

Control Number: 46078



Item Number: 20

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PETITION OF MONTERREY OAKS, LTD §  
TO AMEND THE CITY OF §  
SPLENDORA'S CERTIFICATE OF §  
CONVENIENCE AND NECESSITY IN §  
MONTGOMERY COUNTY BY §  
EXPEDITED RELEASE §

PUBLIC UTILITY COMMISSION

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**COMMISSION STAFF'S CORRECTIONS TO THE PROPOSED ORDER**

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Commission Staff's Corrections to the Proposed Order. In support thereof, Staff shows the following:

**I. BACKGROUND**

On September 16, 2016, the Administrative Law Judge (ALJ) issued the Proposed Order for the Commission's consideration at the October 7, 2016 open meeting. The Proposed Order directed parties to file corrections or exceptions to the Proposed Order on or before September 29, 2016. Therefore, this pleading is timely filed.

**II. STAFF'S CORRECTIONS**

In the Proposed Order, Findings of Fact Nos. 18 and 19 refer to "sewer service." Staff believes these references were intended to be to "water service." Accordingly, Staff proposes the following corrections:

**New Findings of Fact:**

- 18. The 102.291-acre tract is not receiving water service from Splendora as that term has been defined by the courts.
- 19. The 102.291-acre tract is not receiving actual water service from Splendora.

Additionally, Ordering Paragraph No. 2 states that Monterrey Oaks, Ltd's (Monterrey Oaks') 102.291 acre tract is removed from the City of Splendora's (Splendora's) water certificate of convenience and necessity (CCN) No. 11727. The Commission has held that only property that

is located within a CCN territory may be released from that CCN.<sup>1</sup> While Monterrey Oaks owns approximately 102.291 acres of land, it is not all located within Splendora's water CCN No. 11727. Only the portion of Monterrey Oaks' property that is located within Splendora's CCN No. 11727 territory, 98 acres,<sup>2</sup> is eligible for release from CCN No. 11727.

Accordingly, Staff proposes the following correction:

**New Ordering Paragraph:**

2. Monterrey Oak Ltd.'s property located within Splendora's certificated service area under certificate number 11727 is removed from Splendora's CCN No. 11727.

### III. CONCLUSION

For the above stated reasons, Staff respectfully requests that the Commission adopt the above proposed language.

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<sup>1</sup> See Commissioner Anderson's Memorandum, *Petition of SLF IV – 114 Assemblage, LP to Amend Aqua Texas, Inc.'s Certificate of Convenience and Necessity in Denton County by Expedited Release*, Docket No. 44667 (Sept. 10, 2015) ("Finally, it is not appropriate for the Commission to release property that has already been released from a different utility's service area. And it is not appropriate to release property that is located in a third utility's service area."); *Petition of SLF IV – 114 Assemblage, LP to Amend Aqua Texas, Inc.'s Certificate of Convenience and Necessity in Denton County by Expedited Release*, Docket No. 44667, Conclusion of Law No. 9 (Sept. 11, 2015) ("Under TWC § 13.254(a-5), the Commission may not release land that is outside the certificated service are (sic) of the retail utility that the petitioner names in the expedited release proceeding.").

<sup>2</sup> See Staff's Final Recommendation (Aug. 26, 2016) at Attachment A.

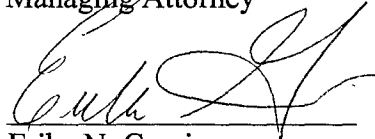
Dated: September 29, 2016

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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**DOCKET NO. 46078  
CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record September 29, 2016, in accordance with 16 TAC § 22.74.

  
Erika N. Garcia