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DOCKET NO. 51610

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

NOTICE OF APPROVAL

This Notice of Approval 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 Commission approves the transfer of the facilities, customers, and 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.

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. In the application, 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 administrative law judge (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.

18. On November 19, 2021, the applicants and Commission Staff filed a joint motion to admit evidence.
19. In Order No. 9 filed on December 1, 2021, the ALJ admitted the following supplemental evidence into the record of this proceeding: (a) Mesquite's notice of completed transaction filed on August 20, 2021; (b) Commission Staff's recommendation on closing documents filed on September 15, 2021; (c) the affidavit of Mark Kerby regarding returned membership fees filed on September 22, 2021; (d) Commission Staff's supplemental recommendation on sufficiency of the closing documents filed on October 15, 2021; (e) Mesquite's consent form filed on November 4, 2021; (f) Markout's consent form filed on November 4, 2021; and (g) the proposed final map and certificate attached to the joint motion to admit evidence and proposed notice of approval filed on November 19, 2021.

Sale

20. In Order No. 6 filed on June 23, 2021, the ALJ approved the sale and transaction to proceed and required the applicants to file proof that the transaction had closed.
21. On August 20, 2021, the applicants filed proof that the sale and transfer was consummated on August 16, 2021, and confirmed that there were no outstanding customer deposits that needed to be addressed.
22. On September 22, 2021, Mesquite filed the affidavit of Mr. Kerby attesting that the membership fees of Markout's members had been returned.
23. In Order No. 8 filed on October 18, 2021, the ALJ found the closing documents sufficient.

System Compliance

24. 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.

25. Mesquite does not have any outstanding violations listed in the TCEQ database.
26. There is no evidence that Mesquite has a history of continuing mismanagement or misuse of revenues as a utility service provider.
27. Mesquite demonstrated a compliance status that is adequate for approval of the application.

Adequacy of Existing Service

28. Markout's public water system is registered with the TCEQ and is currently operating in compliance with TCEQ requirements.
29. Markout is providing service in its certificated area and such service has been continuous and adequate.
30. No additional construction is necessary for Mesquite to serve the requested area.
31. 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

32. There is a continuing need for service because Markout is currently providing service to 1,081 existing customers in the requested area.
33. There is no evidence in the record indicating a need for additional service.

Effect of Approving the Transaction and Granting the Amendment

34. After completing the transaction, Mesquite will continue serving the existing customers and provide service to future customers in the requested area.
35. There will be no effect on landowners in the requested area because the area is currently certificated.
36. All retail public utilities in the surrounding area were provided notice of the application and none of them filed protests or moved to intervene in this proceeding.
37. There will be no effect on any retail public utility servicing the proximate area.

Ability to Serve: Managerial and Technical

38. Mesquite provides service to over 55,000 existing customers in its certificated area.
39. Mesquite's public water system is registered with the TCEQ under identification number 0570014.
40. Mesquite does not have any outstanding violations listed in the TCEQ database.
41. 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.
42. Mesquite receives treated water from the North Texas Municipal Water District in accordance with Mesquite's wholesale water supply contract with the district.
43. 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.
44. Mesquite has a superior water system rating and compliance history.
45. 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.
46. Mesquite has the managerial and technical ability to provide continuous and adequate service to the requested area.

Ability to Serve: Financial Ability and Stability

47. Mesquite has a debt-to-equity ratio that is less than one, satisfying the leverage test.
48. 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.
49. Mesquite has the financial ability and stability to pay for the facilities necessary to provide continuous and adequate service to the requested area.

Financial Assurance

50. 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.

Regionalization or Consolidation

51. 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.

Feasibility of Obtaining Service from Additional Retail Public Utility

52. Notice was provided to neighboring retail public utilities and no protests or adverse comments were received.

53. 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

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

Improvement in Service or Lowering of Cost to Consumers

55. Mesquite will continue to provide water service to existing customers in the requested area with no change in quality of service to customers.

56. Mesquite expects customers in the requested area to pay lower rates after Markout's customers are fully integrated into Mesquite's water system.

Map and Certificate

57. On October 29, 2021, the Commission Staff emailed Mesquite and Markout the final proposed map and certificate related to this docket.

58. On November 4, 2021, Mesquite and Markout filed their consent forms concurring with the final proposed map and certificate.

59. On November 19, 2021, the proposed final map and certificate were filed as attachments to the joint supplemental motion to admit evidence and proposed notice of approval.

Informal Disposition

60. More than 15 days have passed since the completion of the notice provided in this docket.

61. No person filed a protest or motion to intervene.

62. Mesquite, Markout, and Commission Staff are the only parties to this proceeding.

63. No party requested a hearing and no hearing is needed.
64. Commission Staff recommended approval of the application.
65. 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 proceeding under TWC §§ 13.041, 13.241, 13.242, 13.244, 13.246, 13.251, 13.254, and 13.301.
2. Mesquite and Markout are retail public utilities as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. Mesquite and Markout's application meets the requirements of TWC § 13.244 and 16 TAC § 24.233.
4. The applicants provided notice of the application that complies with TWC §§ 13.246(a) and 13.301(a)(2) and 16 TAC §§ 24.235 and 24.239(a) through (c).
5. The Commission processed this application as required by the TWC, the Administrative Procedure Act,¹ and Commission rules.
6. Mesquite and Markout completed the sale and transfer within the time required by 16 TAC § 24.239(m).
7. The applicants complied with the requirements of 16 TAC § 24.239(k) with respect to customer deposits.
8. After consideration of the factors in TWC § 13.246(c), Mesquite demonstrated it is capable of rendering continuous and adequate service to every customer within requested area, as required by TWC § 13.251.
9. Mesquite demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area as addressed in TWC §§ 13.241(a) and 13.301(b).

¹ Tex. Gov't Code §§ 2001.001–.903.

10. It is not necessary for Mesquite to provide a bond or other financial assurance under TWC §§ 13.246(d) and 13.301(c).
11. Markout and Mesquite demonstrated that the transfer of Markout's water facilities and service area under CCN number 10846 to Mesquite, the cancellation of Markout's CCN number 10846, and the amendment of Mesquite's water CCN number 10060 will serve the public interest and is necessary for the continued service, accommodation, convenience, and safety of the public, as required by TWC §§ 13.246(b) and 13.301(d) and (e).
12. Under TWC § 13.257(r) and (s), Mesquite must record a certified copy of the approved map and certificate, along with a boundary description of the service area, in the real property records of Kaufman County within 31 days of this Notice of Approval and submit evidence of the recording to the Commission.
13. 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 sale and the transfer of all of Markout's facilities, customers, and service area under CCN number 10846 to Mesquite, as described in this Notice of Approval and as shown on the attached map.
2. The Commission amends Mesquite's CCN number 10060 to include the facilities and area previously included in Markout's CCN number 10846, as described in this Notice of Approval and as shown on the attached map.
3. The Commission approves the cancellation of Markout's CCN number 10846.
4. The Commission approves the map attached to this Notice of Approval.
5. The Commission issues the certificate attached to this Notice of Approval.
6. Mesquite must provide service to every customer or qualified applicant for service within the approved area under CCN number 10060 that requests service and meets the terms of Mesquite's water service, and such service must be continuous and adequate.

7. Mesquite must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Kaufman County affected by the application and file in this docket proof of the recording no later than 45 days after receipt of the Notice of Approval.
8. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 3rd day of December 2021.









PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read 'Isaac Ta', written over a horizontal line.


**ISAAC TA
ADMINISTRATIVE LAW JUDGE**

City of Mesquite
 Portion of Water CCN No. 10060
 PUC Docket No. 51610
 Transferred all of
 Markout Water Supply Corporation, CCN No. 10846
 in Kaufman County


Water CCN

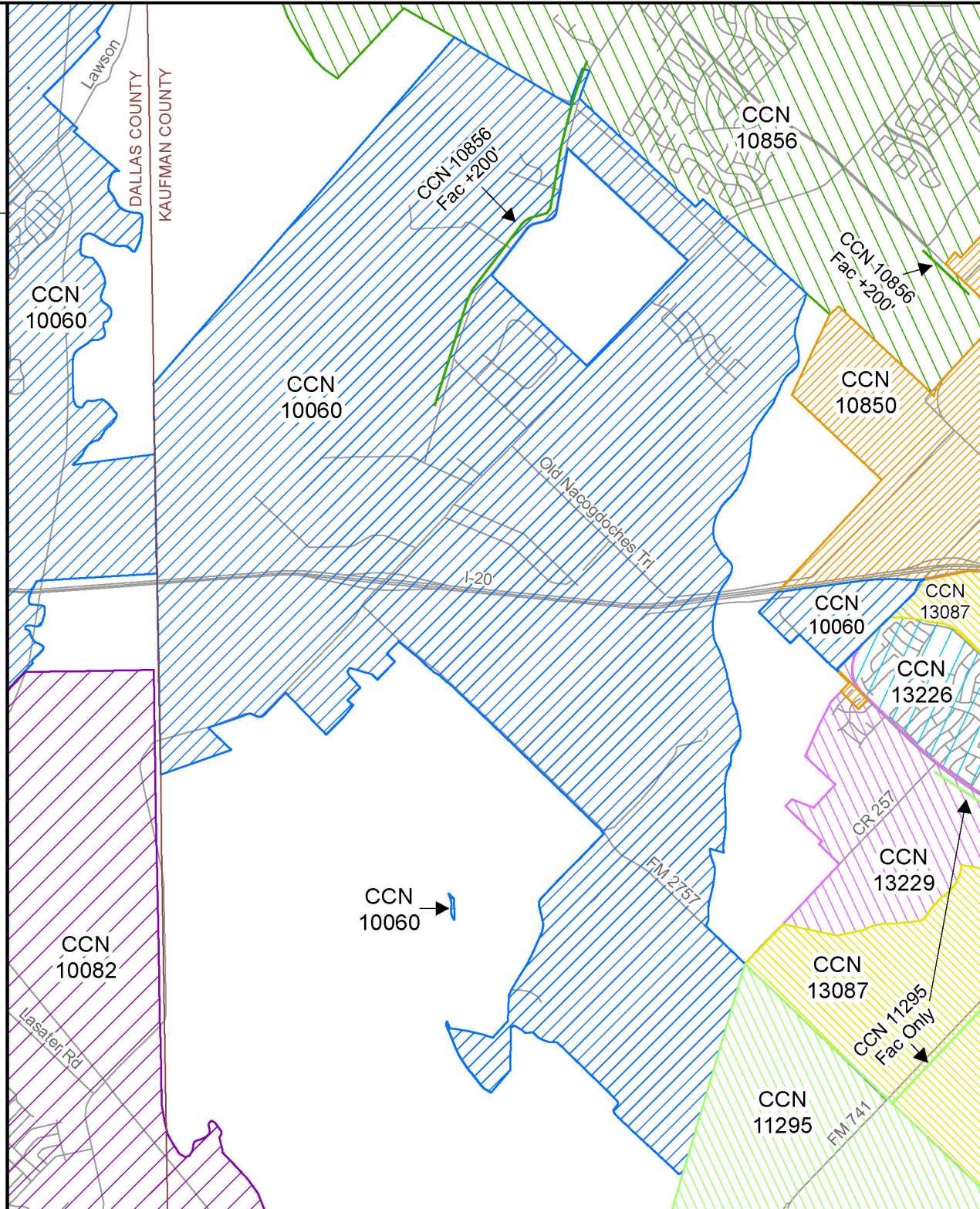
-  10060 - City of Mesquite
-  10856 - City of Forney
-  10850 - Talty SUD
-  13087 - Kaufman Co MUD 12
-  13226 - Kaufman Co MUD 11
-  13229 - Kaufman Co MUD 14
-  11295 - City of Crandall
-  10082 - City of Seagoville

Water CCN Facilities +200'

-  10856 - City of Forney

Water CCN Facility Only

-  11295 - City of Crandall



Map by: Komal Patel
 Date: October 4, 2021
 Project: 51610CityofMesquite.mxd





Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Mesquite

having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Mesquite is entitled to this

Certificate of Convenience and Necessity No. 10060

to provide continuous and adequate water utility service to that service area or those service areas in Dallas and Kaufman Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 51610 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of Mesquite to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.