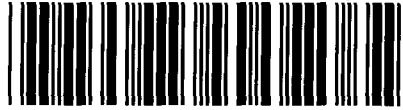




Control Number: 46078



Item Number: 23

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OPEN MEETING COVER SHEET

MEETING DATE: October 7, 2016

DATE DELIVERED: October 6, 2016

AGENDA ITEM NO.: 23

CAPTION: Docket No. 46078: Petition of Monterrey Oaks, Ltd. To Amend the City of Splendora's Certificate of Convenience and Necessity in Montgomery County by Expedited Release.

ACTION REQUESTED: Memo from Commissioner Anderson

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Public Utility Commission of Texas

Memorandum

TO: Chairman Donna L. Nelson
Commissioner Brandy Marty Marquez

FROM: Commissioner Kenneth W. Anderson, Jr. *kw/wf*

DATE: October 6, 2016

RE: **October 7, 2016 Open Meeting, Agenda Item No. 23**; Docket No. 46078; *Petition of Monterrey Oaks, Ltd. to Amend the City of Splendora's Certificate of Convenience and Necessity in Montgomery County by Expedited Release*

I would adopt the proposed order in this docket as it has been modified by the administrative law judge's September 30th memorandum, but with the following changes:

1) The following *findings of fact* should be modified:

~~14. The 102.291-acre tract approximately 98 acres sought to be released from Splendora's CCN No. 11727 are is located within Montgomery County.~~

~~15. Splendora has a 2-inch 2" water line at and near two separate locations that ends at least 75 feet from one location on the petitioned property 102.291-acre tract of land's northern boundary and at least 150 feet from another location. Splendora also has, as well as a 2-inch 2" water line that parallels the entire eastern portion of the tract petitioned property but is approximately 650 feet east of it. The water line to the east eastern portion connects to a 4-inch 4" water line southeast of the 102.291-acre tract petitioned property and is positioned such that the 4" water line can be directly connected to the petitioned property.~~

~~18.19. The 102.291-acre tract is not receiving water service from Splendora as the that term receiving water service has been defined by the courts.²³~~

²³ TWC § 13.254(a-5); *Texas General Land Office v. Crystal Clear Water Supply Corporation*; 449 S.W.3d 130, 140-141 (Tex. App.—Austin 2014, pet. denied).

~~19.18. The 102.291-acre tract is not receiving actual water service from Splendora.~~

2) The following *finding of fact 14A* should be added:

14A. Montgomery County is adjacent to Harris County, which has a population of over 1,000,000.

3) The following *conclusions of law 4A and 4B* should be added:

4A. The requirement that facilities are committed and dedicated to serving a tract of land is not satisfied just by facilities that are available and capable of providing water service.

4B. The time that the petition is filed is the only relevant time period to consider when evaluating whether a tract of land is receiving water service under TWC § 13.254(a-5). Whether a tract might have previously received water or sewer service is not relevant.

4) The following *ordering paragraph* should replace current Ordering Paragraph No. 2:

~~2. Monterrey Oaks Ltd's property located within Splendora's certificated service area, approximately 98 acres, is removed from Splendora's CCN No. 11727.~~

2. The portion of the 102.291-acre tract that is located within Splendora's water CCN No. 11727 is removed from the CCN.

I look forward to discussing this matter with you at the open meeting.