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PETITION BY THE CITY OF
MESQUITE AND TALTY SPECIAL
UTILITY DISTRICT FOR
APPROVAL OF SERVICE AREA
CONTRACT UNDER TEXAS
WATER CODE § 13.248 AND TO
AMEND CERTIFICATES OF
CONVENIENCE AND NECESSITY
IN KAUFMAN COUNTY

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BEFORE THE

PUBLIC UTILITY COMMISSION

OF TEXAS

2020 JUN 17 AM 9:13

JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

COMES NOW, the City of Mesquite (Mesquite), Talty Special Utility District (Talty), and the Staff of the Public Utility Commission of Texas (Staff) (collectively, the Parties), and submit this Joint Motion to Admit Evidence and Proposed Notice of Approval in response to Order No. 5. In support thereof, the Parties show the following:

I. BACKGROUND

Mesquite holds Certificate of Convenience and Necessity (CCN) No. 10060 and Talty holds CCN No. 10850. On February 3, 2020, Mesquite and Talty entered into an Agreement Designating Retail Water Service Territory and Transferring Facilities and Customers. Under the Agreement, Talty has agreed to transfer service area and customers to Mesquite to be effective shortly after Mesquite completes its water line to the area.

On June 15, 2020, Mesquite and Talty filed a petition (Petition) with the Public Utility Commission of Texas (Commission) under Texas Water Code (TWC) § 13.248 and 16 Texas Administrative Code (TAC) § 24.253 for approval of a service area contract and to approve the transfer of customers and service area from Talty to Mesquite.

Order No. 5, issued on February 17, 2021, established a deadline of May 7, 2021 for the parties to the proceeding to file proposed findings of fact, conclusions of law, and ordering paragraphs. Therefore, this pleading is timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

The Parties request the entry of the following into the record of this proceeding:

1. The Petition, filed on June 15, 2020 and June 18, 2020 (AIS Item Nos. 1 and 2);
2. Affidavit of Notice and all attachments, filed on December 21, 2020 (AIS Item No. 12);
3. Commission Staff's Second Supplemental Recommendation on Administrative Completeness, Notice, and Proposed Procedural Schedule, filed on February 12, 2021 (AIS Item No. 13);
4. Mesquite's Executed Consent Form, filed on March 30, 2021 (AIS Item No. 15);
5. Talty's Executed Consent Form, filed on April 1, 2021 (AIS Item No. 16); and
6. Commission Staff's Final Recommendation and supporting documentation, filed on April 23, 2021 (AIS Item No. 17).

III. JOINT PROPOSED NOTICE OF APPROVAL

The Parties have agreed on the attached Joint Proposed Notice of Approval, which would grant the Petition.

IV. CONCLUSION

Talty and Staff have agreed that Mesquite is authorized to file this pleading on their behalf. The Parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence, and that the findings of fact, conclusions of law, and order paragraphs from the attached Joint Proposed Notice of Approval.

Respectfully Submitted,

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By: *Emily W. Rogers*
Emily W. Rogers
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CERTIFICATE OF SERVICE

I certify that a copy of this document was served on the PUC Staff, Justin Adkins at Justin.Adkins@puc.texas.gov, and Talty SUD at Corey Trail at ctrail@taltysud.com via email on May 7, 2021, in accordance with the requirements of 16 Tex. Admin. Code § 22.74 and PUC Orders in Docket No. 50664.

Emily W. Rogers
Emily W. Rogers

PUC DOCKET NO. 50927

PETITION BY THE CITY OF	§	BEFORE THE
MESQUITE AND TALTY SPECIAL	§	
UTILITY DISTRICT FOR	§	
APPROVAL OF SERVICE AREA	§	
CONTRACT UNDER TEXAS	§	PUBLIC UTILITY COMMISSION
WATER CODE § 13.248 AND TO	§	
AMEND CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY	§	
IN KAUFMAN COUNTY	§	OF TEXAS

JOINT PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the petition of the City of Mesquite (Mesquite) and Talty Special Utility District (Talty) for approval of a service area contract under Texas Water Code (TWC) § 13.248 and to amend water certificates of convenience and necessity (CCN) numbers 10060 and 10850. The Commission amends Mesquite's and Talty's CCNs to transfer territory from Talty to Mesquite, and approves the agreement between Mesquite and Talty allocating service areas and customers.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioners

1. Mesquite is a municipality that operates, maintains, and controls facilities for providing water service in Dallas county under water CCN number 10060.
2. Talty is a special utility district formed under chapter 65 of the TWC.
3. Talty operates, maintains, and controls facilities for providing water service in Kaufman county under water CCN number 10850.

Petition

4. On February 3, 2020, Mesquite and Talty entered into an Agreement Designating Retail Water Service Territory and Transferring Facilities and Customers whereby they agreed to transfer 131 acres of the service area, 23 customers, and approximately 6,810 feet of six-inch water line held by Talty under water CCN number 10850 to Mesquite's water CCN number 10060 to be effective shortly after Mesquite completes its water line to the area.

5. On June 15, 2020, Mesquite filed the petition at issue in this proceeding for approval of the service-area contract and to amend their water CCNs to transfer the 131 acres of water service area, 23 customers, and approximately 6,810 feet of six-inch water line held by Talty under water CCN number 10850 to Mesquite's water CCN number 10060.
6. The petition included a copy of the service-area contract executed by Mesquite and Talty.
7. The approximately 131 acres, customer connections, and a portion of water line are currently within Talty's certificated water service area in Kaufman County.
8. In Order No. 5 filed on February 17, 2021, the administrative law judge (ALJ) found the petition administratively complete.

Notice

9. On October 21, 2019, Mesquite's city council considered and approved the service-area contract.
10. On August 19, 2019 and January 27, 2020, Talty 's board of directors considered and approved the service-area contract.
11. The petition included a copy of the agendas and minutes from the relevant city council and board meetings and supporting affidavits from representatives of both petitioners attesting to public notice of the respective meetings.
12. On December 18, 2020, Mesquite mailed notice of the petition and the proposed transfer of territory and customers to the affected customers residing the area that would be transferred from Talty to Mesquite.
13. On December 21, 2020, Mesquite filed the affidavit of Berman Mark Kerby, Special Projects Manager for Mesquite, attesting that notice was provided to Talty 's customers within the affected area on December 18, 2020.
14. In Order No. 5 filed on February 17, 2021, the ALJ found the notice sufficient.

Evidentiary Record

15. On May 7, 2021, the parties filed a joint proposed notice of approval and motion to admit evidence.

16. In Order No. ____ filed on _____, 2021, the ALJ admitted the following evidence into the record of this proceeding: (a) the Petition, filed on June 15, 2020 and June 18, 2020; (b) Affidavit of Notice and all attachments, filed on December 21, 2020; (c) Commission Staff's Second Supplemental Recommendation on Administrative Completeness, Notice, and Proposed Procedural Schedule, filed on February 12, 2021; (f) Mesquite's Executed Consent Form, filed on March 30, 2021; (g) Talty's Executed Consent Form, filed on April 1, 2021; and (h) Commission Staff's Final Recommendation and supporting documentation, filed on April 23, 2021.

Maps and Certificates

17. On March 26, 2021, Commission Staff emailed the proposed map and certificates to Mesquite and Talty.
18. On March 30, 2021, Mesquite filed its consent to the proposed water CCN map and certificates.
19. On April 1, 2021, Talty filed its consent to the proposed water CCN map and certificates.
20. On April 23, 2021, Commission Staff filed a recommendation on final disposition that included the proposed map and certificates as attachments.

Informal Disposition

21. More than 15 days have passed since the completion of the notice provided in this docket.
22. No person filed a protest or motion to intervene.
23. Mesquite, Talty, and Commission Staff are the only parties to this proceeding.
24. No hearing was requested and no hearing is needed.
25. Commission Staff recommended approval of the petition.
26. 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 application under TWC §§ 13.041 and 13.248.

2. Mesquite and the Talty are retail public utilities as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. Under TWC § 13.248, contracts between retail public utilities designating areas to be served by those retail public utilities, when approved by the Commission, are valid and enforceable and incorporated into the affected CCNs.
4. The petition meets the requirements of 16 TAC § 24.253.
5. Notice of the application complies with TWC § 13.248 and 16 TAC § 24.253(c).
6. The Commission processed the application in accordance with the requirements of the Administrative Procedures Act,¹ the TWC, and Commission rules.
7. Mesquite and Talty are each required to record a certified copy of the approved map for the certificate amendment, along with a boundary description of the service area, in the real property records of Kaufman county within 31 days of receiving this Notice of Approval and submit to the Commission evidence of the recording as required by TWC § 13.257(r) and (s).
8. The requirements for informal disposition under 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 service-area contract to the extent provided in this Notice of Approval.
2. The Commission amends City's CCN number 10060, as described in this Notice of Approval and shown on the map attached to this Notice of Approval.
3. The Commission amends Talty's CCN number 10850, as described in this Notice of Approval and shown on the map attached to this Notice of Approval.
4. The Commission approves the map attached to this Notice of Approval.
5. The Commission grants the certificates attached to this Notice of Approval.
6. Mesquite must provide service to every customer and applicant for water service within the approved area under CCN number 10060 that requests water service and meets the terms of City's water service, and such service must be continuous and adequate.

¹ Tex. Gov't Code §§ 2001.001-.903.

7. Talty must provide service to every customer and applicant for water service within the approved area under CCN number 10850 that requests water service and meets the terms for Talty's water service, and such service must be continuous and adequate.
8. Mesquite and Talty must each comply with the recording requirements in 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 45 days after receipt of this Notice of Approval.
9. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the _____ day of May 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE