



Control Number: 48484



Item Number: 14

Addendum StartPage: 0

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PETITION OF EQK BRIDGEVIEW §
PLAZA, LLC TO AMEND HIGH POINT §
WATER SUPPLY CORPORATION'S §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY IN KAUFMAN §
COUNTY BY EXPEDITED RELEASE §

PUBLIC UTILITY COMMISSION

2018 SEP 27 PM 2:42
PUBLIC UTILITY COMMISSION
OF TEXAS
FILING CLERK

NOTICE OF APPROVAL

This Notice addresses the petition of EQK Bridgeview Plaza, LLC to amend High Point Water Supply Corporation's water certificate of convenience and necessity (CCN) in Kaufman County by expedited release. The Commission approves the petition and removes approximately 1,819 acres from High Point WSC's water CCN No. 10841.

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

I. Findings of Fact

Applicant

1. EQK Bridgeview is a Delaware limited liability company registered with the Texas Secretary of State on October 1, 2010 under file number 801325668.
2. EQK Bridgeview owns approximately 1,819 acres within High Point WSC's water service area.

Application

3. On June 22, 2018, EQK Bridgeview filed a petition for expedited release of approximately 2,807 acres of land from High Point WSC's water CCN No. 10841 in Kaufman County.
4. EQK Bridgeview provided deeds confirming ownership of the property and location maps.
5. Louis Corna, Manager of EQK Bridgeview, provided an affidavit signed on June 19, 2018, affirming that the property is more than 25 acres and consists of contiguous tracts of land, the property is not receiving water service, and EQK Bridgeview has not requested service from High Point WSC.

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6. In Order No. 2 issued on July 26, 2018, the administrative law judge (ALJ) found the petition administratively complete.

Notice

7. Ross S. Martin, attorney for EQK Bridgeview, certified that EQK Bridgeview mailed a copy of the petition by certified mail to High Point WSC on June 20, 2018.
8. Notice of the application appeared in the July 13, 2018 issue of the *Texas Register*.
9. In Order No. 2 issued on July 26, 2018, the ALJ found the notice sufficient.

Interventions

10. On July 24, 2018, High Point WSC filed a motion to intervene.
11. In Order No. 3 issued on August 28, 2018, the ALJ granted High Point WSC's motion to intervene.

Project Description

12. EQK Bridgeview owns approximately 2,807 acres of land in Kaufman County comprised of numerous tracts.
13. Approximately 1,819 acres are within High Point WSC's CCN service area. The remaining 988 acres are within the service areas of Kaufman Development District No. 1 who holds CCN No. 12944 and Lawrence Water Supply Corporation who holds CCN No. 12234.
14. EQK Bridgeview owns 1,761.5 acres of a 2,749.6-acre parcel of land, a 54.07-acre parcel of land, a 0.484-acre parcel of land and a 2.853-acre parcel of land. Together, the parcels form a single tract of land that is at least 25 acres in area.
15. The tract of land is not receiving water service.
16. The 1819-acre tract of land is located in a county that is adjacent to a county with a population of at least one million.

Water Service

17. The 1,819-acre tract of land is not receiving water service from High Point WSC as that term has been defined by the courts.
18. The 1,819-acre tract of land is not receiving actual water service from High Point WSC.

Determination of Useless and Valueless Property

19. High Point WSC did not identify any property that is rendered useless or valueless by the decertification.

Informal Disposition

20. More than 15 days have passed since completion of the notice requirements in this docket.
21. Commission Staff, EQK Bridgeview, and High Point WSC are the only parties to this proceeding.
22. No party requested a hearing.
23. On August 9, 2018, Commission Staff recommended approval of the petition.
24. On September 12 and 14, 2018, Commission Staff provided statements clarifying the area recommended for release from High Point WSC's service area.

II. Conclusions of Law

1. Kaufman County is a qualifying county as defined in Texas Water Code § 13.254(a-5)¹ and 16 Texas Administrative Code (TAC) § 24.113.
2. The Commission has jurisdiction over this petition under TWC §§ 13.041 and 13.254(a-5).
3. Notice of the petition was provided in compliance with 16 TAC § 24.113(l)(3)(A)(vi) and 16 TAC § 22.54.
4. The 1,761.5 acres and the 54.07, 0.484, and 2.853-acre parcels of land form a single tract of land as that term is used in TWC § 13.254(a-5).
5. The 1,819 tract of land is not receiving water service from High Point WSC in accordance with TWC § 13.254(a-5).
6. The area or areas to be released from a CCN under TWC § 13.254(a-5) and 16 TAC § 24.113(l) may be smaller in acreage than the tract of land.
7. No property has been rendered useless or valueless by the decertification; therefore, under TWC § 13.254(d) through (g) no compensation is owed to High Point WSC.

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

8. Because no compensation is owed under TWC § 13.254(d) through (g), a retail public utility may render retail water service directly or indirectly to the public in the decertified area without providing compensation to High Point WSC.
9. EQK Bridgeview has 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.
10. The Commission processed the petition in accordance with the Administrative Procedure Act,² the TWC, and Commission rules.
11. Under TWC § 13.257(r) and (s), High Point 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.
12. 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:

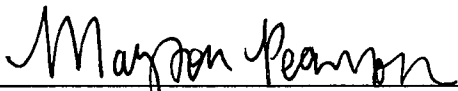
1. The Commission approves the petition and removes approximately 1,819 acres from High Point WSC's water CCN No. 10841.
2. The Commission amends High Point WSC's water CCN No. 10841 in accordance with this Notice.
3. The Commission's official service area boundary maps for High Point WSC will reflect this change, as provided in the attached map.
4. High Point WSC must 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 Notice.

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

5. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 27th day of September 2018.

PUBLIC UTILITY COMMISSION OF TEXAS



MAYSON PEARSON
ADMINISTRATIVE LAW JUDGE

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