

Control Number: 48459



Item Number: 3

Addendum StartPage: 0

PETITION TO REVOKE GALCO	§	PUBLIC UTILITY CONTUNISATION 1: 25
UTILITIES' CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY	§	PUBLIC UTELTY COMMISSION FILING CLERK
UNDER TEXAS WATER CODE	§	THE SECTION
§ 13.254 AND 16 TEXAS	§	
<b>ADMINISTRATIVE CODE § 24.113</b>	§	OF TEXAS

#### COMMISSION STAFF'S RESPONSE TO ORDER NO. 1 AND MOTION FOR ENTRY OF A DEFAULT ORDER

Order No. 1, issued on June 27, 2018, ordered Commission Staff to file a proposed default order no later than July 27, 2018. Pursuant to that Order, Commission Staff's Proposed Default Order is attached.

Commission Staff has also attached the affidavit of Tasha Lopez, a legal assistant with the Commission's Oversight and Enforcement Division. Ms. Lopez's affidavit states that she mailed Commission Staff's petition to the addresses listed in the petition and shows that notice was given to Galco Utilities pursuant to Commission Rules and the APA.

As such, Commission Staff requests that the Commission approve the entry of the attached default order.

Respectfully Submitted,

Taylor Kilroy

Attorney, Oversight and Enforcement Division

State Bar No. 24087844

(512) 936-7127 T

(512) 936-7208 F

Public Utility Commission of Texas

1701 N. Congress Avenue

P.O. Box 13326

Austin, Texas 78711-3326

#### **CERTIFICATE OF SERVICE**

I certify that on July 27, 2018, pursuant to 16 TAC § 22.183(b)(2), a copy of this document was sent certified mail, return receipt requested, to the last known address of Galco Utilities (Galco) in the Commission's records and to the address for the registered agent for process on file with the Secretary of State:

Galco's Last Known Address in Commission Records:

Galco Utilities 12620 IH45 N Houston, TX 77060

Address for the registered agent for process on file with the Secretary of State:

John W Anderson Jr 2811 Airline Road Houston, TX 77009

Taylor Kilroy

# Attachment One Proposed Default Order

#### **DOCKET NO. 48459**

PETITION TO REVOKE GALCO	§	PUBLIC UTILITY COMMISSION
UTILITIES' CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY	§	
UNDER TEXAS WATER CODE § 13.254	§	
AND 16 TEXAS ADMINISTRATIVE	Š	
CODE § 24.113	8	OF TEXAS

#### PROPOSED DEFAULT ORDER

This Order addresses the petition of Commission Staff to revoke the certificate of public convenience and necessity of Galco Utilities for violations of the Texas Water Code<sup>1</sup> and Commission rules.<sup>2</sup> Commission Staff's petition is granted and certificate of convenience and necessity 10736 is revoked.

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

#### I. Findings of Fact

- 1. Galco is a retail public utility that was granted certificate of convenience and necessity 10736 on November 1, 1979.
- 2. Galco is located in Harris County, Texas off IH 45 N in the city of Houston.
- 3. On May 19, 1959, Galco filed an application with the Texas Secretary of State (SOS) to become a Texas corporation.
- 4. Galco has ceased to operate and is now listed as inactive on the SOS's website.
- 5. Galco is no longer in business and the facilities it used to provide continuous and adequate service are inactive.
- 6. On June 13, 2018, Commission Staff filed a petition and provided notice of opportunity for hearing seeking revocation of Galco's certificate 10736.
- 7. The petition included the required disclosure in at least 12-point, bold-face type.
- 8. The petition was sent by certified mail, return receipt requested, to the addresses Commission Staff was able to find for Galco after reasonable investigation. More

1

<sup>&</sup>lt;sup>1</sup> Tex. Water Code Ann. § 13.254 (West 2008 and Supp. 2016) (TWC).

<sup>&</sup>lt;sup>2</sup> 16 Texas Admin. Code § 24.113 (TAC).

- specifically, the petition was sent by certified mail, return receipt requested, to the address that Galco most recently had on file with the Commission and the SOS.
- 9. More than 30 days have passed since service of the petition to Galco.
- 10. Galco did not request a hearing on the merits.

#### II. Conclusions of Law

- 1. Texas Water Code (TWC) § 13.242 provides that a "utility ... may not in any way render retail water ... utility service directly or indirectly to the public without first having obtained from the utility commission a certificate that the present or future public convenience and necessity will require that installation, operation, or extension."
- 2. Under 16 Tex. Admin. Code (TAC) § 24.3(14), a CCN is "[a] permit issued by the commission which authorizes and obligates a retail public utility to furnish, make available, render, or extend continuous and adequate retail water or sewer utility service to a specified geographic area."
- 3. Under 16 TAC § 24.3(58), a retail public utility is "[a]ny person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation."
- 4. TWC § 13.250 and 16 TAC § 24.114 require a retail public utility that possesses a certificate to provide "continuous and adequate service."
- 5. If the Commission finds that a retail public utility that possesses a certificate "has never provided, is no longer providing, is incapable of providing, or has failed to provide continuous and adequate service in the area, or part of the area, covered by the certificate" in violation of TWC § 13.250 and 16 TAC § 24.114, the Commission may revoke the CCN pursuant to TWC § 13.254 and 16 TAC § 24.113.
- 6. Galco failed to meet the performance requirements for a certificate holder in TWC § 13.250 and 16 TAC § 24.114 when it ceased operating and ceased to provide continuous and adequate service.
- 7. Galco is incapable of providing continuous and adequate service in the area covered by certificate 10736.

- 8. Issuance of a default order against Galco is appropriate because Galco failed to request a hearing within 30 days of service of the notice of an opportunity for a hearing, as provided in 16 TAC § 22.183(a).
- 9. The requirements for disposition by default in 16 TAC § 22.183 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. Commission Staff's petition is granted.
- 2. Galco's certificate 10736 is revoked.
- 3. The Commission shall not be constrained in any manner from requiring additional action or penalties for violations.
- 4. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other request for general or specific relief, if not expressly granted herein, are denied.

igned at Austin, Texas, the	day of	, 2018.
PUBLIC U'	FILITY COMMISS	SION OF TEXAS
DEANN T.	WALKER, CHAIF	RMAN
ARTHUR	C. D'ANDREA, CO	OMMISSIONER
	,	
SHELLY B	BOTKIN, COMMIS	SSIONER

# Attachment Two Affidavit of Tasha Lopez

#### **DOCKET NO. 48459**

§	PUBLIC UTILITY COMMISSION
§	
§	
§	
§	
§	OF TEXAS
	<i>\$</i>

#### AFFIDAVIT OF TASHA LOPEZ

STATE OF TEXAS TRAVIS COUNTY

BEFORE ME, the undersigned authority, on this day personally appeared, Tasha Lopez, and being by me duly sworn, upon oath declared that the statements and capacity acted in are true and correct.

"My name is Tasha Lopez. I am the legal assistant in the Oversight & Enforcement Division of the Public Utility Commission of Texas (Commission). I am over the age of twenty-one and I am competent to make this Affidavit. In accordance with 16 TAC § 22.183(b), I mailed, by certified mail, a copy of Commission Staff's Petition to Revoke Galco Utilities Certificate of Public Convenience and Necessity filed on June 13, 2018, to Galco Utilities, and John W. Anderson, Jr., on June 13, 2018, to the last known addresses, and all copies were either delivered or returned. Please see the attached tracking information for each item and copy of the application.

Galco Utilities 12620 IH45 N Houston, TX 77060 John W Anderson Jr 2811 Airline Road Houston, TX 77009

AFFIANT: Tasha Lopez

SWORN TO AND SUBSCRIBED BEFORE ME this 27 day of July 2018.

**Notary without Bond** 

000009

CMRR – Galco Utilities (Returned)

Print Your Documents Page 1 of 1

## Ship Request Form

Ship Request #: 168697



Sender

Name:

Tasha Lopez 47300 PUC

Account #: Phone:

512-936-7401

Email:

Company:

Public Utility Commission

eRR Track: 9171999991703104788217

Recipient

Attn To:

Galco Utilities

Company:

Galco Utilities

Address:

12620 IH 45 N

City:

Houston TX

State: Zip:

77060

Country:

US

**Shipping Instructions** 

Items

Units 0 00

Description

Code

Origin Unit Value Total Value

# **USPS Tracking®**

#### FAQs > (http://faq.usps.com/?articleId=220900)

#### Track Another Package +

**Tracking Number:** 9171999991703104788217

Remove X

Your item has been delivered to the original sender at 12:45 pm on June 25, 2018 in AUSTIN, TX 78711.

## **Oblivered**

June 25, 2018 at 12:45 pm Delivered, To Original Sender AUSTIN, TX 78711

Get Updates ✓

Text & Email Updates	~
Return Receipt Electronic	~
Tracking History	^

June 25, 2018, 12:45 pm

Delivered, To Original Sender AUSTIN, TX 78711

Your item has been delivered to the original sender at 12:45 pm on June 25, 2018 in AUSTIN, TX 78711.

June 25, 2018, 9:56 am Arrived at Unit AUSTIN, TX 78701

#### June 24, 2018

In Transit to Next Facility

#### June 23, 2018

In Transit to Next Facility

#### June 22, 2018, 4:37 pm

Departed USPS Regional Origin Facility AUSTIN TX DISTRIBUTION CENTER

#### June 22, 2018, 10:11 am

Arrived at USPS Regional Origin Facility
AUSTIN TX DISTRIBUTION CENTER

#### June 21, 2018, 11:43 am

Departed USPS Regional Destination Facility NORTH HOUSTON TX DISTRIBUTION CENTER

#### June 20, 2018, 6:09 am

Addressee Unknown HOUSTON, TX 77067

#### June 15, 2018, 2:04 pm

Unable to deliver item, problem with address HOUSTON, TX 77060

#### June 15, 2018, 9:06 am

Out for Delivery HOUSTON, TX 77060

#### June 15, 2018, 8:56 am

Sorting Complete HOUSTON, TX 77060

#### June 15, 2018, 8:19 am

Arrived at Unit HOUSTON, TX 77067

#### June 14, 2018, 8:50 am

Arrived at USPS Regional Destination Facility NORTH HOUSTON TX DISTRIBUTION CENTER

#### June 13, 2018, 8:38 pm

Departed USPS Regional Facility **AUSTIN TX DISTRIBUTION CENTER** 

#### June 13, 2018, 7:19 pm

Arrived at USPS Regional Origin Facility **AUSTIN TX DISTRIBUTION CENTER** 

#### June 13, 2018, 6:04 pm

Accepted at USPS Origin Facility **AUSTIN, TX 78701** 

#### June 13, 2018

Pre-Shipment Info Sent to USPS, USPS Awaiting Item

#### **Product Information**

#### See Less ∧

# Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

FAQs (http://faq.usps.com/?articleId=220900)

#### The easiest tracking number is the one you don't have to know.

With Informed Delivery®, you never have to type in another tracking number. Sign up to:

- See images\* of incoming mail.
- Automatically track the packages you're expecting.
- Set up email and text alerts so you don't need to enter tracking numbers.
- Enter USPS Delivery Instructions<sup>™</sup> for your mail carrier.

#### Sign Up

#### (https://reg.usps.com/entreg/RegistrationAction\_input?

\*NOTE: Black and white (grayscale) images show the outside, front of letter-sized envelopes and mailpieces that are processed approximately ap

CMRR – John W. Anderson, Jr. (Returned)

**Print Your Documents** Page 1 of 1

### Ship Request Form

Ship Request #: 168698



Sender

Name:

Tasha Lopez

47300 PUC Account #:

Phone:

512-936-7401

Email:

Company:

Public Utility Commission

eRR Track: 9171999991703104788224

Recipient

Attn To:

John W. Anderson, Jr.

Company:

John W Anderson, Jr

Address:

2811 Airline Road

City:

Zip:

Houston

State:

TΧ 77009

Country:

US

**Shipping Instructions** 

Items

Units 0 00

Description

Code

Origin Unit Value Total Value

# **USPS Tracking®**

FAQs > (http://faq.usps.com/?articleId=220900)

#### Track Another Package +

Tracking Number: 9171999991703104788224

Remove X

Your item was delivered at 12:45 pm on June 25, 2018 in AUSTIN, TX 78711.

## **⊘** Delivered

June 25, 2018 at 12:45 pm Delivered AUSTIN, TX 78711

Get Updates ✓

Text & Email Updates	~
Return Receipt Electronic	~
Tracking History	^

#### June 25, 2018, 12:45 pm

Delivered

AUSTIN, TX 78711

Your item was delivered at 12:45 pm on June 25, 2018 in AUSTIN, TX 78711.

June 25, 2018, 9:56 am

Arrived at Unit AUSTIN, TX 78701

June 24, 2018, 9:12 pm

Departed USPS Regional Origin Facility

#### **AUSTIN TX DISTRIBUTION CENTER**

#### June 24, 2018

In Transit to Next Facility

#### June 23, 2018, 1:55 pm

Arrived at USPS Regional Origin Facility AUSTIN TX DISTRIBUTION CENTER

#### June 23, 2018

In Transit to Next Facility

#### June 22, 2018, 1:47 pm

Departed USPS Regional Destination Facility NORTH HOUSTON TX DISTRIBUTION CENTER

#### June 15, 2018, 11:51 am

Refused HOUSTON, TX 77009

#### June 15, 2018, 9:12 am

Out for Delivery HOUSTON, TX 77009

#### June 15, 2018, 9:02 am

Sorting Complete HOUSTON, TX 77009

#### June 15, 2018, 8:53 am

Arrived at Unit HOUSTON, TX 77009

#### June 14, 2018, 8:50 am

Arrived at USPS Regional Destination Facility NORTH HOUSTON TX DISTRIBUTION CENTER

#### June 13, 2018, 8:38 pm

Departed USPS Regional Facility

#### **AUSTIN TX DISTRIBUTION CENTER**

June 13, 2018, 7:19 pm
Arrived at USPS Regional Origin Facility
AUSTIN TX DISTRIBUTION CENTER

June 13, 2018, 6:04 pm Accepted at USPS Origin Facility AUSTIN, TX 78701

June 13, 2018

Pre-Shipment Info Sent to USPS, USPS Awaiting Item

#### **Product Information**



#### See Less ∧

### Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

FAQs (http://faq.usps.com/?articleId=220900)

#### The easiest tracking number is the one you don't have to know.

With Informed Delivery®, you never have to type in another tracking number. Sign up to:

- See images\* of incoming mail.
- · Automatically track the packages you're expecting.
- Set up email and text alerts so you don't need to enter tracking numbers.
- Enter USPS Delivery Instructions<sup>™</sup> for your mail carrier.

#### Sign Up

#### (https://reg.usps.com/entreg/RegistrationAction\_input?

\*NOTE: Black and white (grayscale) images show the outside, front of letter-sized envelopes and mailpieces that are processed appropriately ap

Petition to Revoke

DOCKET NO. 48459

PETITION TO REVOKE GALCO
UTILITIES' CERTIFICATE OF
PUBLIC CONVENIENCE AND
NECESSITY PURSUANT TO TEX.
WATER CODE ANN. § 13.254 AND 16
TAC § 24.113

PUBLIC UTILITY COMMISSION

2018 JUN 13 AM 9: 11

OF TEXAS

# COMMISSION STAFF'S PETITION TO REVOKE GALCO UTILITIES' CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND NOTICE OF OPPORTUNITY FOR A HEARING

 $\omega$   $\omega$   $\omega$   $\omega$ 

Staff of the Public Utility Commission of Texas (Commission) files this Petition to Revoke Galco Utilities' Certificate of Public Convenience and Necessity (Petition) and hereby provides notice of the opportunity to request a hearing on the merits of this Petition.

#### I. INTRODUCTION

For the reasons discussed below, the water service Certificate of Public Convenience and Necessity (CCN) No. 10736 for Galco Utilities (Galco) should be revoked. Upon investigation, Commission Staff has determined that the public water system associated with Galco is inactive, and that the CCN should be revoked.

In the event Galco fails to request a hearing within thirty days of service of this Petition, a default order should be issued, without additional notice to Galco, granting all relief sought in this Petition. In support of this Petition, Commission Staff respectfully shows the following:

#### II. JURISDICTION AND LEGAL AUTHORITY

The Commission is authorized to regulate and supervise the business of each water and sewer utility within its jurisdiction. Pursuant to Tex. Water Code Ann. § 13.242 (TWC), a "water supply or sewer service corporation may not in any way render retail water or sewer utility service directly or indirectly to the public without first having obtained from the utility commission a

<sup>&</sup>lt;sup>1</sup> Tex. Water Code Ann. § 13.041 (West Supp. 2014) (TWC).

certificate that the present or future public convenience and necessity will require that in stallation, operation, or extension."

A CCN is defined as "[a] permit issued by the commission which authorizes and obligates a retail public utility to furnish, make available, render, or extend continuous and adequate retail water or sewer service to a specified geographic area." A retail public utility is "[a]ny person corporation, public utility, water supply or sewer service corporation, municipality, political subdivision or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation."

A retail public utility that possesses a CCN is required to provide continuous and adequate service.<sup>4</sup> A retail public utility that possesses a CCN and fails to provide continuous and adequate service may be subject to revocation.<sup>5</sup> As part of this authority, the Commission, "after notice and hearing, may revoke or amend any" CCN if the Commission finds that "the certificate holder has never provided, is no longer providing, is incapable of providing, or has failed to provide continuous and adequate service in the area, or part of the area, covered by the certificate."<sup>6</sup>

Pursuant to the contested case provisions of the Administrative Procedure Act,<sup>7</sup> a party is entitled to an opportunity for a hearing after reasonable notice of not less than 10 days, where the party may respond to and present evidence and argument on each issue involved in the case.<sup>8</sup> If a hearing is not requested within thirty days after service of notice of an opportunity for hearing, a default occurs.<sup>9</sup> Upon default, the presiding officer may issue a default order, revoking the certificate without a hearing on an informal basis.<sup>10</sup>

#### III. FACTUAL ALLEGATIONS

Galco is located in Harris County, Texas off IH 45 N in the City of Houston. On May 19, 1959, Galco filed an application with the Secretary of State to become a Texas corporation. On November 1, 1979, Galco was granted CNN No. 10736. The utility has ceased to operate and is

<sup>&</sup>lt;sup>2</sup> 16 Tex. Admin. Code § 24.3(15) (TAC).

<sup>&</sup>lt;sup>3</sup> TWC § 13.002(19) and 16 TAC § 24.3(58).

<sup>&</sup>lt;sup>4</sup> See TWC § 13.250(a) and 16 TAC § 24.114.

<sup>&</sup>lt;sup>5</sup> TWC § 13.254(a)(1) and 16 TAC 24.113(a)(1).

<sup>6</sup> *Id* 

<sup>&</sup>lt;sup>7</sup> Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2008 & Supp. 2014) (APA).

<sup>8</sup> APA §§ 2001.051-.178.

<sup>9 16</sup> TAC § 22.183.

<sup>&</sup>lt;sup>10</sup> APA § 2001.056(4) and 16 TAC § 22.183.

now listed as inactive on the Secretary of State's website. Commission Staff's review of Commission's records indicate that Galco is no longer in business, and the facilities it used to provide continuous and adequate service are inactive. Therefore, Galco is no longer providing and is incapable of providing continuous and adequate service.

#### IV. RECOMMENDATION FOR REVOCATION

The Commission should revoke Galco's CCN No. 10736 because Galco is no longer in business, and the facilities it used to provide continuous and adequate service are inactive. As long as CCN No. 10736 continues to remain in effect, it may be a violation of Commission rules for another company to provide service in the certificated area. 12

For the above stated reasons, Commission Staff recommends revocation of CCN No. 10736 pursuant to TWC § 13.254(a)(1) and 16 TAC § 24.113(i)(1)(A).

#### V. NOTICE OF OPPORTUNITY FOR HEARING

16 TAC §§ 22.54 and 22.55 require Commission Staff to provide reasonable notice to persons affected by a proceeding in accordance with the Administrative Procedure Act. In license revocation proceedings, APA § 2001.054 requires that notice be given "by personal service or by registered or certified mail to the license holder of facts or conduct alleged to warrant the intended action." In order to proceed on a default basis, 16 TAC § 22.183 requires Commission Staff to provide notice by certified mail, return receipt requested: (a) to a certificate holder's last known address in the Commission's records; (b) to the person's registered agent for process on file with the Secretary of State; or (3) to an address for the party identified after reasonable investigation if the first two options are not applicable.

In accordance with these provisions, Commission Staff will provide a copy of this petition by certified mail, return receipt requested, to Galco's last known address in the TCEQ's and Commission's records:

Galco Utilities 12620 IH45 N Houston, TX 77060

<sup>11</sup> See TWC § 13.254(a)(1) and 16 TAC 24.113(i)(1)(A).

<sup>&</sup>lt;sup>12</sup> See TWC § 13.242.

<sup>13</sup> APA §§ 2001.001-.902.

Commission Staff will also provide a copy of this petition by certified mail, return receipt requested, to the address for the registered agent for process on file with the Secretary of State:

John W Anderson Jr 2811 Airline Road Houston, TX 77009

Pursuant to 16 TAC § 22.183, Commission Staff hereby notifies Galco that the factual allegations in this petition could be deemed admitted and the relief sought herein granted by default if Galco fails to request a hearing within 30 days after service of the Petition and Notice of Opportunity for Hearing. The purpose of a hearing on the merits is to consider revocation of Galco's CCN No. 10736. If Galco fails to request a hearing, the presiding officer may issue a default order on an informal basis without a hearing on the merits pursuant to APA § 2001.056(4) and 16 TAC § 22.183.

The factual allegations listed in Commission Staff's Petition and Notice of Opportunity for a Hearing could be deemed admitted and the relief sought herein could be granted by default if you fail to timely request a hearing.

#### VI. REQUEST

WHEREFORE, PREMISES CONSIDERED, Commission Staff respectfully requests that the Commission grants Commission Staff's request to revoke Galco's CCN No. 10736. In the event that Galco fails to request a hearing on the merits, Commission Staff requests that the Commission issue a default final order, with no further notice to Galco, revoking CCN No. 10736.

Respectfully Submitted,

Taylor Kilroy

Attorney, Oversight and Enforcement Division

State Bar No. 24087844/

(512) 936-7127

(512) 936-7208 (facsimile)

Public Utility Commission of Texas

1701 N. Congress Avenue

P.O. Box 13326

Austin, Texas 78701-3326

#### **CERTIFICATE OF SERVICE**

I certify that on June 13, 2018, pursuant to 16 TAC § 22.183(b)(2), a copy of this document was sent certified mail, return receipt requested, to the last known address of Galco Utilities (Galco) in the Commission's records and to the address for the registered agent for process on file with the Secretary of State:

Galco's Last Known Address in Commission Records:

Galco Utilities 12620 IH45 N Houston, TX 77060

Address for the registered agent for process on file with the Secretary of State:

John W Anderson Jr 2811 Airline Road Houston, TX 77009

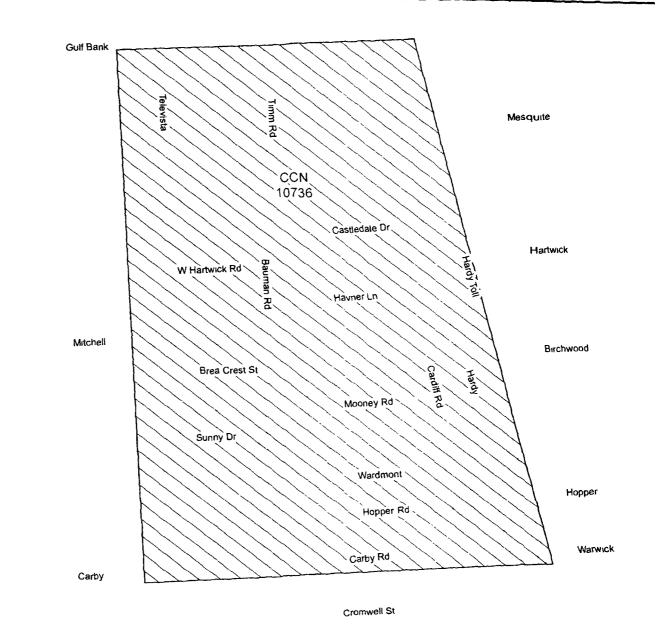
Taylor Kilroy

# Attachment 1

Map of Water Service Certificate of Convenience and Necessity

No. 10736

#### Galco Utilities Water CCN No. 10736 in Harris County

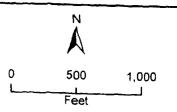




Public Utility Commission of Texas 1701 N. Congress Ave Austin, TX 78701

#### **Water CCN**

10736 - Galco Utilities



Map by: Kristy Nguyen Date created: May 25, 2018 Project path: n.\10736 galco\10736 galco

000008

# Attachment 2

Water Service Certificate of Convenience and Necessity

No. 10736

