



Control Number: 51158



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DOCKET NO. 51158

**PETITION OF JOHNSTON LEGAL
GROUP 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 ADMINISTRATIVE
COMPLETENESS AND NOTICE**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and in response to Order No. 1, files this Recommendation on Administrative Completeness and Notice. Staff recommends that the petition be deemed administratively complete. In support thereof, Staff respectfully shows the following:

I. BACKGROUND

On August 11, 2020, Johnston Legal Group (Johnston) and Frank Carvalho (Carvalho) (collectively, Petitioners) filed a petition for streamlined expedited release to amend 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 and 16 Texas Administrative Code (TAC) § 24.245(h) (Petition). 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.

On August 12, 2020, the Administrative Law Judge (ALJ) issued Order No. 1, setting a deadline of September 10, 2020 for Staff to comment on the administrative completeness of the petition and notice. Consequently, this pleading is timely filed.

II. ADMINISTRATIVE COMPLETENESS

As detailed in the attached memorandum from Reginald Tuvilla of the Commission's Infrastructure Division, Staff has reviewed the Petition and supporting documentation and recommends that it be found administratively complete. This recommendation does not address the merits of the application.

III. NOTICE

Under 16 TAC § 24.245(h)(3)(F), the landowner must provide proof that a copy of the Petition has been mailed to the current CCN holder via certified mail on the day that the landowner submits the Petition with the Commission. Petitioners assert that a copy of the Petition was mailed to the CCN holder, MPSUD, by certified mail on the day the Petition was filed with the Commission. Petitioners have attached a letter addressed to MPSUD enclosing the Petition and a Certified Mail Receipt as Exhibit C to the Petition. Petitioners have also included affidavits attesting to this provision of notice to MPSUD. Accordingly, Staff recommends that the notice be found sufficient.

IV. PROCEDURAL SCHEDULE

In accordance with Staff's administrative completeness recommendation, Staff proposes that the below procedural schedule be adopted for use in this proceeding. Under 16 TAC § 24.245(h)(7), there is an expedited statutory deadline of 60 days for approval that begins once the ALJ issues an order finding a petition administratively complete. Therefore, Staff requests that the ALJ populate the following deadlines accordingly when the ALJ issues that order.

Event	Date
Order regarding administrative completeness of the Petition	Date of Order
Deadline for MPSUD and/or other intervenors to file a response to the administratively complete Petition	Seven (7) days from date of the Order deeming the Petition administratively complete
Deadline for Staff's recommendation on final disposition	Seven (7) days from the deadline for MPSUD and/or intervenors to file a response
Deadline for Petitioners to file a reply to both MPSUD's response and Staff's recommendation on final disposition ¹	Seven (7) days from the deadline for Staff to file its final recommendation
Sixty (60) day administrative approval	Sixty (60) days from the Order deeming the Petition administratively complete

¹ Staff notes that such a reply must be limited to briefing and argument. Submission of any additional proof will be deemed a new petition.

V. REQUEST TO RESTYLE THE DOCKET

Staff requests to restyle the docket to *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*. Although the Petition names Johnston Legal Group as co-petitioner, one of the two warranty deeds included in Exhibit A lists Johnston & Associates, LLP as the grantee of the property to be released and the affidavit of Michael Johnston included in Exhibit D states that Johnston & Associates, LLP is the co-owner of the property. Accordingly, Staff requests a restyling to correctly identify Johnston & Associates, LLP as the co-petitioner.

VI. CONCLUSION

Staff respectfully requests the issuance of an order consistent with the foregoing recommendation.

Dated: September 10, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

Eleanor D'Ambrosio
Managing Attorney

/s/ Justin C. Adkins

Justin C. Adkins
State Bar No. 24101070
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7289
(512) 936-7268 (facsimile)
Justin.Adkins@puc.texas.gov

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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 September 10, 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: September 10, 2020

Subject: **Docket No. 51158:** *Petition of Johnston Legal Group 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 Legal Group and Frank Carvalho (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). Petitioners assert that the land is at least 25 contiguous acres, is not receiving water service, and is located in Johnson County, which is a qualifying county.

Petitioners provided documentation, including a sworn affidavit attesting that the property was not receiving water services from MPSUD and a warranty deed confirming Petitioners' co-ownership of the tract of land. In addition, Petitioners submitted sufficient maps and digital data for determining the location of the requested release area within MPSUD's certificated service area. Mapping Staff was able to confirm the tract of land is approximately 59 acres.

The petition also includes a statement indicating a copy of the petition was sent via certified mail to MPSUD on the date the petition was filed with the Commission.

Staff has reviewed the information provided by Petitioners and recommends the petition be deemed administratively complete and accepted for filing.