

Control Number: 48302



Item Number: 8

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DOCKET NO. 48302

PETITION OF LACKLAND §
FAIRVIEW, LLC TO AMEND AQUA §
TEXAS, INC.'S WATER §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY IN WISE COUNTY §
BY EXPEDITED RELEASE §

PUBLIC UTILITIES COMMISSION
2018 JUL 2 PM 2:18
PUBLIC SERVICE COMMISSION
OF TEXAS
CLERK

NOTICE OF APPROVAL

This Notice addresses the petition of Lackland Fairview, LLC (Lackland) for the expedited release of approximately 298.1 acres of land within Aqua Texas, Inc.'s (Aqua) water certificate of convenience and necessity (CCN) number 13201 in Wise County. Commission Staff recommends approval of the petition. The Commission approves the petition as supplemented.

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

I. Findings of Fact

Procedural History, Description and Background

1. On April 20, 2018, Lackland filed a petition for expedited release of approximately 298.1 acres of land within Aqua's CCN number 13201 in Wise County. The petition included a special warranty deed confirming Lackland's ownership of the 298.1-acre tract of land; an affidavit confirming that the tract of land is not receiving water service from Aqua; that all of the land is located in Wise County; and a statement that the petition was sent *via* certified mail to Aqua.
2. In Order No. 1 issued on April 25, 2018, the administrative law judge (ALJ) required comments on the administrative completeness of the petition and notice, and established a procedural schedule.
3. On May 18, 2018, Commission Staff recommended that the ALJ find the petition and notice administratively complete.
4. In Order No. 2 issued on May 22, 2018, the ALJ found the petition administratively complete, notice sufficient, and established a procedural schedule.

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5. On June 5, 2018, Commission Staff recommended: (a) approval of the petition; (b) that no property would be rendered useless or valueless by decertification; (c) that no compensation proceeding is necessary; (d) the property is at least 25 acres; (e) the property is not receiving water service; (f) the requested area is within Aqua's certificated area; and (g) the location of the area is within the qualifying area of Wise County. Commission Staff also provided an amended certificate and service area map.
6. The map and certificate referenced in finding of fact number 5 are attached to this Notice.
7. No motions to intervene or request for hearing were filed in this proceeding.

Notice

8. Lackland provided a copy of the petition to Aqua on April 20, 2018.
9. The *Texas Register* published notice of the application on May 11, 2018.

Project Description

10. Lackland owns the 298.1 acres of land in Wise County.
11. The 298.1-acre tract of land is at least 25 acres in area.
12. The 298.1-acre tract of land is not receiving water service.
13. The 298.1-acre tract of land is located in a qualifying county.

Water Service

14. The 298.1-acre tract of land is not receiving any water service from Aqua as that term has been defined by the Courts.

Useless or Valueless

15. Aqua did not identify any property that is rendered useless or valueless by the decertification.

II. Conclusions of Law

1. The Commission has jurisdiction over this petition under Texas Water Code (TWC) §§ 13.041 and 13.254(a-5).¹

¹ Tex. Water Code Ann. §§ 13.041 and 13.254(a-5) (West 2008 & Supp. 2017).

2. Wise County is a qualifying county under TWC § 13.254(a-5) and 16 Texas Administrative Code (TAC) § 24.113.
3. Notice of the petition was provided in compliance with 16 TAC § 24.113(1)(3)(A)(vi) and 16 TAC §§ 22.54 and 22.55.
4. The 298.1-acre tract of land is not receiving water service from Aqua under TWC § 13.254(a-5).
5. No property of Aqua has been rendered useless or valueless by the decertification; therefore, under TWC § 13.254(d)-(g) no compensation is owed to Aqua.
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 Aqua.
7. Lackland is entitled to approval of the petition, having sufficiently satisfied the requirements of TWC § 13.254(a-5) and 16 TAC § 24.113 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.
8. The petition was processed in accordance with the Administrative Procedure Act,² the TWC, and Commission rules.
9. Under TWC § 13.257(r) and (s), Aqua 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 requirements for informal disposition in 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 orders:

² Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2016 and Supp. 2017).

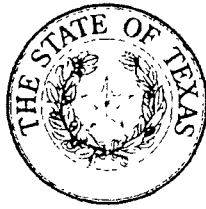
1. The Commission approves the petition, as supplemented.
2. Lackland's approximately 298.1 acres identified in the attached map, are removed from Aqua's water CCN number 13201.
3. The Commission amends Aqua's water CCN number 13201 in accordance with this Notice.
4. The Commission's official service area boundary maps for Aqua shall reflect this change, as provided in the attached map.
5. Aqua shall comply with the recording requirements of TWC § 13.257(r) and (s) for the area in Wise County affected by the petition and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.
6. All other motions and any other requests for general or specific relief, if not expressly granted, are denied.

Signed at Austin, Texas the 2nd day of July 2018.

PUBLIC UTILITY COMMISSION OF TEXAS



GABRIEL P. SOTO
ADMINISTRATIVE LAW JUDGE



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 by Aqua Texas, Inc., is entitled to this

Certificate of Convenience and Necessity No. 13201

to provide continuous and adequate water utility service to that service area or those service areas in Anderson, Bosque, Camp, Cherokee, Collin, Cooke, Denton, Erath, Grayson, Gregg, Henderson, Hood, Hunt, Johnson, Kaufman, Marion, McLennan, Parker, Smith, Somervell, Tarrant, Taylor, Wise, and Wood Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48302 are on file at the Commission offices in Austin, Texas; and is a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of 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 2ND day of July 2018.



Aqua Texas, Inc.
 Portion of Water CCN No. 13201
 PUC Docket No. 48302
 Petition by Lackland Fairview, LLC to Amend Aqua Texas, Inc.'s CCN by Expedited Release in
 Wise County

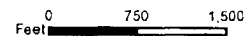


Public Utility Commission of Texas
 1701 N. Congress Ave
 Austin, TX 78701

Water CCN

-  13201 - Aqua Texas Inc
-  10989 - City of Rhome

-  Area Released
-  Property Boundary



Map by Komal Patel
 Date created May 23, 2018
 Project Path n finalmapping\48302LacklandFairview.mxd