



## Filing Receipt

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**PUC DOCKET NO. 51710**

<b>PETITION BY HONEYCREEK</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>VENETIAN, LLC FOR STREAMLINED</b>	<b>§</b>	
<b>EXPEDITED RELEASE FROM WATER</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CCN NO. 12330 HELD BY WESTON</b>	<b>§</b>	
<b>WATER SUPPLY CORPORATION</b>	<b>§</b>	

**HONEYCREEK VENETIAN, LLC’S REPLY TO WESTON WSC’S  
RESPONSE TO MOTION TO WITHDRAW**

COMES NOW, Honeycreek Venetian, LLC (“Honeycreek”) and files this reply to Weston Water Supply Corporation’s (“Weston WSC”) Response to Motion to Withdraw filed with the Public Utility Commission on August 5, 2022. In support, Honeycreek shows as follows.

**I. OVERVIEW**

On January 13, 2021, Honeycreek filed a Petition for Streamlined Expedited Release (the “Petition”), seeking to decertify approximately 324 acres of real property in Collin County (the “Property”) from Weston WSC’s certificate of convenience and necessity (“CCN”) No. 12330. Honeycreek filed supplemental information on February 1, 2021 and March 12, 2021. The Petition included an affidavit from Steve Lenart, the Development Manager for Honeycreek, attesting, among other things, that Honeycreek never requested water service from Weston WSC, the tract is not receiving water service from Weston WSC, Honeycreek has never paid Weston WSC anything to initiate or maintain water service, and there are no billing records or other documents evidencing an existing account between Weston WSC and Honeycreek for the Property.<sup>1</sup>

On February 5, 2021, Weston WSC filed a Motion to Intervene and on February 23, 2021, the Administrative Law Judge (ALJ) filed Order No. 3 granting the Motion to Intervene.

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<sup>1</sup> Petition at Exhibit A, Affidavit of Steve Lenart (Jan. 11, 2021).

The Commission Staff filed its First Request for Information (“First RFI”) to Honeycreek and Weston WSC on March 3, 2021. On March 18, 2021 Honeycreek filed its response to the First RFI from Commission Staff. Weston WSC filed its Response to Petition and Motion to Dismiss (“Weston WSC’s Response”) on May 5, 2021. In Weston WSC’s Response, Weston WSC included an affidavit from Tony Del Plato, the Board of Directors President for Weston WSC. Mr. Del Plato asserts that the Property is receiving service based on the allegations that (1) Weston WSC has a six inch (6”) water line located *within* the Property; (2) Weston WSC has facilities *near* the Property; (3) Weston WSC investigated capacity and signed a contract with the *prior owner* of the Property; (4) the establishment of a past account by a *tenant* of the *prior owner* for a meter that was terminated and *removed* from the Property; and (5) Weston WSC has incurred federal debt to construct facilities.<sup>2</sup>

On May 19, 2021, Commission Staff filed its Recommendation on Final Disposition in which Commission Staff recommended approval of the petition. On May 26, 2021, Weston WSC filed its Response to Commission Staff’s Recommendation on Final Disposition. A proposed order was issued on June 18, 2021 and a revised proposed order was filed on February 16, 2022. The revised proposed order recommended approval of the petition.

## **I. ARGUMENTS AND AUTHORITIES**

### **A. Proposed Order Does Not Prevent Withdrawal Without Prejudice**

Weston WSC’s first argument that the petition may not be withdrawn “without prejudice” based on the fact that a proposed order has been issued is without merit. The Commission has allowed applicants to withdraw an application “without prejudice” after proposed orders have been filed in the docket. On June 3, 2022, the Commission allowed a withdrawal “without

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<sup>2</sup> Weston WSC’s Response to Petition and Motion to Dismiss at Exhibit A, Affidavit of Tony Del Plato (May 4, 2021).

prejudice” after a proposed order was issued.<sup>3</sup> Thus, Commission precedent does not agree with Weston WSC’s first argument that a petition is not allowed to be withdrawn “without prejudice” after a proposed order.

## **B. Federal Case Does Not Impact Ability to Withdraw**

Upon exhausting all arguments with the Commission to no avail, Weston WSC decided to file a federal lawsuit to delay Honeycreek from moving forward with Honeycreek’s development. Weston WSC’s second argument is that the petition should not be allowed to be withdrawn “without prejudice” due to the ongoing federal case. Commission precedent has established that the Commission can’t consider federal debt when considering whether to approve or deny a petition for streamlined expedited release. Therefore, Honeycreek does not know how Weston WSC has determined that a federal case should have any impact or consideration on a motion to withdraw an application. The federal case that Weston WSC is relying on has absolutely no impact whatsoever on the Commission’s ability to allow the petitioner to withdraw the application “without prejudice.”

## **III. CONCLUSION AND PRAYER**

For all the reasons discussed herein, Honeycreek respectfully requests the Commission issue an Order Granting Withdrawal “Without Prejudice” and Closing the Docket.

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<sup>3</sup> See *Petition of E Real Estate, LLC to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release (Mesquaque Ranch)*, Docket No. 52536, Order No. 6

Respectfully submitted,

WINSTEAD PC

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**ATTORNEY FOR PETITIONER**

**CERTIFICATE OF SERVICE**

I hereby 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 August 15, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664

/s/ Scott W. Eidman  
Scott W. Eidman