



Control Number: 49059



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DOCKET NO. 49059



PETITION OF MALONE ADDITION  
WATER SYSTEM TO DISCONTINUE  
WATER SERVICE AND CANCEL ITS  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY IN TRAVIS  
COUNTY

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PUBLIC UTILITY COMMISSION  
OF TEXAS

### NOTION OF APPROVAL

This Notice of Approval addresses the petition of Malone Addition Water System to discontinue service and cancel its water certificate of convenience and necessity (CCN) number 12534 in Travis County. The Commission cancels Malone's water CCN number 12534 to the extent provided in this Notice of Approval.

#### I. Findings of Fact

The Commission makes the following findings of fact.

##### Petitioner

1. Malone Addition is a sole proprietorship owned by David Malone.
2. Malone Addition provides water service in Travis County under water CCN number 12534.

##### Petition

3. On January 2, 2019, Malone Addition filed a petition to discontinue service and cancel its water CCN number 12534 in Travis County.
4. As established by the petition, (a) Malone Addition's Texas Commission on Environmental Quality (TCEQ)-approved public water system, identification number 2270110, has no existing customers, and (b) all of Malone Addition's former customers are now served by the City of Austin Water Utility (Austin Water).
5. The area served under water CCN number 12534 includes 22 acres and no current customers.
6. In Order No. 7 filed December 6, 2019, the administrative law judge (ALJ) deemed the petition administratively complete.

**Notice**

7. On June 18, 2020, AWR Services, Inc. filed an authorization letter to take actions and file any documents necessary for the dissolution of the Malone Addition's CCN.
8. On June 18, 2020, AWR, for Malone Addition, filed the affidavit of David Malone, owner of Malone Addition, attesting that notice was mailed to neighboring utilities and affected parties on May 22, 2020.
9. On June 18, 2020, AWR, for Malone Addition, filed the publisher's affidavit attesting to publication of notice in the *Austin American Statesman*, a newspaper of general circulation in Travis County on May 28, 2020 and June 4, 2020.
10. In Order No. 13 filed on August 28, 2020, the ALJ found the notice sufficient.

**Evidentiary Record**

11. On September 11, 2020, the parties filed an agreed motion to admit evidence.
12. In Order No. 14 filed on September 18, 2020, the ALJ admitted the following evidence into the record of this proceeding: (a) the petition, including all attachments, filed on January 2, 2019; (b) Malone Addition's response to Order No. 5, filed on September 27, 2019; (c) Commission Staff's recommendation on dismissal and administrative completeness, filed on November 26, 2019; (d) authorization letter for AWR Services, Inc to file for Malone Addition, filed on June 18, 2020 (e) Malone Addition's affidavit of notice to neighboring utilities and affected parties, filed on June 18, 2020; (f) Malone Addition's affidavit attesting to newspaper publication, filed on June 18, 2020; (g) Commission Staff's third supplemental recommendation on notice, filed on August 20, 2020; and (h) Commission Staff's final recommendation, filed on September 1, 2020.

**Ability to Render Continuous and Adequate Service—Texas Water Code (TWC) § 13.250(a)**

13. In response to Order No. 5, Malone Addition filed a letter from Randi Jenkins, Program Manager of Utility Development Services for Austin Water, confirming that the Austin Water is providing water services to Malone Addition's former customers. Therefore, there will be no disruption in service.

**Discontinuation, Reduction, or Impairment of Service—TWC § 13.250(b), (c), and (d)**

14. Austin Water is currently providing and will continue to provide service to Malone Addition's former customers; therefore, there will be no discontinuation, reduction, or impairment of service.

**Consent of Certificate Holder—TWC § 13.254(a) and (b)**

15. Malone Addition has provided written consent to the revocation of its water CCN number 12534.

**New Service Provider—TWC § 13.254(c)**

16. Austin Water is providing service to Malone Addition's former customers located in the water service area under CCN number 12534.

**Adequate Compensation—TWC § 13.254(d), (e), (f), and (g)**

17. Malone Addition has discontinued service and decommissioned its facilities and will not sell or receive compensation for any assets.

**Service After Decertification—TWC § 13.254(h)**

18. After decertification of Malone Addition's water CCN, Malone Addition will no longer offer service in the area.
19. Austin Water will continue to provide service to every former customer in Malone Addition's formerly certificated water service area.

**Effect on Customers and Landowners—Texas Administrative Code (TAC) § 24.249(i)(1)**

20. The proposed discontinuation of service will have no effect on former customers and landowners because they are all currently receiving service from Austin Water.

**Cost Associated with Achieving Compliance—16 TAC § 24.249(i)(2)**

21. Malone Addition has an approved TCEQ public water system identification number 2270110.
22. All of Malone Addition's facilities have been decommissioned.
23. Malone Addition's former customers are receiving service from Austin Water and are no longer being provided water service from Malone Addition's public water system.
24. There is no need to achieve compliance because Malone Addition has no customers.

**Diligence in Locating Alternative Sources of Water Service—16 TAC § 24.249(i)(3)**

25. All of Malone Addition's former customers are receiving service from Austin Water. As such, there is no need for Malone Addition to locate alternative sources of water service.

**Efforts to Sell Utility—16 TAC § 24.249(i)(4)**

26. Because all of Malone Addition's former customers are receiving service from Austin Water, and because Malone Addition has already decommissioned its facilities, there is no need for Malone Addition to attempt to transfer or sell its service area or facilities

**Asking Price—16 TAC § 24.249(i)(5)**

27. Malone Addition is not transferring or selling its service area or facilities.

**Relationship Between Applicant and Developer—16 TAC § 24.249(i)(6)**

28. There is no relationship between Malone Addition, which began providing service in 2009, and the original developer of the area.

**Availability of Alternative Sources of Water Service—16 TAC § 24.249(i)(7)**

29. Austin Water is providing service to Malone Addition's former customers.

**Feasibility of Obtaining Service from Alternative Sources—16 TAC § 24.249(i)(8)**

30. Because Austin Water is providing service to Malone Addition's former customers, it is not feasible for customers to obtain water service from an alternative source.

**Informal Disposition**

31. More than 15 days have passed since the completion of the notice provided in this docket.
32. Malone Addition and Commission Staff are the only parties to this proceeding.
33. No party requested a hearing and no hearing is needed.
34. Commission Staff recommended that the petition be granted.
35. This decision is not adverse to any party.

**II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. The Commission has authority over this proceeding under TWC §§ 13.041, 13.250, and 13.254.

2. Malone Addition is a retail public utility as defined by TWC § 13.002(19) and 16 TAC § 24.3(31).
3. Notice of the petition complies with TWC § 13.246 and 16 TAC § 24.249(b).
4. The Commission processed the petition as required by the TWC, the Administrative Procedure Act,<sup>1</sup> and Commission rules.
5. After consideration of the factors in 16 TAC § 24.249(i) and TWC §§ 13.250 and 13.254, Malone Addition demonstrated that it meets the criteria to discontinue water service and cancel its CCN number 12534.
6. 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 grants Malone Addition's petition to discontinue water service and cancels Malone Addition's water CCN number 12534, effective the date of this Notice of Approval.
2. Commission Staff must remove Malone Addition's water CCN number 12534 from its online map viewer.
3. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

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<sup>1</sup> Tex. Gov't Code §§ 2001.001–.903.

Signed at Austin, Texas the 18th day of September 2020.

**PUBLIC UTILITY COMMISSION OF TEXAS**

A handwritten signature in black ink, appearing to read 'G. R. Siemankowski', written over a horizontal line.

**GREGORY R. SIEMANKOWSKI**  
**ADMINISTRATIVE LAW JUDGE**