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| APPLICATION OF PALO DURO | § | PUBLIC UTILITY COMMISSION |
| SERVICE COMPANY, INC. AND THE | § | |
| CITY OF HUDSON OAKS FOR SALE, | § | OF TEXAS |
| TRANSFER, OR MERGER OF | § | |
| FACILITIES AND CERTIFICATE | § | |
| RIGHTS IN PARKER COUNTY | § | |

ORDER NO. 11
MAKING A DETERMINATION TO HOLD A HEARING,
REQUIRING SUPPLEMENTAL INFORMATION AND A
SUPPLEMENTAL RECOMMENDATION FROM COMMISSION STAFF,
REQUIRING JOINT MOTION TO ADMIT EVIDENCE, AND
ESTABLISHING DEADLINES

This Order addresses the application of Palo Duro Service Company, Inc. and the City of Hudson Oaks for approval of the sale, transfer, or merger of facilities and certificate rights in Parker County. The applicants seek approval of the following: (1) the sale and transfer to Hudson Oaks of 0.1 acres of Palo Duro’s water service area under its certificate of convenience and necessity (CCN) number 12200; (2) the decertification of 68.4 acres of Palo Duro’s water service area under CCN number 12200, to remove the dual certification with Hudson Oaks; (3) the amendment of Palo Duro’s CCN number 12200 to remove the 68.5 acres of water service area; and (4) the amendment of Hudson Oaks’ CCN number 12273 to add the 0.1 acres.

After review of Commission Staff’s August 28, 2023 recommendation on the transaction¹ and the filings that have been made in this docket, the administrative law judge (ALJ) requires the following clarification or supplemental information.

I. Decertification

Under Texas Water Code (TWC) § 13.254(a) and 16 Texas Administrative Code (TAC) § 24.245(d)(1)(E) and (d)(2), a retail public utility may request in writing and consent to decertification of a portion of its certificated service area. The Commission must consider the factors in 16 TAC § 24.245(d)(2) in determining whether to grant or deny the request for decertification.²

¹ Commission Staff titled the recommendation on the transaction as Commission Staff’s supplemental recommendation on administrative completeness and notice.

² See, e.g., *Application of the City of Burleson to Amend its Certificate of Convenience and Necessity in Johnson County*, Docket No. 51998, Order (June 29, 2023).

In this application, Palo Duro seeks to have 68.4 acres decertified. In its recommendation on the transaction, Commission Staff recommends allowing the transaction to proceed, which would include decertifying 68.4 acres from Palo Duro.

By October 25, 2023, Commission Staff must file its recommendation on whether decertification of the 68.4 acres of Palo Duro's certificated service area is necessary or whether the transaction can be recharacterized simply as a transfer of 68.5. The ALJ is of the opinion that the end result will be the same, i.e. Hudson Oaks will be the sole certificated water service provider for the requested area. However, processing the application solely as a transfer will avoid the necessity of a separate decertification analysis and landowner notice under TWC § 13.254 and 16 TAC § 24.245(d)(1)(E).

II. Improvements to the System

In the application filed on April 10, 2023, the applicants state that improvements or construction is required to meet the minimum requirements of the Texas Commission on Environmental Quality (TCEQ) to ensure continuous and adequate service to the requested area. The application includes correspondence from the TCEQ for alleged violations identified during the TCEQ's June 14, 2022 inspection.³ The application also included two estimates totaling \$22,730 to increase pressure tank capacity and storage tank capacity.⁴ The estimates, however, do not appear to address the outstanding alleged violation for failure to calibrate well meters at least once every three years. The application also includes correspondence indicating that alleged violations identified by the TCEQ are potentially unresolved.⁵

In its final recommendation filed on August 28, 2023, Commission Staff recommended that all TCEQ violations have been resolved. Commission Staff also stated that Hudson Oaks is proposing to make improvements to Palo Duro's water system.

By October 11, 2023, the applicants must file supplemental information addressing the following issues:

³ Attachment 5 to the application.

⁴ Attachment 8 to the application.

⁵ See attachment 5 to the application.

1. Whether the improvements to increase pressure tank capacity and storage tank capacity have been completed and will resolve the alleged violations resulting from the June 14, 2022 inspection and will ensure the Trinity River Estates Water System meets the TCEQ's minimum requirements.
2. What, if anything, has Palo Duro done to address the outstanding alleged violation for failure to calibrate well meters at least once every three years.
3. What are the plans by Hudson Oaks to address the alleged violations, if any remain, resulting from the TCEQ's June 14, 2022 inspection.
4. Whether there are any other unresolved violations identified by the TCEQ.

By October 25, 2023, Commission Staff must file a supplemental recommendation on the supplemental information filed by the applicants.

III. Requiring Motion to Admit Evidence

The ALJ requires the parties to file a motion to admit their responses to this Order.

IV. Notice of Hearing

To give the parties time to file the supplemental information required by this Order and to give Commission Staff the time to file a supplemental recommendation, and in accordance with TWC § 13.301(e), this Order serves as notice to the parties and to the Office of Public Utility Counsel that the Commission has determined that it will hold a hearing to determine if the transaction will serve the public interest. The determination to hold a hearing may be withdrawn following the consideration of the supplemental material.

Signed at Austin, Texas the 27th day of September 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read "Christina Denmark", written in a cursive style.

**CHRISTINA DENMARK
ADMINISTRATIVE LAW JUDGE**