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DOCKET NO. 54429

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	§	

**COMMISSION STAFF’S RESPONSE TO ORDER NO. 12 AND APPLICANTS’
CLARIFICATION**

On December 6, 2022, Palo Duro Service Company, Inc. (Palo Duro) and the City of Hudson Oaks (Hudson) (collectively, Applicants) filed an application for approval of the sale, transfer, or merger of facilities and certificate rights in Parker County. Applicants filed supplemental information on January 6, February 15, April 6, May 22, June 19, June 23, July 6, October 11, and December 11, 2023.

On October 25, 2023, the administrative law judge (ALJ) filed Order No. 12, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file its response to Order No. 11 and the Applicants’ clarification by January 10, 2024. Therefore, this pleading is timely filed.

I. RESPONSE TO ORDER NO. 11

Staff agrees with the ALJ’s opinion that the transaction can be recharacterized as a transfer of 68.5 acres. Staff believes that the proposed decertification of Palo Duro’s 68.4 acres of certificated area that is dually certificated with Hudson Oaks and acquisition of 0.1 acres of Palo Duro’s certificated area by Hudson Oaks can be characterized as a transfer of 68.5 acres, or put another way, that Palo Duro’s rights under CCN number 12200 will merge with Hudson Oaks’ rights. Under the originally proposed structure, Palo Duro’s rights and obligations under CCN number 12200 will be extinguished and Hudson Oaks’ rights will remain unchanged to provide service to the entire 68.5 acres subject to this application. This is the same outcome as in a transfer of an equivalent and existing right under a CCN from Palo Duro to Hudson Oaks. Because there will not be a point in time where any customers or potential customers will exist in uncertificated area, the decertification analysis under TWC § 13.254 and 16 TAC § 24.245(d)(1)(E) is unnecessary. Furthermore, notice was provided in a newspaper of general circulation, notifying

potentially interested parties of the application, and therefore Staff believes the additional notices required under TWC § 13.254 and 16 TAC § 24.245(d)(1)(E) are also unnecessary.

II. SUPPLEMENTAL RECOMMENDATION

Staff has reviewed the application and supplemental information and, as detailed in the attached memorandum from Jaspinder Singh, Infrastructure Division, and the previously filed memorandum from Fred Bednarski III, Rate Regulation Division, recommends that the supplemental application be deemed administratively complete.

III. MOTION TO ADMIT

Staff respectfully requests this response be admitted as evidence in this proceeding.

IV. CONCLUSION

For the reasons detailed above, Staff recommends that the transaction be characterized as a transfer of certificated area, the supplemental application be found administratively complete, and this pleading be admitted as evidence. Staff respectfully requests the entry of an order consistent with these recommendations.

Dated: January 10, 2024

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 will be provided to all parties of record via electronic mail on January 10, 2024 in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Kevin Pierce
Kevin Pierce

Public Utility Commission of Texas

Memorandum

TO: Kevin Pierce, Attorney
Legal Division

FROM: Jaspinder Singh, Engineering Specialist
Infrastructure Division

DATE: January 10, 2024

RE: *Docket No. 54429 Application of Palo Duro Service Company, Inc. and the City of Hudson Oaks for Sale, Transfer, or Merger of Facilities and Certificate Rights in Parker County*

1. Application

On December 6, 2022, Palo Duro Service Company, Inc. (Palo Duro) and the City of Hudson Oaks (COHO) (collectively Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Parker County, Texas, under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239.

Specifically, COHO, Certificate of Convenience and Necessity (CCN) No. 12273, seeks approval to acquire facilities and to transfer a portion of the water service area from Palo Duro under water CCN No. 12200.

Order No. 11, filed on September 27, 2023, the administrative law judge (ALJ) requested the Commission Staff file recommendation on whether decertification of the 68.4 acres of Palo Duro's certified service area is necessary or whether the transaction can be recharacterized simply as a transfer of 68.5 acres. Additionally, AJL requested that the applicants must file supplemental information addressing the improvement to the system and commission staff to file recommendation on the supplemental information filed by the applicants.

2. Recommendations

- Commission Staff agrees with the ALJ's opinion that the transaction can be recharacterized as a transfer of 68.5 acres. The requested area to transfer in this application includes the transfer of customers and facilities. To clarify, 68.4 acres is dually certificated between COHO (CCN No. 12273) and Palo Duro (CCN No. 12200) and will have single certification with COHO (CCN No. 12273). In addition, 0.1 acres has single certification with Palo Duro (CCN No. 12200), of which 0.1 acres will be transferred from Palo Duro (CCN No. 12200) to COHO

(CCN No. 12273). In summary, 68.5 total acres will be transferred from Palo Duro (CCN No. 12200) to COHO (CCN No. 12273), resulting in single certification with COHO (CCN No. 12273).

- On July 6, 2023, COHO filed the affidavit of Hayden Brodowsky, Director of Operations, attesting that notice was provided to all current customers, landowners, neighboring utilities, and affected parties on June 9, 2023, including owners in the proposed area of a tract of land of at least 25 acres.

- **Improvements to the system**

- 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 Texas Commission on Environmental Quality's (TCEQ) minimum requirements.

According to COHO, the storage tank capacity and pressure tank capacity improvements have not been addressed to date. COHO states that they have maintained communication with the seller in an attempt to determine the responsible party for the needed improvements. COHO has recently agreed to undertake the obligation to make these improvements. Engineering report is included in the application submitted on December 6, 2022, under attachment 8.

- 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.

According to TCEQ review on August 24, 2022, the meters' violation was addressed. The TCEQ report is provided under Item 32 on October 11, 2023.

- What are the plans by Hudson Oaks to address the alleged violations, if any remain, resulting from the TCEQ's June 14, 2022 inspection.

The Seller (Palo Duro) has submitted plans to COHO to cure the alleged violations. COHO has authorized the purchase of both a new pressure tank and a new ground storage tank. COHO has retained the services of a Texas PE to submit the required plans and specifications to the TCEQ for both the new pressure tank and storage tank which will exceed the State of Texas Rules and Regulations for small public water systems. Attachment 8 of the application, submitted on December 6, 2022, includes the engineering estimation to cure the alleged violations.

- Whether there are any other unresolved violations identified by the TCEQ.

There are no other unresolved violations as per the TCEQ database.