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DOCKET NO. 47044

PETITION OF JEFF STOCKTON TO §
AMEND JARRELL-SCHWERTNER §
WATER SUPPLY CORPORATION §
CERTIFICATE OF CONVENIENCE AND §
NECESSITY IN WILLIAMSON COUNTY §
BY EXPEDITED RELEASE §

PUBLIC UTILITY COMMISSION
OF TEXAS

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ORDER

This Order addresses the petition of Jeff Stockton to amend Jarrell-Schwertner Water Supply Corporation's water certificate of convenience and necessity (CCN) No. 10002 in Williamson County by expedited release. Commission Staff recommended approval of the petition, as amended. The petition, as amended, is approved.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

Procedural History, Description and Background

1. On April 7, 2017, Stockton filed a petition for expedited release of a 61.32-acre tract of land in Williamson County from JSWSC's water CCN No. 10002.
2. On April 13, 2017, Order No. 1 was issued, requiring comments on administrative completeness of the petition, notice, other procedural matters, and establishing a procedural schedule.
3. May 8, 2017, JSWSC filed a motion to intervene and request to extend deadline to file a written protest or comments to the petition.
4. On May 8, 2017, Commission Staff recommended that the petition be deemed incomplete.
5. On May 10, 2017, Stockton filed a first amended petition for decertification. The amended petition requested the decertification of a 55.28-acre tract of land from JSWSC's CCN No. 10001. The amended petition included affidavits by Jeffery Stockton¹ and Charlseay Ann

¹ First Amended Petition for Decertification, Affidavit of Jeffery Paul Stockton at 1 (May 10, 2017).

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Stockton.² Each affirmed ownership of the 55.28-acre tract, that the 55.28-acre tract is not receiving water service from JSWSC, and that the 55.28-acre tract is located in Williamson County.

6. On May 11, 2017, Order No. 2 was issued, granting JSWSC's May 8, 2017 motion.
7. On May 15, 2017, Order No. 3 was issued, finding the original petition incomplete and establishing deadlines.
8. On May 16, 2017, JSWSC filed a response to the amended petition for expedited release in which it argued that JSWSC has performed many acts in the furtherance of providing retail water service to the 55.28-acre tract.³ JSWSC attached the affidavit of David Yohe, JSWSC's general manager to support its assertion. JSWSC did not identify any property that would be rendered useless or valueless by decertification.
9. Mr. Yohe attested to four actions taken by JSWSC to demonstrate JSWSC performed acts in the furtherance of providing retail water service to the 55.28-acre tract.⁴ The four actions include: (1) the installation of a six-inch water line at the eastern and northern boundaries of the 55.28-acre tract, (2) JSWSC serves a property which is surrounded on three sides by the 55.28-acre tract, (3) JSWSC entered into a contract with the City of Jarrell under which JSWSC would service all future residential customers, and (4) JSWSC contracted with Lone Star Regional Water Authority for a supply of water.
10. On May 18, 2017, Stockton filed a supplement to the petition for decertification. Stockton provided a Warranty Deed in response to Commission Staff's request.
11. On June 7, 2017, Commission Staff recommended that the amended petition be found administratively complete.
12. On June, 20, 2017, Order No. 4 was issued, finding the amended petition administratively complete and establishing a procedural schedule for final processing. Order No. 4 also

² *First Amended Petition for Decertification*, Affidavit of Charlseay Ann Stockton at 1 (May 10, 2017).

³ *Jarrell-Schwertner Water Supply Corporation's Response to Jeff Stockton's Petition for Expedited Release*, at 2 (May 16, 2017).

⁴ *Id.* Affidavit of David Yohe, at 1.

stated that, the amended rules⁵ for expedited release of property shall apply and that the final order in this docket must identify property, if any, that is useless or valueless.

13. JSWSC did not file a response in reply to Order No. 4.
14. On July 6, 2017, Commission Staff recommended 1) approval of the petition, and 2) that no property would be rendered useless or valueless by the decertification.
15. On July 13, 2017, Stockton filed a reply to Order No. 4. Stockton agreed with Commission Staff's recommendation and also noted that JSWSC did not file a response to Order No. 4.⁶
16. Commission Staff provided an amended certificate and service area map for JSWSC.
17. The certificate and map discussed in Findings of Fact No. 16 are attached to this Order.

Notice

18. Stockton provided a copy of the petition to JSWSC by certified mail on April 7, 2017.
19. Notice of the petition was published in the *Texas Register* on April 28, 2017.

Project Description

20. Stockton owns the 55.28-acre tract in Williamson County.
21. The 55.28-acre tract is located within JSWSC's certificated service area and is not receiving water service.

Water Service

22. The 55.28-acre tract is not receiving water service from JSWSC as that term has been defined by the Courts.
23. The 55.28-acre tract is not receiving actual water service from JSWSC or any other water provider.

Useless or Valueless

24. JSWSC has no property that is rendered useless or valueless by the decertification.

⁵ *Project to Amend 16 Tex. Admin Code Section 24.113 Relating to Revocation or Amendment of a Water or Sewer Certificate and Section 24.120 Relating to Single Certification in Incorporated or Annexed Areas*, Project No. 46151, Order (May 4, 2017).

⁶ *Response Pursuant to Order No. 4*, at 1 (Jul. 13, 2017).

II. Conclusions of Law

1. The Commission has jurisdiction over this petition under Texas Water Code §§ 13.041 and 13.254(a-5) (TWC).⁷
2. Notice of the petition was provided in compliance with 16 Texas Administrative Code § 24.113(5) (TAC) and 16 TAC §§ 22.54-.55.
3. Williamson County is a qualifying county under TWC § 13.254(a-5) and 16 TAC § 24.113(l).
4. The 55.28-acre tract is not receiving water service under TWC § 13.254(a- 5).
5. JSWSC, under 16 TAC § 24.113(n)(5), bears the burden to prove what property is useless or valueless property.
6. No property of JSWSC has been rendered useless or valueless by the decertification, therefore under TWC § 13.254(d)-(g) no compensation is owed to JSWSC.
7. Because no compensation is owed, under TWC § 13.254(d)-(g), a retail public utility may render retail water service directly or indirectly to the public in the decertified area without providing compensation to JSWSC.
8. Stockton is entitled to approval of the petition, having sufficiently satisfied the requirements of TWC § 13.254(a-5) and 16 TAC § 24.113(l) by adequately demonstrating ownership of a tract of land that is at least 25 acres, is located in a qualifying county, and is not receiving water service.
9. Under TWC § 13.257(r) and 16 TAC § 24.106(e), JSWSC is required to record a certified copy of the approved certificate and map, along with a boundary description of the service area, in the real property records of each county in which the service area or a portion of the service area is located, and submit to the Commission evidence of the recording.
10. The notice requirements in 16 TAC § 22.35 have been met in this proceeding.

⁷ Tex. Water Code Ann. §§ 13.041 and 13.254(a-5) (West 2008 and Supp. 2016) (TWC).

III. Ordering Paragraphs

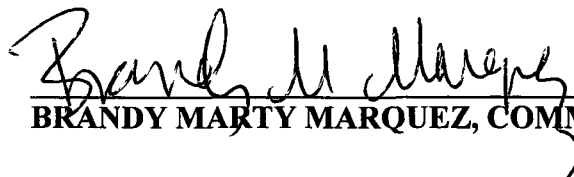
In accordance with these findings of fact and conclusion of law, the Commission issues the following Order:

1. The petition, as amended, is approved.
2. Stockton's 55.28-acre tract is removed from JSWSC's water CCN No. 10002.
3. JSWSC's water CCN No. 10002 is amended in accordance with this Order.
4. The Commission's official service area boundary map for JSWSC shall reflect this change.
5. JSWSC shall comply with the recording requirements of TWC § 13.257(r) for the area in Williamson County affected by the petition and submit to the Commission evidence of the recording no later than 31 days after receipt of this Order.
6. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

Signed at Austin, Texas the 17th day of August 2017.

PUBLIC UTILITY COMMISSION OF TEXAS


KENNETH W. ANDERSON, JR., COMMISSIONER


BRANDY MARTY MARQUEZ, COMMISSIONER

