



Control Number: 47704



Item Number: 11

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DeAnn T. Walker
Chairman

Brandy Marty Marquez
Commissioner

Arthur C. D'Andrea
Commissioner

Brian H. Lloyd
Executive Director



Greg Abbott
Governor

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PUBLIC UTILITY COMMISSION
FILING CLERK

Public Utility Commission of Texas

TO: DeAnn T. Walker, Chairman
Brandy Marty Marquez, Commissioner
Arthur C. D'Andrea, Commissioner

All Parties of Record

FROM: Jeffrey J. Huhn ^{JJA}
Administrative Law Judge

RE: **Open Meeting of January 11, 2018**
Docket No. 47704 – *Petition of Wynne/Jackson, Inc. to Amend Markout Water Supply Corporation's Certificate of Convenience and Necessity in Kaufman County by Expedited Release*

DATE: December 21, 2017

Enclosed is a copy of the Proposed Order in the above-referenced docket. The Commission will consider this docket at an open meeting presently scheduled to begin at 9:30 a.m. on Thursday, January 11, 2018, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties shall file corrections or exceptions to the Proposed Order on or before Wednesday, January 3, 2018.

If there are no corrections or exceptions, no response is necessary.

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DOCKET NO. 47704

**PETITION OF WYNNE/JACKSON, INC. § PUBLIC UTILITY COMMISSION
TO AMEND MARKOUT WATER §
SUPPLY CORPORATION'S § OF TEXAS
CERTIFICATE OF CONVENIENCE §
AND NECESSITY IN KAUFMAN §
COUNTY BY EXPEDITED RELEASE §**

PROPOSED ORDER

This Order addresses the petition of Wynne/Jackson, Inc. for expedited release from Markout Water Supply Corporation's (Markout WSC) water certificate of convenience and necessity (CCN) number 10846 in Kaufman County. Commission Staff recommended approval of the petition. The petition is approved.

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

I. Findings of Fact

1. On October 16, 2017, Wynne/Jackson filed a petition for the expedited release of a 336.712-acre tract of land from Markout WSC's water CCN No. 10846 in Kaufman County. The petition included an affidavit by Frank Murphy.¹ Mr. Murphy affirmed Wynne/Jackson's ownership of the 336.712-acre tract of land, that the 336.712-acre tract of land is not receiving water service from Markout WSC or any other water service provider, and that the 336.712-acre tract of land is located in Kaufman County.
2. On October 19, 2017, Order No. 1 was issued setting a deadline for comments on the administrative completeness of the petition and notice.
3. On November 10, 2017, Markout WSC filed a motion to intervene in this proceeding. Markout WSC requested party status to allow it to respond to substantive issues raised in this proceeding.
4. Markout WSC did not identify any property that would be rendered useless or valueless by decertification.

¹ Petition, Affidavit of Frank Murphy (Exhibit A) at 6 (Oct. 16, 2017).

5. On November 15, 2017, Commission Staff recommended that the petition and notice be deemed administratively complete.
6. On November 17, 2017, Order No. 2 was issued granting Markout WSC's motion to intervene.
7. On November 17, 2017, Order No. 3 was issued finding the petition administratively complete, notice sufficient, and establishing a procedural schedule.
8. On December 4, 2017, Commission Staff recommended (1) approval of the petition, (2) that no property would be rendered useless or valueless by the decertification, and (3) that no compensation proceeding is necessary.²
9. Commission Staff provided an amended certificate and service area map for Markout WSC.
10. The certificate and map referenced in Finding of Fact No. 9 are attached to this Order.
11. On December 7, 2017, Wynne/Jackson filed a response in support of Commission Staff's final recommendation.

Notice

12. Wynne/Jackson provided a copy of the petition to Markout Water WSC on October 16, 2017.
13. Notice of the petition was published in the *Texas Register* on November 3, 2017.

Project Description

14. Wynne/Jackson owns the 336.712-acre tract of land.
15. The 336.712-acre tract of land is located within Markout WSC's certificated service area and is not receiving water service.
16. The 336.712-acre tract of land is located in Kaufman County.

² Commission Staff's Final Recommendation (Dec. 4, 2017).

Water Service

17. The 336.712-acre tract of land is not receiving water service from Markout WSC as that term has been defined by the Courts.
18. The 336.712-acre tract of land is not receiving actual water service from Markout WSC.

Useless and Valueless

19. Markout WSC has no property that is rendered useless or valueless by the decertification.

II. Conclusions of Law

1. The Commission has jurisdiction over this petition under TWC §§ 13.041 and 13.254(a-5).³
2. Notice of the petition was provided in compliance with 16 Texas Administrative Code (TAC) § 24.113(l)(3)(A)(vi) and 16 TAC §§ 22.54 and 22.55.
3. Kaufman County is a qualifying county under TWC § 13.254(a-5) and 16 TAC § 24.113(l)(2)(D).
4. The 336.712-acre tract of land is not receiving water service from Markout WSC under TWC § 13.254(a-5).
5. No property of Markout WSC has been rendered useless or valueless by the decertification, therefore, under TWC § 13.254(d)-(g) no compensation is owed to Markout WSC.
6. 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 Markout WSC.
7. Wynne/Jackson 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.

³ Tex. Water Code Ann. §§ 13.041 and 13.254(a-5) (West 2008 & and Supp. 2017) (TWC).

8. Under TWC § 13.257(r), Markout WSC 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.

III. Ordering Paragraphs

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

1. The petition is approved.
2. Wynne/Jackson's 336.712-acre tract of land is removed from Markout WSC's water CCN No. 10846.
3. Markout WSC's water CCN No. 10846 is amended in accordance with this Order.
4. The Commission's official service area boundary map for Markout WSC shall reflect this change.
5. Markout WSC shall comply with the recording requirements of TWC § 13.257(r) and (s) for the area in Kaufman 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 and any other requests for general or specific relief, if not expressly granted, are denied.

Signed at Austin, Texas the _____ day of January 2018.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

BRANDY MARTY MARQUEZ, COMMISSIONER

ARTHUR C. D'ANDREA, COMMISSIONER

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Public Utility Commission Of Texas

By These Presents Be It Known To All That

Markout Water Supply Corporation

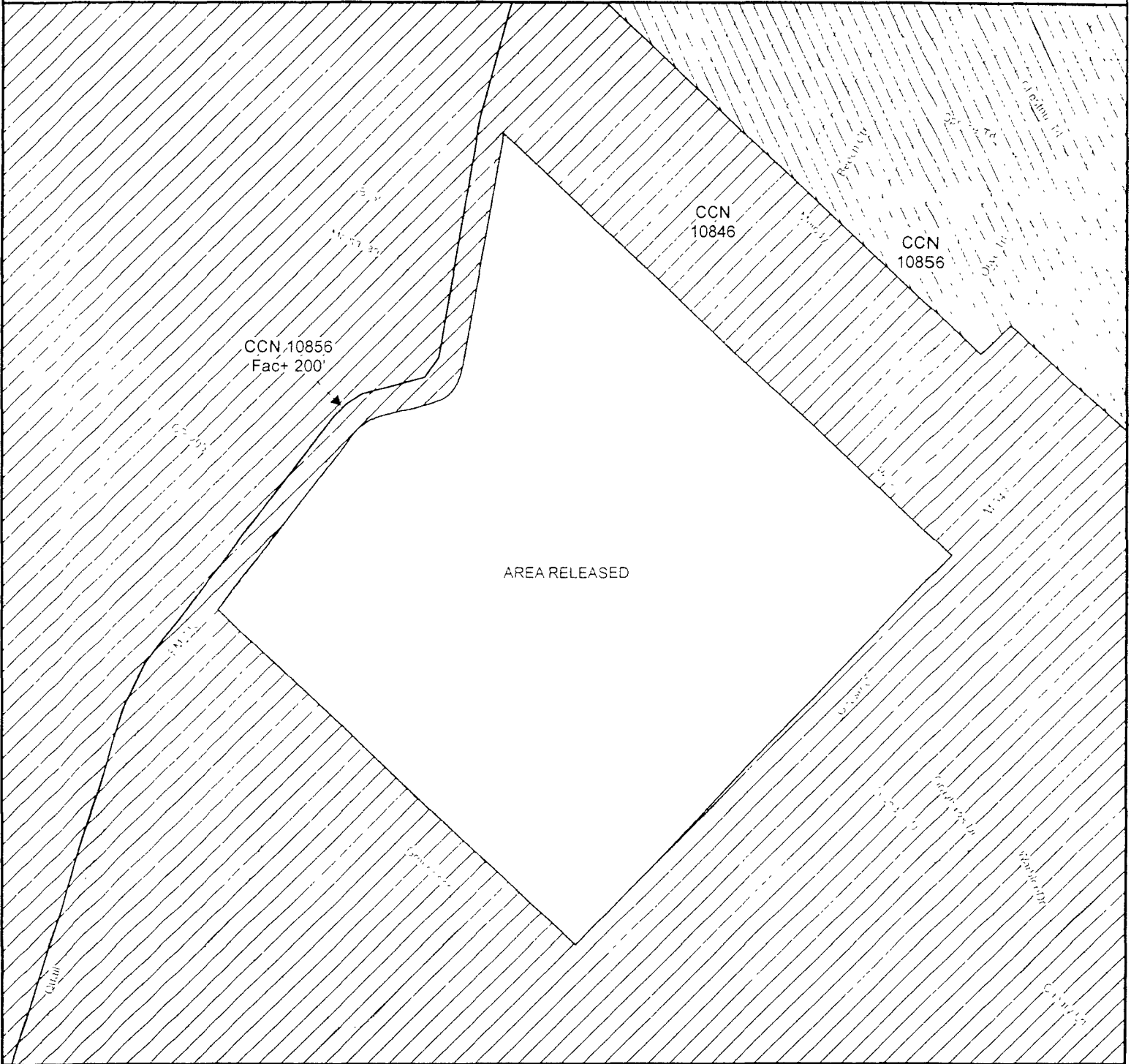
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Markout Water Supply Corporation, is entitled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

Certificate of Convenience and Necessity No. 10846

to provide continuous and adequate water utility service to that service area or those service areas in Kaufman County(ies) as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 47704 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the Markout Water Supply Corporation, 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, this _____ day of _____ 2018.

Markout Water Supply Corporation
 Portion of Water CCN No. 10846
 PUC Docket No. 47704
 Petition by Wynne / Jackson, Inc. to Amend
 Markout WSC's CCN by Expedited Release in Kaufman County




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

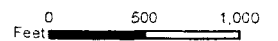
Water CCN

-  10846 - Markout WSC
-  10856 - City of Forney

 AREA RELEASED

Water Facility +200'

-  10856 - City of Forney



Map by Komal Patel
 Date created November 30, 2017
 Project Path n:\finalmapping\47704MarkoutWSC.mxd