



## **Filing Receipt**

**Filing Date - 2024-11-07 10:25:14 AM**

**Control Number - 56479**

**Item Number - 24**

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## ***Public Utility Commission of Texas***

**TO:** Shelah Cisneros  
Commission Counsel

All Parties of Record

**FROM:** Rebecca Bromley-Williams  
Administrative Law Judge

A handwritten signature in dark ink, appearing to read "Rebecca Bromley-Williams".

**RE:** **Docket No. 56479** – *Application of Horseshoe Bend Water Company for Good Cause Exception to Extend the Time to File Its Rate Application in Accordance with the Notice of Approval in Docket No. 50085*

**DATE:** November 7, 2024

Enclosed is the Proposal for Decision (PFD) in the above-referenced case. By copy of this memo, the parties to this proceeding are being served with the PFD.

Please place this docket on an open meeting agenda for the Commissioners' consideration. Please notify me and the parties of the open meeting date, as well as the deadline for filing exceptions to the PFD, replies to the exceptions, and requests for oral argument.

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**DOCKET NO. 56479**

<b>APPLICATION OF HORSESHOE BEND</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>WATER COMPANY FOR GOOD</b>	<b>§</b>	
<b>CAUSE EXCEPTION TO EXTEND THE</b>	<b>§</b>	<b>OF TEXAS</b>
<b>TIME TO FILE ITS RATE</b>	<b>§</b>	
<b>APPLICATION IN ACCORDANCE</b>	<b>§</b>	
<b>WITH THE NOTICE OF APPROVAL IN</b>	<b>§</b>	
<b>DOCKET NO. 50085</b>	<b>§</b>	

**PROPOSAL FOR DECISION**

In this proceeding, Horseshoe Bend Water Company, LLC filed an application for a good-cause exception to extend the deadline to file a rate change application prescribed in 16 Texas Administrative Code (TAC) § 24.25(b)(1)(C) and the Notice of Approval filed in Docket No. 50085. In this Proposal for Decision (PFD), the administrative law judge (ALJ) recommends the Commission deny Horseshoe Bend's request for a good-cause exception and order Horseshoe Bend to file a rate change application.

Although disputes still exist between the parties, no party requested a hearing, and no hearing has been held.

**I. Findings of Fact**

The ALJ makes the following findings of fact.

**Applicant**

1. Horseshoe Bend is a Texas limited liability company registered with the Texas secretary of state under file number 803436754.
2. Horseshoe Bend owns and operates for compensation in Texas equipment or facilities for the transmission, storage, distribution, sale, or provision of potable water to the public under certificate of convenience and necessity number 10263 in multiple counties, including Parker County.
3. Horseshoe Bend owns a public water system registered with the Texas Commission on Environmental Quality under the name Horseshoe Bend Water System, public water system identification number 1840002.

**Background and Application**

4. Effective November 29, 2022, Horseshoe Bend acquired the Horseshoe Bend Water System. The acquisition was approved by the Commission in a Notice of Approval filed on that date in Docket No. 50085.<sup>1</sup>
5. Through issuance of the Notice of Approval in Docket No. 50085, Horseshoe Bend obtained an approved tariff for the first time on November 29, 2024.
6. Ordering Paragraph 9 of the Notice of Approval in Docket No. 50085 requires Horseshoe Bend to file a comprehensive base-rate proceeding within 18 months of the date of the Notice of Approval (i.e., by May 29, 2024).
7. The test year for Horseshoe Bend's base rate proceeding, as order in Ordering Paragraph 9 of the Notice of Approval in Docket No. 50085, would be within 18 months from November 29, 2022.
8. On April 12, 2024, Horseshoe Bend filed the application at issue in this proceeding, in which it seeks a good-cause exception allowing it to extend its deadline to file a comprehensive base-rate application to April 1, 2025.
9. In early 2024, Horseshoe Bend allocated \$75,000 towards well improvements and to replace 100 meters which, at the time Horseshoe Bend filed its application, were projected to be completed in June 2024. Such improvements are intended to allow Horseshoe Bend to collect more accurate usage data. Horseshoe Bend seeks the good-cause exception to allow for a more representative test year.
10. In Order No. 2 filed on May 14, 2024, the ALJ found the application administratively complete.
11. In Order No. 5 filed on August 29, 2024, the ALJ required that, by September 19, 2024, the parties file briefing on why the legal basis for granting the requested good-cause exception.

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<sup>1</sup> *Application of Castle Water, Inc. dba Horseshoe Bend Water System and Horseshoe Bend Water Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Parker County, Docket No. 50085, Notice of Approval (Nov. 29, 2022).*

12. Horseshoe Bend asserts that it has demonstrated good cause for the Commission to grant an extension to its current deadline to file a rate change application, so that the utility can file the application by April 1, 2025, rather than by the current deadline of May 29, 2024.
13. Commission Staff asserts that Horseshoe Bend has failed to demonstrate good cause for the extension, and the current deadline of May 29, 2024 should remain in place.

**Notice**

14. On July 3, 2024, Horseshoe Bend filed the affidavit of Bryan Thomas, president and general manager of Hearthstone Water, Inc., an affiliate company of Horseshoe Bend, attesting that notice was provided by separate mailing to all customers on July 1, 2024.
15. In Order No. 4 filed on July 12, 2024, the ALJ found the notice sufficient.

**Evidentiary Record**

16. In Order No. 9 filed on November 7, 2024, the ALJ admitted the following evidence into the record of this proceeding:
  - a. Horseshoe Bend's application, including all attachments, filed on April 12, 2024;
  - b. Commission Staff's recommendation on sufficiency of the application and notice, and proposed procedural schedule filed on May 9, 2024;
  - c. Commission Staff's supplemental recommendation filed on May 28, 2024;
  - d. Horseshoe Bend's proof of notice filed on July 3, 2024;
  - e. Commission Staff's supplemental recommendation on sufficiency of notice filed on July 8, 2024;
  - f. Commission Staff's recommendation on final disposition filed on July 26, 2024;
  - g. Commission Staff's brief in response to Order No. 5 filed on September 19, 2024;
  - h. Horseshoe Bend's brief in response to Order No. 5 filed on September 19, 2024;
  - i. Horseshoe Bend's motion for summary decision granting its application for a good cause exception filed on October 8, 2024; and
  - j. Commission Staff's response to Horseshoe Bend's motion for summary decision filed on October 23, 2024.

**Request for a Hearing**

17. In Order No. 4 filed on July 24, 2024, the ALJ set July 26, 2024 as the deadline for Commission Staff to request a hearing and August 9, 2024 as Horseshoe Bend's deadline to request a hearing.
18. No party requested a hearing, and no hearing has been held.

**Motion for Summary Decision**

19. On October 8, 2024, Horseshoe Bend filed a motion for summary decision granting its application for a good-cause exception.
20. In Order No. 10 filed on November 7, 2024, the ALJ denied Horseshoe Bend's motion for summary decision.

**Good Cause Exception**

21. There is insufficient evidence of good cause to extend the deadline by which Horseshoe Bend must file a rate change application.
22. It is not necessary to reach the legal question of whether the Commission has the legal authority to grant the good cause extension.

**II. Conclusions of Law**

The ALJ makes the following conclusions of law.

1. The Commission has authority over this proceeding under Texas Water Code (TWC) §§ 13.041, 13.181, and 13.1872.
2. Horseshoe Bend is a utility, public utility, and water utility as those terms are defined in TWC § 13.002(23) and 16 TAC § 24.3(39).
3. Horseshoe Bend provided notice of the application in compliance with 16 TAC § 22.55.
4. The Commission processed this docket in accordance with the requirements of the TWC, the Administrative Procedure Act,<sup>2</sup> and Commission rules.
5. Under Ordering Paragraph 9 of the Notice of Approval filed in Docket No. 50085, and under 16 TAC § 24.25(b)(1)(C), Horseshoe Bend's deadline to file a rate change

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<sup>2</sup> Tex. Gov't Code §§ 2001.001–.903.

application with the Commission was May 29, 2024, based on a historic test year covering a period within 18 months from November 29, 2022.

6. This PFD was issued in accordance with Texas Government Code § 2001.062 and 16 TAC § 22.261(a).

### **III. Ordering Paragraphs**

In accordance with these findings of fact and conclusions of law, the ALJ recommends the following ordering paragraphs.

1. The Commission denies Horseshoe Bend's request for a good-cause exception to its May 29, 2024 deadline to file a rate change application, to the extent provided in this Order.
2. Horseshoe Bend must file a rate change application within 90 days of this Order based on a historic test year covering a period within 18 months from November 29, 2022.
3. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas the \_\_\_\_\_ day of \_\_\_\_\_ 2024.

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**THOMAS J. GLEESON, CHAIRMAN**

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**LORI COBOS, COMMISSIONER**

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**JIMMY GLOTFELTY, COMMISSIONER**

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**KATHLEEN JACKSON, COMMISSIONER**

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**COURTNEY K. HJALTMAN, COMMISSIONER**