

Control Number: 48788



Item Number: 19

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DOCKET NO. 48788

RECEIVED

PETITION OF TFLP INVESTMENTS, §
LP AND TFGP PROPERTIES, LLC TO §
AMEND AQUA TEXAS, INC.'S SEWER §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY IN HAYS COUNTY §
BY EXPEDITED RELEASE §

PUBLIC UTILITY COMMISSION 2:35
OF TEXAS
FILING CLERK

CORRECTED NOTICE OF APPROVAL

This Notice of Approval addresses the petition of TFLP Investments, LP and TFGP Properties, LLC (Petitioners) to amend Aqua Texas, Inc.'s sewer certificate of convenience and necessity (CCN) by expedited release. The Commission approves the petition and removes the 38 acres owned by Petitioners from Aqua Texas, Inc.'s sewer CCN number 20867 in Hays County.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

Petitioner

1. TFLP Investments, LP is a domestic limited partnership registered with the Texas Secretary of State on February 13, 2007, under file number 800773466.
2. TFGP Properties, LLC is a domestic limited liability company registered with the Texas Secretary of State on January 24, 2007, under file number 800763755.
3. Petitioners jointly own 68.96 contiguous acres of land in Hays County, of which 38 acres are located within the boundaries of Aqua Texas, Inc.'s sewer CCN number 20867.

Petition

4. On October 16, 2018, TFLP Investments filed a petition for expedited release of the 38-acre tract of land in Hays County.
5. On November 14, 2018, TFGP Properties, LLC joined in the petition for expedited release.¹

¹ Petitioners asked for release of 26.7 acres. However, they have subsequently acknowledged that their estimation of the acreage was in error and the correct size of the acreage to be released is 38 acres. This is the reason the Corrected Notice of Approval.

6. On December 18, 2018, Petitioners supplemented the petition with a notarized affidavit for streamlined expedited release.
7. The tract of land is within Aqua Texas, Inc.'s service area for CCN number 20867.
8. Hays County is adjacent to Travis County, which is a county with a population of over one million.
9. Petitioners provided warranty deeds confirming their ownership of the tract of land and maps confirming the land's location.
10. Douglas Thomas, managing member of TFGP Properties, LLC and general partner of TFLP Investments, LP, provided a notarized affidavit signed on December 17, 2018, affirming that the tract of land is owned by Petitioners, is more than 25 acres, is not receiving sewer service, is within the boundaries of CCN number 20867 held by Aqua Texas, Inc., and is located entirely in Hays County.
11. In Order No. 3, issued on January 22, 2019, the administrative law judge (ALJ) found the petition administratively complete.

Notice

12. Petitioners sent a true and correct copy of the petition, via certified mail, to Aqua Texas, Inc. on the day the petition was filed with the Commission.
13. Notice of the petition appeared in the November 2, 2018 issue of the *Texas Register*.
14. In Order No. 3, issued on January 22, 2019, the ALJ found the notice sufficient.

Intervention

15. Aqua Texas, Inc. did not seek to intervene in this proceeding.

Sewer Service

16. There is no evidence that Aqua Texas, Inc. has committed or dedicated facilities or lines providing sewer service to the tract of land.
17. There is no evidence that Aqua Texas, Inc. has performed acts or supplied anything to the tract of land.
18. Aqua Texas, Inc. has not committed facilities or lines providing sewer service to the tract of land.

19. Aqua Texas, Inc. has not performed acts or supplied anything to the tract of land.
20. The tract of land is not receiving sewer service from Aqua Texas, Inc.

Determination of Useless or Valueless Property

21. There is no evidence that Aqua Texas, Inc. owns any property that will be rendered useless or valueless by the decertification.

Informal Disposition

22. More than 15 days have passed since the completion of the notice in this docket.
23. Commission Staff and Petitioners are the only parties to this proceeding.
24. No party requested a hearing and no hearing is necessary.
25. There were no protests or motions to intervene filed.
26. On January 31, 2019, Commission Staff recommended approval of the petition.
27. The decision is not adverse to any party.

II. Conclusions of Law

1. The Commission has jurisdiction over this petition under Texas Water Code (TWC) § 13.254(a-5).
2. Notice of the petition was provided in compliance with 16 Texas Administrative Code (TAC) §§ 22.55 and 24.245(l).
3. To obtain release under TWC § 13.254(a-5), a landowner must demonstrate that the landowner owns a tract of land that is at least 25 acres, that the tract of land is located in a qualifying county, and that the tract of land is not receiving sewer service.
4. Hays County is a qualifying county under TWC § 13.254(a-5) and 16 TAC § 24.245(l).
5. The tract of land is not receiving sewer service from Aqua Texas, Inc. in accordance with TWC § 13.254(a-5).
6. Because Aqua Texas, Inc. did not intervene in this case, it can be presumed that no property has been rendered useless or valueless by the decertification; therefore, under TWC

- § 13.254(d) through (g) and 16 TAC § 24.245(n)(3) no compensation is owed to Aqua Texas, Inc.
7. Because no compensation is owed under TWC § 13.254(d) through (g), a retail public utility may render retail sewer service directly or indirectly to the public in the decertified area without providing compensation to Aqua Texas, Inc.
 8. Petitioners have satisfied the requirements of TWC § 13.254(a-5) and 16 TAC § 24.245(l) by adequately demonstrating ownership of a tract of land that is at least 25 acres, is located in a qualifying county, and is not receiving sewer service.
 9. The Commission processed the petition in accordance with the TWC, the Administrative Procedure Act,² and Commission rules.
 10. Under TWC § 13.257(r) and (s), Aqua Texas, Inc. is required to record a certified copy of the approved certificate and map, along with a boundary description of the service area, in the real property records of each county in which the service area or a portion of the service area is located, and submit to the Commission evidence of the recording.
 11. The requirements for informal disposition in 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 grants the petition and removes the 38-acre tract of land owned by Petitioners from Aqua Texas, Inc.'s sewer CCN number 20867.
2. The Commission amends Aqua Texas, Inc.'s CCN number 20867 in accordance with this Notice of Approval.
3. The Commission's official service area boundary maps for Aqua Texas, Inc.'s CCN will reflect this change as shown on the attached map.

² Tex. Gov't Code ch. 2001.

4. Aqua Texas, Inc. must comply with the recording requirements of TWC § 13.257(r) and (s) for the area in Hays County affected by the petition and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice of Approval.
5. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 28th day of March, 2019.

PUBLIC UTILITY COMMISSION OF TEXAS


HUNTER BURKHALTER
ADMINISTRATIVE LAW JUDGE

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Public Utility Commission of Texas

By These Presents Be It Known To All That

Aqua Texas, Inc.

having obtained certification to provide sewer 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, Aqua Texas, Inc., is entitled to this

Certificate of Convenience and Necessity No. 20867

to provide continuous and adequate sewer utility service to that service area or those service areas in Burnet, Hays, Travis, Victoria, and Williamson Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 48788 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 Aqua Texas, Inc., 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.


Issued at Austin, Texas, this 28 day of MARCH 2019.


Aqua Texas, Inc.
Portion of Sewer CCN No. 20867
PUC Docket No. 48788
Petition by TFLP Investments, LP and TFGP Properties, LLC to Amend
Aqua Texas, Inc.'s CCN by Expedited Release in Hays County



Public Utility Commission of Texas
1701 N. Congress Ave
Austin, TX 78701

Sewer CCN

 20867 - Aqua Texas Inc

 Area Released

 Property Boundary

0 250 500
Feet



Map by: Komal Patel
Date created: January 11, 2019
Project Path: n:\finalmapping\
48788AquaTexas.mxd