



Control Number: 45656



Item Number: 43

Addendum StartPage: 0

PUC DOCKET NO. 45656

RECEIVED

**APPLICATION OF AQUA TEXAS, INC. §
AND MONTGOMERY COUNTY §
MUNICIPAL UTILITY DISTRICT NO. §
126 FOR SALE, TRANSFER, OR §
MERGER OF FACILITIES AND §
CERTIFICATE RIGHTS IN §
MONTGOMERY COUNTY §**

BEFORE THE PUBLIC UTILITY

**COMMISSION OF TEXAS
FILING CLERK**

JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

COME NOW, Aqua Texas, Inc. d/b/a Aqua Texas (Aqua Texas), Montgomery County Municipal Utility District No. 126 (MUD 126) and the Staff of the Public Utility Commission of Texas (Staff) (collectively, the Parties) and file this Joint Motion for Admission of Evidence and Adoption of Proposed Notice of Approval. In support thereof, the Parties show the following.

I. BACKGROUND

On February 24, 2016, Aqua Texas, Inc. d/b/a Aqua Texas, together with Montgomery County Municipal Utility District No. 126 filed an application (Application) with the Public Utility Commission of Texas (PUC) regarding approval and enforcement of certain contract terms designating certificate of convenience and necessity service areas under Texas Water Code § 13.248 and decertification of areas under § 13.254. The application affects a portion of Certificate of Convenience and Necessity (CCN) Nos. 13203 and 21065 held by Aqua Texas in Montgomery County, Texas. On June 29, 2016, Aqua Texas and MUD 126 filed a supplement to the Application and amended their request to sell/transfer Aqua Texas CCN areas to MUD 126 under the authority of Texas Water Code § 13.251 and 16 Texas Administrative Code § 24.112.¹

¹ 16 TAC § 24.112 was in effect prior to the Application filing and declaration of administrative completeness. However, this rule was repealed in December 2016. All references herein to 16 TAC § 24.112 shall be construed to mean that Commission rule as in effect from the time the Application was filed through the rule's repeal.

On August 8, 2017, the Administrative Law Judge (ALJ) issued Order No. 9 deeming the closing documentation sufficient and establishing a procedural schedule. Order No. 10 directed Parties to file a request to admit evidence and proposed notice of approval, including findings of fact, conclusions of law, and ordering paragraphs by September 5, 2017. Therefore, this pleading is timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

The Parties move to admit the following evidence into the record of this proceeding:

- a. Application (Item No. 1, filed February 24, 2016).
- b. Supplemental Sale/Transfer Application Information filed on June 29, 2016 by Aqua Texas and MUD 126 (Item No. 13).
- c. Aqua Texas and MUD 126's Response to Staff's 1st Requests for Information (Item No. 18).
- d. Aqua Texas and MUD 126's Response to Staff's 2nd Requests for Information (Item No. 20).
- e. Affidavit dated August 23, 2016, attesting to notice mailed on August 16, 2016 to landowners, districts, neighboring systems, and cities (Item No. 21).
- f. Aqua Texas and MUD 126's Response to Staff's 3rd Requests for Information (Item No. 23).
- g. Commission Staff's Recommendation on Sale and attachments thereto (Item No. 25).
- h. Aqua Texas and MUD 126's closing documents and bill of sale (Item No. 36).
- i. Commission Staff's Recommendation on Closing Documents and attachments thereto (Item No. 37).
- j. Aqua Texas and MUD 126's consent forms (Item Nos. 41 and 42).

- k. The final maps and Certificates of Convenience and Necessity consented to by Aqua Texas and MUD 126, which are included with **Attachment A** hereto (the Proposed Notice of Approval).

III. JOINT MOTION FOR ADOPTION OF PROPOSED NOTICE OF APPROVAL

The Parties move for adoption of the attached Proposed Notice of Approval included as **Attachment A**, which would grant the Aqua Texas and MUD 126 Application to sell/transfer a portion of Aqua Texas' service area served under CCN Nos. 13203 and 21065 to MUD 126 and issue MUD 126 CCN No. 13258 and 21104 with inclusion of the transferred CCN area accordingly. The Proposed Notice of Approval would also grant the partial decertification of Aqua Texas service areas described in the Application.

IV. CONCLUSION

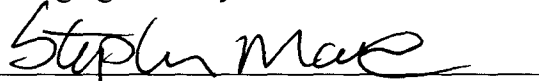
The Parties respectfully request that the Commission grant the joint motions to admit the evidence specified above and adopt the attached proposed Notice of Approval.

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

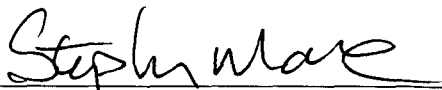
Stephen Mack
Managing Attorney



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(512) 933-7268 (facsimile)
Stephen.Mack@puc.texas.gov

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on September 5, 2017 in accordance with 16 TAC § 22.74.



Stephen Mack

Attachment A

PUC DOCKET NO. 45656

APPLICATION OF AQUA TEXAS, INC.	§	BEFORE THE PUBLIC UTILITY
AND MONTGOMERY COUNTY	§	
MUNICIPAL UTILITY DISTRICT NO.	§	
126 FOR SALE, TRANSFER, OR	§	COMMISSION OF TEXAS
MERGER OF FACILITIES AND	§	
CERTIFICATE RIGHTS IN	§	
MONTGOMERY COUNTY	§	

NOTICE OF APPROVAL

This Notice addresses the application of Aqua Texas, Inc. d/b/a Aqua Texas (Aqua Texas) and Montgomery County Municipal Utility District No. 126 (MCMUD No. 126) (collectively, Applicants) for the sale, transfer, or merger of facilities and certain certificate rights in Montgomery County, Texas. The application, as supplemented, is approved.

The Commission adopts the following findings of fact, conclusions of law and ordering paragraphs.

I. FINDINGS OF FACT

Procedural History, Description, and Background

1. On February 24, 2016, Aqua Texas and MCMUD No. 126 filed an application for approval and enforcement of certain contract terms designating certificate of convenience and necessity service areas under Texas Water Code § 13.248 (TWC) and for decertification of areas under § 13.254.
2. On June 29, 2016, Aqua Texas and MCMUD No. 126 filed supplemental sale/transfer application information and sought authority for the certificate of convenience and necessity transfer under TWC § 13.251 and 16 Texas Administrative Code § 24.112.¹

¹ 16 TAC § 24.112 was in effect prior to the Application filing and declaration of administrative completeness. However, this rule was repealed in December 2016. All references herein to 16 TAC § 24.112 shall be construed to mean that Commission rule as in effect from the time the Application was filed through the rule's repeal.

3. Aqua Texas holds water certificate of convenience and necessity (CCN) No. 13203 for its Southeast Region and a sewer CCN No. 21065 for its Southeast Region.
4. MCMUD No. 126 currently does not hold a CCN, seeks issuance of new water and sewer CCN numbers, and Staff has recommended issuance of new water CCN No. 13258 and sewer CCN No. 21104 to MCMUD No. 126.
5. MCMUD No. 126 is acquiring certain Aqua Texas service area located in Montgomery County, Texas. Additionally, small slivers of Aqua Texas service area are requested for decertification since it will be difficult or impossible for Aqua Texas to serve those areas following approval of the requested service area transfer to MCMUD No. 126.
6. There are no current Aqua Texas customers or facilities located in the service areas affected by the Application and no Aqua Texas customers or facilities are proposed for transfer to MCMUD No. 126 as part Application approval. Therefore, no customer deposit transfers or refunds were required for Application approval. Further, the Parties in this docket agree no tariff change is required as part of Application approval.
7. Approval of the Application would result in the transfer of approximately 173.63 acres of Aqua Texas' service area from CCN Nos. 13203 and 21065 to new CCN Nos. 13258 and 21104 issued to MCMUD No. 126.
8. Approval of the Application would result in the decertification of approximately 6.42 acres of Aqua Texas' service area from CCN Nos. 13203 and 21065.
9. On July 28, 2016, the Commission issued Order No. 6, revising the style of the proceedings, deeming the application complete, addressing notice, and establishing procedural schedule.

10. On October 17, 2017, Commission Staff filed its recommendation for approval of the proposed transaction indicating that the proposed transaction meets the relevant statutory and regulatory requirements.
11. On October 19, 2016, Order No. 8 was issued approving the sale and authorizing the transaction to proceed.
12. On July 20, 2017, Applicants filed a Bill of Sale and other closing documents to show that the transaction was finalized.
13. On August 4, 2017, Commission Staff filed its recommendation on the sufficiency of Applicants' closing documents finding that the documents were sufficient to show that the transaction was fully completed.
14. On August 8, 2017, Order No. 9 was issued deeming Applicants' closing documentation sufficient and establishing a further procedural schedule.
15. On August 28, 2017, Aqua Texas and MCMUD No. 126 filed signed consent forms for the proposed maps and certificates as emailed by Commission Staff on August 14 and 21, 2017.

Notice

16. On August 23, 2016, Aqua Texas filed an affidavit of notice attesting to mailing notice to affected landowners, districts, neighboring utilities, and cities on August 16, 2016.

Evidentiary Record

17. On September 5, 2017, Applicants filed a joint proposed notice of approval and request to admit evidence.
18. On _____, 2017, an order was issued in the docket admitting evidence into the record.

Informal Disposition

19. More than 15 days have passed since completion of all notice required for this docket.
20. Aqua Texas, MCMUD No. 126, and Commission Staff are the only parties to this proceeding.
21. No protest, motion to intervene, or request for hearing was filed in this docket; therefore, no hearing is necessary.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this proceeding pursuant to TWC §§ 13.041, 13.241, 13.246, 13.251 and 13.254.
2. MCMUD No. 126 and Aqua Texas are retail public utilities as defined in TWC § 13.002(19) and Aqua Texas is also a utility as defined in TWC § 13.002(23).
3. Public notice of the Application was provided as required by 16 TAC § 24.112(c).
4. The Application was processed in accordance with the requirements of TWC § 13.251, and the requirements of 16 TAC §24.112.
5. MCMUD No. 126 and Aqua Texas completed the sale within one year from the date of the Commission's approval of the sale, consistent with Order No. 8 and 16 TAC § 24.112(e).
6. After consideration of the factors in TWC § 13.246(c), MCMUD No. 126 has demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested areas.
7. MCMUD No. 126 and Aqua Texas have demonstrated that the certificate transfer requested in this Application is necessary for the service, accommodation, convenience, and safety of the public.

8. Aqua Texas has demonstrated that the certificated service areas proposed for decertification in the Application are appropriately removed from Aqua Texas's certificated service areas under TWC § 13.254(a) and 16 TAC § 24.113(a).
9. Under TWC § 13.257(r) and 16 TAC § 24.106(e), Aqua Texas is required to record a certified copy of the approved CCN map, along with a boundary description of the service area, in the real property records of each county in which the service area or portion of the service area is located, and submit to the Commission evidence of the recording.
10. The requirements for informal disposition pursuant to 16 TAC § 22.35 have been met in this proceeding.

III. ORDERING PARAGRAPHS

In accordance with these findings of fact and conclusions of law, the Commission issues the following Order:

1. The Application, as supplemented, is approved.
2. Aqua Texas CCN Nos. 13203 and 21065 are amended, consistent with this Notice, to reflect decertification and removal of approximately 173.63 acres of service area described in the Application which are hereby transferred to MCMUD No. 126 CCN Nos. 13258 and 21104. Additionally, approximately 6.42 acres of Aqua Texas' service area described in the Application are decertified from CCN Nos. 13203 and 21065. The revised CCN certificates for Aqua Texas are attached here to as Attachment 1. The new CCN certificates of MCMUD No. 126 are attached hereto as Attachment 2.
3. MCMUD No. 126's CCN Nos. 13258 and 21104 are issued with this Notice, reflecting the addition of the service area described in the Application, which are transferred from Aqua

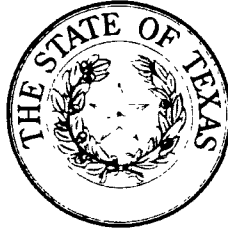
Texas's CCN Nos. 13203 and 21065. The maps reflecting the approved transaction are attached hereto as Attachment 3.

4. MCMUD No. 126 shall serve every customer and applicant for service within the area covered by its CCN Nos. 13258 and 21104, and such service shall be continuous and adequate.
5. Aqua Texas shall comply with the recording requirements in TWC § 13.257(r) for the area in Montgomery County affected by the Application and submit to the Commission evidence of recording no later than 31 days after receipt of this Notice.
6. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.

SIGNED AT AUSTIN, TEXAS the ____ day of September 2017.

ADMINISTRATIVE LAW JUDGE

Attachment 1



Public Utility Commission of Texas

By These Presents Be It Known To All That

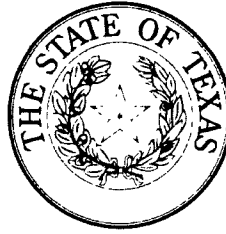
Aqua Texas, Inc.

having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Aqua Texas, Inc., is entitled to this

Certificate of Convenience and Necessity No. 13203

to provide continuous and adequate water utility service to that service area or those service areas in Brazoria, Chambers, Fort Bend, Grimes, Harris, Jefferson, Liberty, Montgomery, Polk, San Jacinto, Trinity, and Wharton Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45656 are on file at the Commission offices in Austin, Texas; and are a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty Aqua Texas, Inc. to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, the _____ day of _____ 2017.



Public Utility Commission of Texas

By These Presents Be It Known To All That

Aqua Texas Inc.

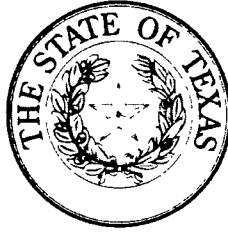
having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Aqua Texas Inc., is entitled to this

Certificate of Convenience and Necessity No. 21065

to provide continuous and adequate sewer utility service to that service area or those service areas in Brazoria, Chambers, Fort Bend, Harris, Jefferson, Montgomery, Polk, and Trinity Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45656 are on file at the Commission offices in Austin, Texas; and are a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty Aqua Texas Inc. to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, the _____ day of _____ 2017.

Attachment 2



Public Utility Commission of Texas

By These Presents Be It Known To All That

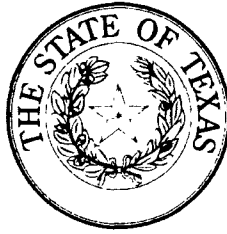
Montgomery County Municipal Utility District No. 126

having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Montgomery County Municipal Utility District No. 126, is entitled to this

Certificate of Convenience and Necessity No. 13258

to provide continuous and adequate water utility service to that service area or those service areas in Montgomery County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45656 are on file at the Commission offices in Austin, Texas; and are a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty Montgomery County Municipal Utility District No. 126 to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, the _____ day of _____ 2017.



Public Utility Commission of Texas

By These Presents Be It Known To All That

Montgomery County Municipal Utility District No. 126

having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Montgomery County Municipal Utility District No. 126, is entitled to this

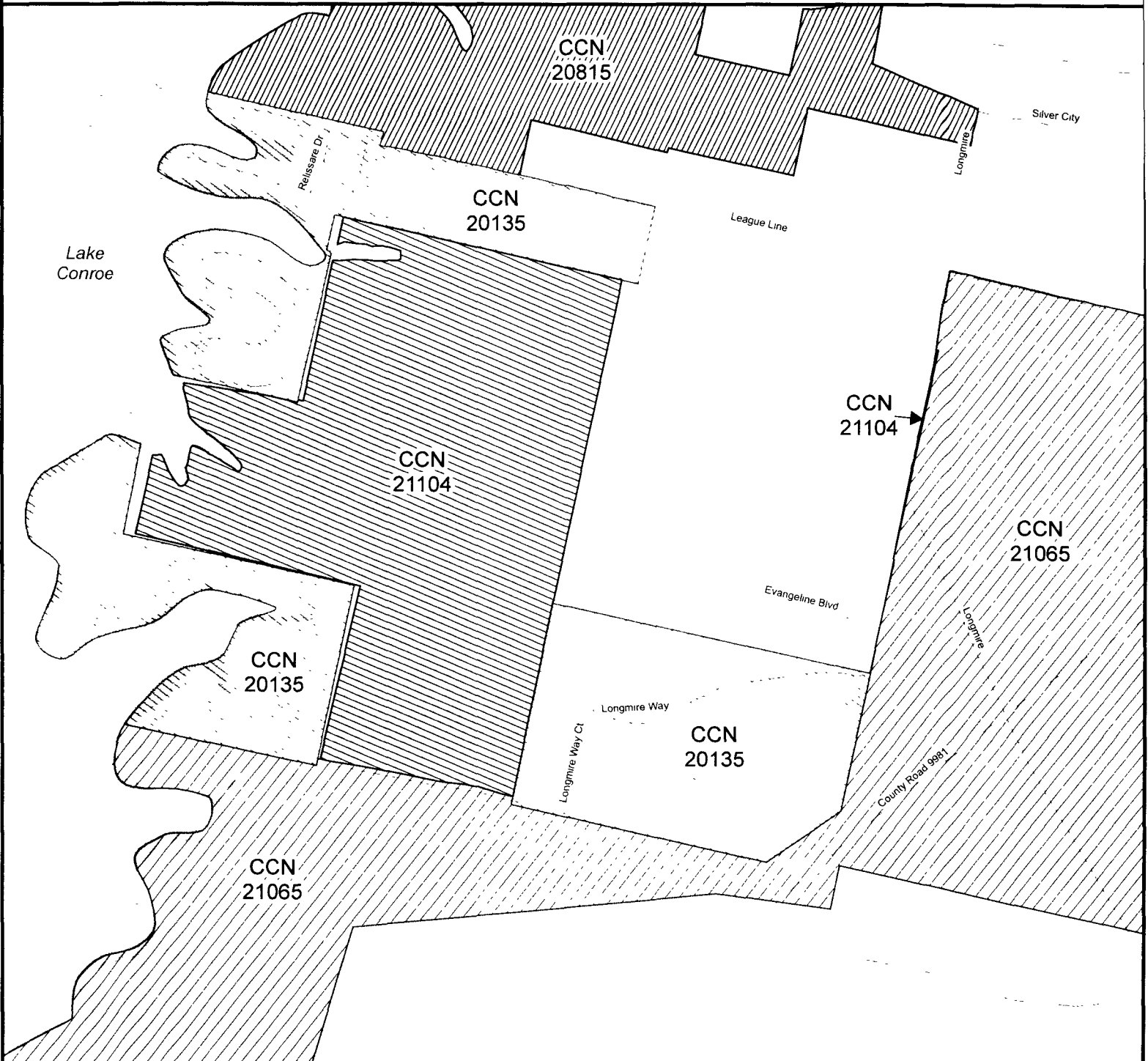
Certificate of Convenience and Necessity No. 21104

to provide continuous and adequate sewer utility service to that service area or those service areas in Montgomery County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45656 are on file at the Commission offices in Austin, Texas; and are a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty Montgomery County Municipal Utility District No. 126 to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, the _____ day of _____ 2017.





Attachment 3

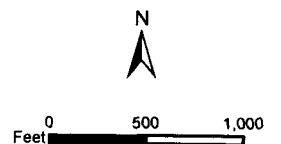
Montgomery County Municipal Utility District No. 126
 Sewer CCN No. 21104
 PUC Docket No. 45656
 Decertified and Transferred a Portion of Aqua Texas, Inc., CCN No. 21065 and
 Obtained New CCN in Montgomery County



Public Utility Commission of Texas
 1701 N. Congress Ave
 Austin, TX 78701

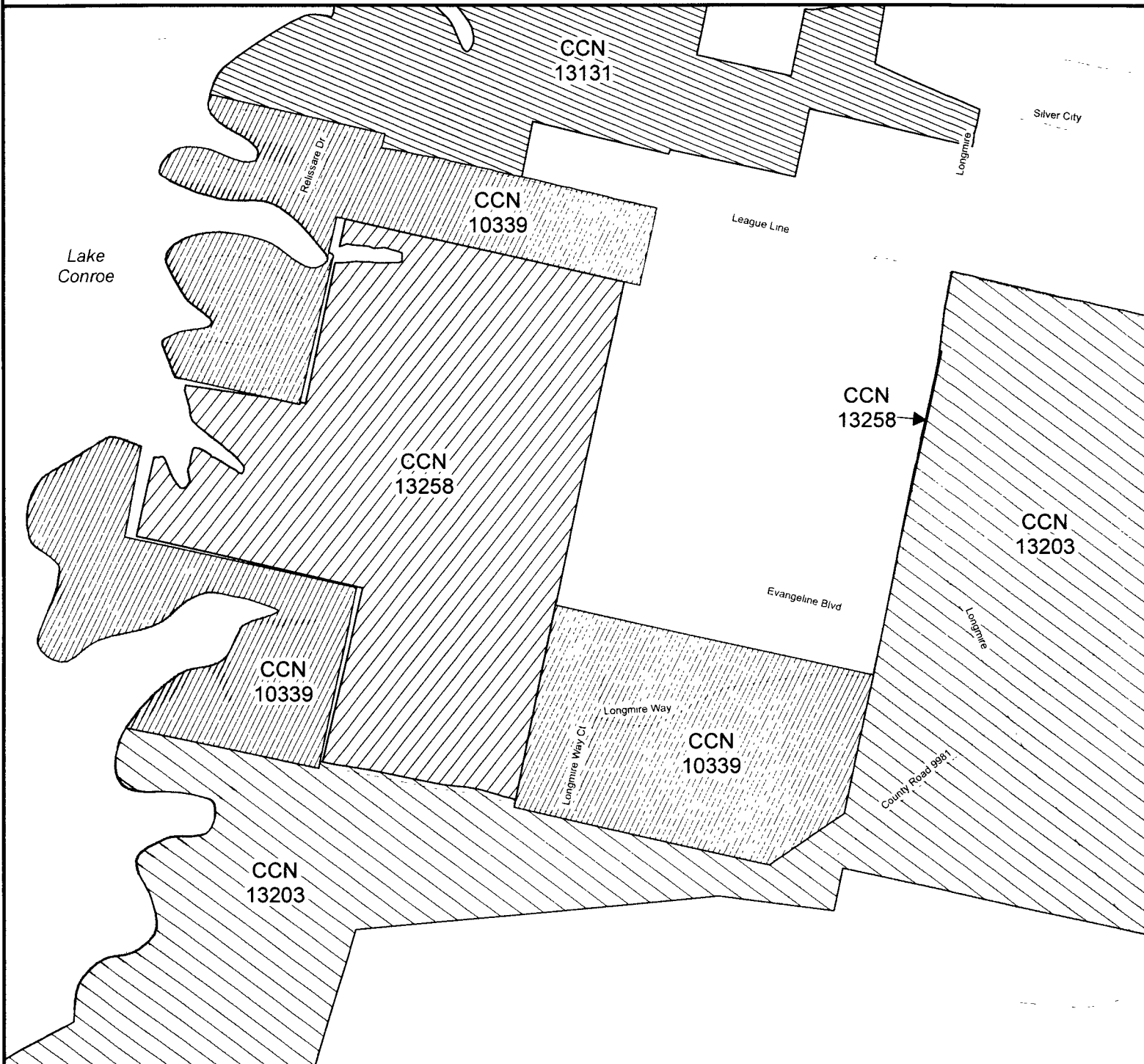
Sewer CCNs

-  21104 - Montgomery County Municipal Utility District No. 126
-  21065 - Aqua Texas Inc
-  20135 - City of Conroe
-  20815 - Algonquin Water Resources of Texas







Map by: Kristy Nguyen
 Date created: August 4, 2017
 Project Path: n\Final Maps\45656_Sewer.mxd

Montgomery County Municipal Utility District No. 126
 Water CCN No. 13258
 PUC Docket No. 45656
 Decertified and Transferred a Portion of Aqua Texas, Inc., CCN No. 13203 and
 Obtained New CCN in Montgomery County



Water CCNs

-  13258 - Montgomery County Municipal Utility District No. 126
-  13203 - Aqua Texas Inc
-  10339 - City of Conroe
-  13131 - Algonquin Water Resources of Texas

