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**DOCKET NO. 51610**

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**APPLICATION OF MARKOUT WATER §  
SUPPLY CORPORATION AND THE §  
CITY OF MESQUITE FOR SALE, §  
TRANSFER, OR MERGER OF §  
FACILITIES AND CERTIFICATE §  
RIGHTS IN KAUFMAN COUNTY §**

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**ORDER NO. 6  
APPROVING SALE AND TRANSFER TO PROCEED**

This Order addresses the application of Markout Water Supply Corporation and the City of Mesquite for the sale, transfer, or merger of facilities and certificate rights in Kaufman County. The applicants seek to transfer the facilities, customers, and water service area held by Markout under certificate of convenience and necessity (CCN) number 10846 to Mesquite, the cancellation of Markout’s CCN number 10846, and the amendment of Mesquite’s CCN number 10060 to include the facilities and area previously included in Markout’s CCN number 10846. The administrative law judge (ALJ) grants that the sale is approved and the transaction between Markout and Mesquite may proceed and be consummated.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicants**

1. Markout is a Texas non-profit corporation registered with the Texas secretary of state under filing number 21370901.
2. Markout operates, maintains, and controls facilities for providing retail water utility service under CCN number 10846 in Kaufman County.
3. Markout owns and operates a public water system that is registered with the Texas Commission on Environmental Quality (TCEQ) under identification number 1290019.
4. Mesquite is a municipality located in Kaufman County.
5. Mesquite operates, maintains, and controls facilities for providing retail water service under CCN number 10060 in Dallas and Kaufman counties.

6. Mesquite owns and operates a public water system that is registered with the TCEQ under public water system identification number 0570014.

**Application**

7. On December 10, 2020, Markout and Mesquite filed the application at issue in this proceeding.
8. The applicants filed supplemental information on December 17, 2020.
9. The applicants filed updated maps and digital data on January 4, 2021.
10. The applicants seek approval of the following: (1) to sell and transfer all of Markout's water facilities and service area under CCN number 10846 to Mesquite; (2) the cancellation of Markout's CCN number 10846; and (3) the amendment of Mesquite's CCN number 10060 to include the water facilities and service area previously included in Markout's CCN number 10846.
11. The requested area is located approximately 1.5 miles south of downtown Forney and is generally bounded on the north by the intersection of South Bois D'Arc Street and Farm-to-Market Road 741 (also known as College Avenue), on the east by High Country Lane, on the south by U.S. Highway 175, and on the west by Lawson Road and the Dallas-Kaufman county line.
12. The requested area includes 6,279 acres and 1,081 customers.
13. In Order No. 2 filed on January 13, 2021, the ALJ found the application administratively complete.

**Notice**

14. On January 29, 2021, Mesquite filed the affidavit of Mark Kerby, special projects director of Mesquite, attesting that notice was provided to current customers, cities, districts, neighboring retail public utilities, county offices, and affected parties on January 27, 2021.
15. In Order No. 3 filed on February 25, 2021, the ALJ found the notice sufficient.

**Evidentiary Record**

16. On May 27, 2021, the parties filed a joint motion to admit evidence.

17. In Corrected Order No. 5 filed on June 23, 2021, the ALJ admitted the following evidence into the record of this proceeding: (a) the application and all attachments filed on December 10, 2020; (b) supplemental information filed on December 17, 2020; (c) the applicants' updated maps and digital data filed on January 4, 2021; (d) the applicants' proof of notice and supporting documentation filed on January 29, 2021; (e) Mesquite's response to Commission Staff's first request for information filed on February 3, 2021; (f) Mesquite's response to Commission Staff's first request for information to Markout filed on February 3, 2021; and (g) Commission Staff's final recommendation on approval of the sale filed on March 26, 2021.

#### **System Compliance**

18. Mesquite has not been subject to any enforcement action by the Commission, the TCEQ, the Texas Department of State Health Services, the Office of the Attorney General of Texas, or the United States Environmental Protection Agency in the past five years for non-compliance with rules, orders, or state statutes.
19. Mesquite does not have any outstanding violations listed in the TCEQ database.
20. There is no evidence that Mesquite has a history of continuing mismanagement or misuse of revenues as a utility service provider.
21. Mesquite demonstrated a compliance status that is adequate for approval of the application.

#### **Adequacy of Existing Service**

22. Markout's public water system is registered with the TCEQ and is currently operating in compliance with TCEQ requirements.
23. Markout is providing service in its certificated area and such service has been continuous and adequate.
24. No additional construction is necessary for Mesquite to serve the requested area.
25. Mesquite will be interconnecting its public water system to Markout's facilities to fully integrate the requested area into Mesquite's public water system.

#### **Need for Additional Service**

26. There is a continuing need for service because Markout is currently providing service to 1,081 existing customers in the requested area.

27. There is no evidence in the record indicating a need for additional service.

**Effect of Approving the Transaction and Granting the Amendments**

28. After completing the transaction, Mesquite will continue serving the existing customers and provide service to future customers in the requested area.

29. There will be no effect on landowners in the requested area because the area is currently certificated.

30. All retail public utilities in the surrounding area were provided notice of the application and none of them filed protests or moved to intervene.

31. There will be no effect on any retail public utility servicing the proximate area.

**Ability to Serve: Managerial and Technical**

32. Mesquite provides service to over 55,000 existing customers in its certificated area.

33. Mesquite's public water system is registered with the TCEQ under identification number 0570014.

34. Mesquite does not have any outstanding violations listed in the TCEQ database.

35. Mesquite has 19 water utility operators and maintains a staff of 11 customer service representatives to assist customers with any water service and billing issues.

36. Mesquite receives treated water from the North Texas Municipal Water District in accordance with Mesquite's wholesale water supply contract with the district.

37. Mesquite owns and operates over 600 miles of water transmission and distribution lines, three pump stations, and 34 million gallons of ground and elevated storage.

38. Mesquite has a superior water system rating and compliance history.

39. Mesquite has access to an adequate supply of water and its public water system is capable of providing drinking water that meets the requirements of chapter 341 of the Texas Health and Safety Code, the Texas Water Code (TWC), and the TCEQ's rules.

40. Mesquite has the managerial and technical ability to provide continuous and adequate service to the requested area.

**Ability to Serve: Financial Ability and Stability**

41. Mesquite has a debt to equity ratio that is less than one, satisfying the leverage test.
42. Mesquite has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations following the completion of the transaction, satisfying the operations test.
43. Mesquite has the financial ability and stability to provide continuous and adequate service to the requested area.

**Financial Assurance**

44. There is no need to require Mesquite to provide a bond or other financial assurance to ensure continuous and adequate service to the requested area.

**Feasibility of Obtaining Service from Adjacent Retail Public Utility**

45. Notice was provided to neighboring retail public utilities and no protests or adverse comments were received.
46. It is not feasible for another adjacent retail public utility to provide service to the requested area because Markout already provides service to the requested area through existing facilities, which will be interconnected with Mesquite's.

**Environmental Integrity and Effect on the Land**

47. Environmental integrity and the land will be minimally affected when the interconnection is installed.

**Improvement in Service or Lowering Cost to Consumers**

48. Mesquite will continue to provide water service to existing customers in the requested area with no change in quality of service to customers.
49. Mesquite expects customers in the requested area to pay lower rates after Markout's customers are fully integrated into Mesquite's water system.

**Regionalization or Consolidation**

50. Because Mesquite will not need to construct a physically separate water system to serve the requested area, it is not necessary to consider issues of regionalization or consolidation.

## II. Conclusions of Law

The Commission makes the following conclusions of law.

1. Notice of the application was provided in compliance with TWC §§ 13.246 and 13.301(a)(2) and 16 Texas Administrative Code (TAC) § 24.239(c).
2. After consideration of the factors in TWC § 13.246(c), Mesquite demonstrated adequate financial, managerial, and technical capability to provide adequate and continuous service to the requested area as required by TWC § 13.301(b) and 16 TAC § 24.239.
3. Markout and Mesquite demonstrated that the sale and transfer of the water facilities and service area under CCN number 10846 from Markout to Mesquite will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.301(d) and (e).

## III. Ordering Paragraphs

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

1. The sale is approved and the transaction between Markout and Mesquite may proceed and be consummated.
2. As soon as possible after the effective date of the transaction, but not later than 30 days after the effective date, the applicants must file proof that the transaction has been consummated and customer deposits, if any, have been addressed.
3. Markout and Mesquite have 180 days to complete the transaction.
4. Under 16 TAC § 29.239(m), if the transaction is not consummated within this period, or an extension has not been granted, this approval is void and Markout and Mesquite will have to reapply for approval.
5. Markout and Mesquite are advised that the requested area will remain under water CCN number 10846 and be held by Markout until the sale and transfer transaction is completed in accordance with the Commission's rules.

6. In an effort to finalize this case as soon as possible, the applicants must continue to file monthly updates regarding the status of the closing and submit documents evidencing that the transaction was consummated.
7. Within 15 days following the filing of the applicants' proof that the transaction has been consummated and customer deposits, if any, have been addressed, Commission Staff must file a recommendation regarding the sufficiency of the documents and propose a schedule for continued processing of this docket.

**Signed at Austin, Texas the 23<sup>rd</sup> day of June 2021.**

**PUBLIC UTILITY COMMISSION OF TEXAS**



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**ISAAC TA  
ADMINISTRATIVE LAW JUDGE**