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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 PUBLIC UTILITY COMMISSION FILING CLERK

NOTICE OF APPROVAL MAKING A DETERMINATION ON COMPENSATION

In this Notice of Approval the Commission determines, for the streamlined expedited release granted in this docket, that Johnston & Associates, LLP and Frank Carvalho owe compensation, in the amount filed under confidential seal on March 10, 2021, to Mountain Peak Special Utility District under Texas Water Code (TWC) § 13.2541. The Commission previously granted streamlined expedited release and removed a tract of land from Mountain Peak's service area under water convenience and necessity (CCN) number 10908.¹ The Commission's determination on compensation is based on an agreement between the petitioners and the CCN holder.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioners

- 1. Johnston & Associates is a Texas limited liability partnership registered with the Texas secretary of state under filing number 803850088.
2. Mr. Carvalho is an individual.

CCN Holder

- 3. Mountain Peak is a special utility district operating under TWC chapter 65.
4. Mountain Peak holds CCN number 10908 that obligates it to provide retail water service in its certificated service area in Johnson County and other surrounding counties.

1 Order (Jan. 29, 2021).

Petition

5. On August 11, 2020, the petitioners filed a petition for streamlined expedited release of a tract of land from the CCN holder's service area under CCN number 10908.
6. On January 29, 2021, the Commission granted the petition and released the petitioners' tract of land from the CCN holder's certificated service area.
7. In Order No. 5 filed on September 30, 2020, the administrative law judge stated that, if streamlined expedited release was granted, this docket would continue for the purpose of determining compensation and set a schedule for making that determination.

Appraisers and Appraisals

8. No appraisers are needed to determine compensation in this docket because of the agreement between the petitioners and the CCN holder.

Compensation

9. On March 8, 2021, the petitioners and the CCN holder made a joint filing indicating that they had reached an agreement on the amount of compensation the petitioners owed the CCN holder for the release and that the petitioners had already paid the agreed-upon amount to the CCN holder.
10. On March 10, 2021, the petitioners and the CCN holder filed a joint response in which they stated, confidentially, the agreed-upon compensation amount.
11. The petitioners and the CCN holder have agreed that compensation, in the amount filed under confidential seal, was paid to the CCN holder as just and adequate compensation for the streamlined expedited release.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority to determine the amount of compensation to be awarded after granting streamlined expedited release under TWC §§ 13.254 and 13.2541.
2. No notice is required to determine the amount of compensation.
3. No opportunity for a hearing to determine compensation for streamlined expedited release is provided under TWC § 13.2541 or 16 Texas Administrative Code (TAC) § 24.245(h)(7).

4. The determination on compensation under TWC § 13.2541 and 16 TAC § 24.245(i) is not a contested case.
5. Under 16 TAC § 24.245(i)(1), if the former CCN holder and landowner agree on the amount of compensation to be paid, they may forego the appraisal process and make a joint filing with the Commission stating the amount of the compensation to be paid.
6. The amount of compensation, agreed to by the petitioners and CCN holder, is just and adequate compensation for the release under TWC § 13.2541.
7. The Commission processed the petition in accordance with the TWC and Commission rules.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The petitioners must pay to the CCN holder compensation in the amount filed under seal, within 90 days from the date of this Notice of Approval.²
2. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas the 26 day of March 2021.

PUBLIC UTILITY COMMISSION OF TEXAS



**KATIE MOORE MARX
ADMINISTRATIVE LAW JUDGE**

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² This implements the payment deadline mandated by 16 TAC § 24.245(i)(6). The parties have stated that the compensation amount has already been paid.