

Control Number: 49168



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DOCKET NO. 49168

RECEIVED

**PETITION OF FM PROPERTIES TO
AMEND THE CITY OF CUT AND
SHOOT'S CERTIFICATE OF
CONVENIENCE AND NECESSITY IN
MONTGOMERY COUNTY BY
EXPEDITED RELEASE**

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PUBLIC UTILITY COMMISSION
FILING CLERK

OF TEXAS

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

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this supplemental recommendation. In support thereof, Staff would show the following:

I. BACKGROUND

In Docket No. 48180, the petitioners sought streamlined expedited release of four tracts of land. In Order No. 9 in that docket, the judge provided notice of his intent to sever the matter into four separate dockets, one for each tract sought to be released.

On February 25, 2019, Petitioners filed a response to the order of severance, in which Petitioners requested an expedited release from the Town of Cut and Shoot's certificate of convenience and necessity (CCN) No. 11615 in Montgomery County. Petitioners seek expedited release of approximately 49.8 acres under Texas Water Code (TWC) § 13.254(a-5) and 16 Texas Administrative Code (TAC) § 24.245(l).

On March 19, 2019, Order No. 2 was issued, establishing a deadline of May 2, 2019, for Staff to file a supplemental recommendation on the administrative completeness of the application and notice and propose a procedural schedule for further processing of the application. Therefore, this pleading is timely filed.

II. ADMINISTRATIVE COMPLETENESS

As detailed in the attached memorandum from Roshan Pokhrel in the Commission's Water Utility Regulation Division, Staff has reviewed the petition for expedited release and recommends that it be found administratively complete.

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III. NOTICE

Under 16 TAC § 24.245(l)(4)(A)(vi), the landowner must provide proof that a copy of the petition has been mailed to the current CCN holder via certified mail on the day that the landowner submits the petition with the Commission.

On July 19, 2018, Petitioner filed poof of notice sent to Cut and Shoot on July 17, 2018 in Docket No. 48180. Cut and Shoot did not subsequently respond or intervene. Staff believes this satisfies 16 TAC § section 24.245(k)(6)(E) and no further notice should be required.

In addition, the Commission also published notice of the original petition in the Texas Register on April 6, 2018. Such notice meets the requirement of 16 TAC § 24.245(l). Accordingly, Staff recommends that the notice issued be found sufficient.

IV. PROCEDURAL SCHEDULE

In accordance with Staff's administrative completeness recommendation, Staff proposes that the below procedural schedule be used. Under TWC § 13.254(a-6), there is an expedited statutory deadline of 60 days for approval that begins once the Administrative Law Judge (ALJ) issues an order finding an application administratively complete. Therefore, Staff requests that the ALJ populate the following deadlines accordingly when the ALJ issues that order.

Event	Date
Order finding the petition administratively complete	Date of order
Deadline for Petitioner or intervenors to file a response to the petition	Seven days from the date of the order deeming the petition administratively complete
Deadline for Staff's final recommendation	Seven days from the deadline for Petitioner or intervenors to file a response
Deadline for Petitioner to file a reply to Staff's final recommendation	Seven days from the deadline for Staff to file its final recommendation
Sixty-day deadline for approval	Sixty days from the order deeming the petition administratively complete

V. CONCLUSION

For the reasons detailed above, Staff respectfully requests that an order be issued that (1) finds Petitioner's petition administratively complete and its notice sufficient, (2) adopts Staff's proposed procedural schedule, and (3) takes judicial notice of the entire file in Docket No. 48180.

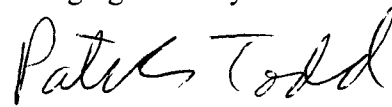
Dated: April 1, 2019

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on April 1, 2019, in accordance with 16 TAC § 22.74.



Patrick D. Todd

PUC Interoffice Memorandum

To: Patrick Todd, Attorney
Legal Division

Thru: Lisa Fuentes, Manager
Water Utility Regulation Division

From: Roshan Pokhrel, Engineering Specialist
Water Utility Regulation Division

Date: April 1, 2019

Subject: **Docket No. 49168:** *Petition of FM Properties to Amend the City of Cut and Shoot's Certificate of Convenience and Necessity in Montgomery County by Expedited Release*

On February 25, 2019, FM Properties (Petitioner) filed an application for expedited release from Town of Cut and Shoot's water Certificate of Convenience and Necessity (CCN) No. 11615 in Montgomery County, under Texas Water Code (TWC) § 13.254(a-5) and 16 Texas Administrative Code (TAC) § 24.245(l). The Petitioner asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Montgomery County which is a qualifying county.

The Petitioner submitted adequate maps delineating the requested area for expedited release with enough detail to confirm the accurate positioning of its digital data pursuant to 16 TAC § 24.257. The map and digital data are sufficient for determining the locations of the requested release areas within Town of Cut and Shoot's certificated area. Mapping Staff was able to confirm the acreage of the subject properties, and determined that the requested areas are located within Town of Cut and Shoot's water CCN. Furthermore, the Petitioner provided warranty deeds confirming the Petitioner's ownership of the tracts of land within Town of Cut and Shoot's certificated area. In addition, the Petitioner submitted the sworn affidavit that the property was not receiving water from the CCN holder. The area being requested for expedited release is approximately 49.8 acres.

The petition also includes a statement indicating a copy of the petition was sent via certified mail to Town of Cut and Shoot on the date the petition was filed with the Commission.

Staff has reviewed the information provided by the Petitioner and recommends the petition be deemed administratively complete and accepted for filing.