please do not hesitate to contact us at (512) 917-7541.

Sincerely,

Bret W. Fenner, P.E.

B & D Environmental, Inc.