



Control Number: 51158



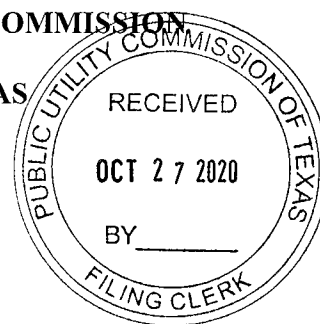
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DOCKET NO. 51158

PETITION OF JOHNSTON & ASSOCIATES, LLP AND FRANK CARVALHO TO AMEND MOUNTAIN PEAK SPECIAL UTILITY DISTRICT'S CERTIFICATE OF CONVENIENCE AND NECESSITY IN JOHNSON COUNTY BY STREAMLINED EXPEDITED RELEASE § § § § § § §

PUBLIC UTILITY COMMISSION OF TEXAS



COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and in response to Order No. 5, files this Recommendation on Final Disposition. Staff recommends that the petition be approved. In support thereof, Staff shows the following:

I. BACKGROUND

On August 11, 2020, Johnston Legal Group and Frank Carvalho (collectively, Petitioners) filed a petition for streamlined expedited release from Mountain Peak Special Utility District's (MPSUD) water Certificate of Convenience and Necessity (CCN) No. 10908 in Johnson County under Texas Water Code § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h) (Petition).¹ The Petitioners assert that the tract of land is at least 25 acres, is not receiving water service, and is in Johnson County, which is a qualifying county.

On September 9, 2020, the administrative law judge (ALJ) filed Order No. 5, finding the amended petition administratively complete, notice sufficient, and requiring Staff to file its recommendation on final disposition by October 27, 2020. Therefore, this pleading is timely filed.

II. STATUTORY APPROVAL DEADLINE

Under TWC § 13.2541(c), the Commission shall grant a petition for streamlined expedited release not later than the 60th day after the date the landowner files the petition. A petition is not

¹ Effective July 2, 2020, 16 TAC § 24.245(f) was re-designated as 16 TAC § 24.245(h).

considered filed until it is deemed administratively complete.² The Petitioners' amended petition was deemed administratively complete in Order No. 5, filed on September 30, 2020. Therefore, the 60-day deadline for administrative approval is November 30, 2020.³

III. FINAL RECOMMENDATION

Staff has reviewed the amended petition and, as detailed in the attached memorandum from Reginald Tuvilla, Infrastructure Division, recommends that the petition be approved. Staff recommends that the petition satisfies the requirements of TWC § 13.2541(b) and 16 TAC § 24.245(h). Specifically, the petition demonstrates that the property for which the Petitioners seek streamlined expedited release is located in a qualifying county (Johnson County), is at least 25 acres in size, is not receiving water service, and is located within MPSUD's water certificated service area. In addition, the Petitioners have provided deeds confirming their ownership of the property.

Accordingly, Staff recommends that the petition for streamlined expedited release be approved. The final water CCN map and certificate are attached to this filing. Staff additionally recommends that the final map and certificate be provided to MPSUD and that MPSUD file a certified copy of the CCN map and a boundary description of the CCN service area in the Johnson County Clerk's office, as required under TWC § 13.257(r)-(s).

IV. CONCLUSION

Staff respectfully requests that the petition be approved and that an order be issued consistent with the foregoing recommendations.

² 16 TAC § 24.8(d) states that applications under subchapter H of chapter 24 are not considered filed until the commission makes a determination that the application is administratively complete, which includes streamlined expedited releases under 16 TAC § 24.245(h).

³ The sixty-day deadline for approval is November 29, 2020. However, November 29 is a Sunday. Therefore, under 16 TAC § 22.4(a), the deadline shifts to the following Monday, November 30, 2020.

Dated: October 27, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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CERTIFICATE OF SERVICE**

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on October 27, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Justin C. Adkins
Justin C. Adkins

Public Utility Commission of Texas

Memorandum

To: Justin Adkins, Attorney
Legal Division

From: Reginald Tuvilla, Infrastructure Analyst
Infrastructure Division

Date: October 27, 2020

Subject: **Docket No. 51158:** *Petition of Johnston & Associates, LLP and Frank Carvalho to Amend Mountain Peak Special Utility District's Certificate of Convenience and Necessity in Johnson County by Streamlined Expedited Release*

On August 11, 2020, Johnston & Associates, LLP and Frank Carvalho (collectively, Petitioners) filed a petition for streamlined expedited release from Mountain Peak Special Utility District's (MPSUD) water Certificate of Convenience And Necessity (CCN) No. 10908 in Johnson County, under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h). The Petitioners assert that the tract of land is at least 25 contiguous acres, is not receiving water service, and is located in Johnson County, which is a qualifying county.

The Petitioners submitted adequate maps delineating the requested area for expedited release with enough detail to confirm the accurate positioning of its digital data pursuant to 16 TAC § 24.245(k). The map and digital data are sufficient for determining the locations of the requested release areas within MPSUD's certificated area. Mapping Staff was able to confirm the acreage of the subject property and determined that the requested areas are located within MPSUD's water CCN. Furthermore, the Petitioners provided warranty deeds confirming the Petitioners' ownership of the tracts of land within MPSUD's certificated area. In addition, the Petitioners submitted a sworn affidavit attesting that the property is not receiving water service from the CCN holder. The area being requested for expedited release is approximately 59 acres.

On August 19, 2020, MPSUD filed a request to intervene, which was granted by the Administrative Law Judge on September 1, 2020.

In accordance with TWC § 13.2541 and 16 TAC § 24.245(h), the Petitioners have met the Commission's requirements to allow for the release of the requested area from MPSUD's CCN No. 10908. Therefore, Staff recommends approval of the petition. Enclosed is a final map and certificate for Commission approval.

Additionally, Staff recommends that a final map and certificate be provided to MPSUD. Pursuant to TWC §§ 13.257 (r)-(s), Staff further recommends that MPSUD file the following information in the Johnson County Clerk's office: (1) a certified copy of the CCN map; (2) a certified copy of the amended certificate; and (3) a boundary description of the CCN service area.