

Control Number: 49433



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DOCKET NO. 49433

**PETITION OF LGI HOMES – TEXAS, §
LLC, BIG SKY LLC, AND MINDY L. §
KOEHNE (TRUSTEE) TO AMEND §
BOLIVER WATER SUPPLY §
CORPORATION’S WATER §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY IN DENTON §
COUNTY BY EXPEDITED RELEASE §**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

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**COMMISSION STAFF’S THIRD RECOMMENDATION ON ADMINISTRATIVE
COMPLETENESS AND PROPOSED NOTICE**

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Third Recommendation on Administrative Completeness and Proposed Notice, and would show the following:

I. BACKGROUND

On April 10, 2019, LGI Homes-Texas LLC, Big Sky LLC, and Mindy L. Koehne (Petitioners) filed a petition for expedited release of a 440-acre tract of land within Bolivar Water Supply Corporation’s water certificate of convenience and necessity No. 11257 in Denton County, under Texas Water Code § 13.254(a-5) and 16 Texas Administrative Code (TAC) § 24.245(l).

On July 11, 2019, the Administrative Law Judge (ALJ) issued Order No. 3, establishing a deadline of August 9, 2019 for the petitioner to supplement the petition to cure the deficiencies listed in Staff’s July 9, 2019 Recommendation. Order No. 3 also established a deadline of September 9, 2019 for Staff to file a supplemental recommendation regarding administrative completeness and proposed notice, along with a proposed procedural schedule, if appropriate.

On August 9, 2019, petitioner filed a motion to sever. On August 15, 2019, Staff filed a response to the petitioner’s motion to sever stating that it was unopposed to the motion.

II. ADMINISTRATIVE COMPLETENESS

As detailed in the attached memorandum from Nabaraj Pokharel in the Commission's Infrastructure Division, Staff has reviewed the application and supplemental documentation filed on August 9, 2019 and recommends that it be found administratively complete. Additionally, Staff recommends that the application be severed into two dockets: one for LGI Homes and one for Big Sky.

III. NOTICE

Under 16 TAC § 24.245(l)(4)(A)(vi), the landowner must provide proof that a copy of the petition was mailed to the current CCN holder via certified mail on the day that the landowner submits the petition with the Commission. The applicant provided an affidavit attached to its application stating that a copy of the petition shall be mailed to the current CCN holder via certified mail on the day that the landowner submits the petition with the Commission. Accordingly, Staff recommends that the notice issued by found sufficient.

IV. COMMENTS ON 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 ALJ issues an order finding an

application administratively complete. Therefore, Staff requests that the ALJ issue a procedural schedule consistent with the schedule outlined below:

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

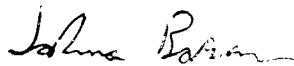
Staff respectfully requests an order consistent with its recommendation.

Respectfully Submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Margaret Uhlig Pemberton
Division Director

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on September 9, 2019, in accordance with 16 TAC § 22.74.



Joshua Adam Barron

PUC Interoffice Memorandum

To: Joshua Barron, Attorney
Legal Division

Thru: Heidi Graham, Manager
Infrastructure Division

From: Nabaraj Pokharel, Engineering Specialist
Infrastructure Division

Date: September 6, 2019

Subject: *Docket No. 49433: Petition of LGI Homes - Texas, LLC, Big Sky LLC, and Mindy L. Koehne (Trustee) to amend Bolivar Water Supply Corporation's Water Certificate of Convenience and Necessity in Denton County by Expedited Release*

On April 10, 2019, LGI Homes — Texas, LLC ("LGI"), Big Sky LLC ("Big Sky"), and Mindy L. Koehne ("Trustee") (collectively, Petitioners) filed an application for expedited release from Bolivar Water Supply Corporation's water Certificate of Convenience and Necessity (CCN) No. 11257 in Denton 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 Denton County which is a qualifying county.

In Order No. 2 issued on May 13, 2019, the Administrative Law Judge (ALJ) found the petition administratively incomplete and allowed the Petitioners to cure the deficiencies by identifying each tract of land, including acreage and the corresponding owners. On May 28, 2019, the Petitioners filed supplemental documentation and one of the tracts of land identified was less than 25 acres. Therefore, the petition did not comply with 16 Texas Administrative Code §24.245(l). In Order number 3, issued on July 11, 2019, the ALJ found the petition administratively incomplete and allowed the Petitioners to cure the deficiencies.

On August 9, 2019, Petitioners filed a supplemental documentation requesting that this application be severed into two separate applications, one for LGI and one for Big Sky. Petitioners also withdrew their request for the one acre lot owned by Mindy L. Koehne. In addition, Petitioners requested that the application for LGI remain under the same docket number 49433 and that the application for Big Sky be assigned a new docket number.

The Petitioners submitted adequate maps delineating the requested area for expedited release with enough detail to confirm the accurate positioning of their 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 Bolivar Water Supply Corporation's certificated area. Staff was able to confirm the acreage of the subject properties and determined that the requested areas are located within the subject property.

Furthermore, the Petitioners provided warranty deeds confirming the Petitioners' ownership of the tracts of land within the subject property. In addition, the Petitioners submitted a sworn affidavit attesting that the properties were not receiving water from the CCN holder. The area being requested for expedited release is approximately 280 acres.

The petition also included a statement with affidavit that copy of notice has been sent via certified mail to Bolivar Water Supply Corporation, the current holder of water CCN No. 11257, on the date the petition was filed with the Commission.

Staff has reviewed the information provided by the Petitioners and recommends the application be deemed administratively complete and accepted for filing and that the Big Sky application be assigned a new docket number.