



Control Number: 47114



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**DOCKET NO. 47114**

**PETITION OF II C.B., LP TO AMEND §  
TALTY WATER SUPPLY §  
CORPORATION'S WATER §  
CERTIFICATE OF CONVENIENCE §  
AND NECESSITY IN KAUFMAN §  
COUNTY BY EXPEDITED RELEASE §  
§**

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**COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION ON  
ADMINISTRATIVE COMPLETENESS**

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this Supplemental Recommendation on Administrative Completeness in response to Order No. 2 and would show the following:

**I. BACKGROUND**

On May 1, 2017, II C.B., LP (II C.B.) filed a petition for expedited release from Talty Water Supply Corporation's (Talty) water certificate of convenience and necessity (CCN) No. 10850 in Kaufman County, pursuant to Tex. Water Code § 13.254(a-5) (TWC) and 16 Tex. Admin. Code § 24.113(r) (TAC).<sup>1</sup> II C.B. seeks to decertify 14.4 acres. II C.B. further asserted that the property is not currently receiving water service from Talty.

On June 5, 2017, the administrative law judge (ALJ) issued Order No. 2 which found II C.B.'s application administratively incomplete and required II C.B. to correct the deficiencies identified in Staff's recommendation. Order No. 2 also directed Staff to file supplemental comments on the administrative completeness of II C.B.'s application and proposed notice by August 3, 2017. This pleading is therefore timely filed.

**II. JURISDICTION AND LEGAL AUTHORITY**

As an alternative to decertification, the TWC and TAC permit a landowner to petition the Commission for an expedited release of land from a CCN. The TWC and TAC have separate provisions for landowners seeking an expedited release.<sup>2</sup> As it relates to II C.B.'s application, the relevant portion of the TWC states:

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<sup>1</sup> Commission rules regarding Expedited Releases and Streamlined Expedited Releases were amended on May 28, 2017. Because the Petition was filed on May 1, 2017, the previous version of § 24.113(r) applies.

<sup>2</sup> See generally TWC § 13.254(a-1), (a-5); 16 TAC § 24.113(b), (r).

[T]he owner of a tract of land that is at least 25 acres and that is not receiving water or sewer service may petition for expedited release from a certificate of public convenience and necessity and is entitled to that release if the landowner's property is located in a county with a population of at least one million, a county adjacent to a county with a population of at least one million, or a county with a population of more than 200,000 and less than 220,00 that does not contain a public or private university that had a total enrollment in the most recent fall semester of 40,000 or more, and not in a county that has a population of more than 45,500 and less than 47,500.<sup>3</sup>

The TAC similarly states:

[T]he owner of a tract of land that is at least 25 acres and that is not receiving water or sewer service may petition for expedited release of the area from a CCN and is entitled to that release if the landowner's property is located in Atascosa, Bandera, Bastrop, Bexar, Blanco, Brazoria, Burnet, Caldwell, Kaufman, Collin, Comal, Dallas, Denton, Ellis, Fort Bend, Galveston, Guadalupe, Harris, Hays, Johnson, Kaufman, Kendall, Liberty, Montgomery, Parker, Rockwall, Smith, Tarrant, Travis, Waller, Williamson, Wilson, or Wise County.<sup>4</sup>

Pursuant to TWC § 13.254(a-5) and 16 TAC § 24.113(r), the Commission must render a decision on an application for expedited release "not later than the 60th day after the date the landowner files the petition." However, at its March 31, 2015 Open Meeting, the Commission decided that counting for a determination of the 60th day does not begin until after a determination of the administrative completeness is made.<sup>5</sup>

### **III. COMMENTS ON ADMINISTRATIVE COMPLETENESS**

Staff has reviewed II C.B.'s application and the supplement filed on June 6, 2017, and, as supported by the attached memorandum of Patricia Garcia of the Water Utilities Division, Staff recommends that the application be found administratively complete and deemed sufficient for filing. In the supplement II C.B. included a copy of the warranty deed confirming ownership of the subject tract. The application and supplement also contain sufficient mapping and digital data to confirm the location and size of the subject tract.

### **IV. PROPOSED PROCEDURAL SCHEDULE**

Staff proposes the following procedural schedule:

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<sup>3</sup> TWC 13.254(a-5).

<sup>4</sup> 16 TAC § 24.113(r).

<sup>5</sup> OM Transcript, at p. 114 (Mar. 31, 2015).

<b>Event</b>	<b>Deadline</b>
Order regarding administrative completeness of Petition	Date of Order
Deadline for Talty to Respond to administratively complete petition	Seven (7) days from the Date of the Order
Deadline for Staff's Final Recommendation	Seven (7) days from the deadline for Talty's response
Deadline for II C.B. to file a Reply to Talty's Response and Staff's Final Recommendation <sup>6</sup>	Seven (7) days from the deadline for Staff to file its Final Recommendation
Sixty (60) Day Administrative Approval	Sixty (60) days from the Order deeming the Petition administratively complete

## V. CONCLUSION

Staff respectfully requests the issuance of an order consistent with the above recommendation.

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<sup>6</sup> Please note that a Reply must be limited to briefing and argument, as any additional proof shall be deemed a new petition.

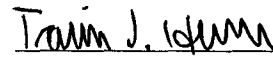
Dated: June 19, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF  
TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Stephen Mack  
Managing Attorney

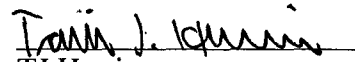


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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on June 19, 2017 in accordance with 16 TAC § 22.74.

  
TJ Harris

## PUC Interoffice Memorandum

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**To:** TJ Harris, Attorney  
Legal Division

**Thru:** Lisa Fuentes, Manager  
Water Utilities Division

**From:** Patricia Garcia, Engineering Specialist  
Water Utilities Division

**Date:** June 19, 2017

**Subject:** **Docket No. 47114:** *Petition of II C.B., LP to Amend Talty Water Supply Corporation's Water Certificate of Convenience and Necessity by Expedited Release in Kaufman County*

On May 1, 2017, II C.B., LP (Petitioner) filed a petition with the Commission for an expedited release from Talty Water Supply Corporation's (Talty WSC) water Certificate of Convenience and Necessity (CCN) No. 10850 in Kaufman County, pursuant to Texas Water Code § 13.254(a-5) (TWC) and 16 Texas Administrative Code § 24.113(r) (TAC). The Petitioner asserts that the land is at least 25 acres, is not receiving water service, and is located in Kaufman County which is a qualifying county.

The Petitioner submitted an adequate map delineating the requested area for expedited release with enough detail to confirm the accurate positioning of their digital data pursuant to 16 TAC § 24.119. The map and digital data are sufficient for determining the location of the requested release area within Talty WSC's certificated area. Mapping Staff were able to confirm the acreage of the subject property, and determined that the requested area is located within the subject property. Furthermore, the Petitioner provided a warranty deed confirming the Petitioner's ownership of the tract of land within the subject property. The area being requested for expedited release is approximately 14.2 acres, which is adjacent to additional area within the subject property that is larger than 25 acres and is also owned by the Petitioner.

The petition also included a statement that pursuant to Commission rules, a copy of the Petition was sent via certified mail to Talty WSC, the current holder of CCN No. 10850.

The petition meets the criteria set forth in TWC §13.254 (a-5) and TAC §24.113(r). Therefore, Staff recommends that the petition be deemed sufficient for filing.