



Control Number: 49433



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DOCKET NO. 49433

PETITION OF LGI HOMES – TEXAS, §  
LLC TO AMEND BOLIVAR 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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FILING CLERK

COMMISSION STAFF’S RECOMMENDATION ON FINAL DISPOSITION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files final recommendation and would show the following:

I. BACKGROUND

On April 10, 2019, LGI Homes – Texas, LLC (LGI Homes), Big Sky, LLC and Mindy L. Koehne (collectively, Petitioners) filed a petition for the streamlined expedited release of an approximately 280-acre tract of land within the boundaries of Bolivar Water Supply Corporation’s (Bolivar WSC) water Certificate of Convenience and Necessity number 11257 in Denton County, under Texas Water Code § 13.254(a-5)<sup>1</sup> and 16 Texas Administrative Code (TAC) § 24.245(1). LGI Homes 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.

Bolivar WSC filed a motion to intervene, which was granted on May 22, 2019. On August 9, 2019, Petitioners filed a Motion to Sever along with a request to withdraw Mindy L. Koehne’s request for expedited release. Order No. 4, issued September 24, 2019, granted the motion to sever, granted the withdrawal of Ms. Koehne’s request, and directed that the amended petition of LGI Homes be processed in the instant docket. On September 27, 2019, the Administrative Law Judge (ALJ) issued Order No. 5 finding LGI Homes’ amended petition administratively complete and establishing October 14, 2019, as the deadline for Staff’s recommendation on final disposition. **Order No. 5 was not uploaded into AIS until October 18, 2019—3 weeks after it was issued.**

This docket was reassigned to the current attorney of record on October 11, 2019. The paper files maintained by the attorney previously assigned did not include a copy of any of the

<sup>1</sup> Staff notes SB 2272 passed during the 86<sup>th</sup> Regular Legislative Session amended TWC § 13.254(a-5) effective September 1, 2019. LGI Homes’ petition was filed in April 2019; therefore, the current version of TWC § 13.254 and the new TWC § 13.2541 do not apply to this proceeding.

orders issued in this proceeding. Consequently, the present attorney of record had no way of knowing there was a deadline of October 14<sup>th</sup> until Order No. 5 was finally scanned and uploaded into AIS on October 18, 2019. Therefore, this pleading is filed the same day as Order No. 5 appeared on AIS.

## **II. RECOMMENDATION ON FINAL DISPOSITION**

As supported by the attached memorandum of Nabaraj Pokharel of the Commission's Infrastructure Division (Attachment A), Staff has reviewed the petition for streamlined expedited release and recommends that it be approved. The maps and digital data filed by LGI Homes provide adequate information demonstrating that the petition satisfies the requirements of TWC § 13.254(a-5) and 16 TAC § 24.245(1). Specifically, the maps and digital data provided by LGI Homes enable Staff to determine that the property to be released: (1) is at least 25 acres; (2) is not receiving water service; (3) is located within Bolivar WSC's certificated area; and (4) is located within Denton County, which is a qualifying county. Thus, LGI Homes has shown that it meets the requirements for streamlined expedited release.

Based on Mr. Pokharel's memorandum, Staff further recommends that no property be deemed useless or valueless should the ALJ grant approval of the petition for expedited release, and that a proceeding under 16 TAC § 24.245(n) and (o) is not required. The final certificate (Attachment B) is attached to this filing. Staff will file the final map on Monday, October 21, 2019.

## **III. CONCLUSION**

For the reasons detailed above, Staff respectfully recommends that LGI Homes' petition be approved.

Dated: October 18, 2019

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

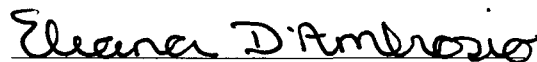
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**DOCKET NO. 49433  
CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on October 18, 2019 in accordance with 16 Texas Administrative Code § 22.74.



Eleanor D'Ambrosio

# **Attachment A**

## PUC Interoffice Memorandum

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**To:** Eleanor D'Ambrosio, Attorney  
Legal Division

**Thru:** Heidi Graham, Manager  
Infrastructure Division

**From:** Nabaraj Pokharel, Engineering Specialist  
Infrastructure Division

**Date:** October 18, 2019

**Subject:** **Docket No. 49433:** *Petition of LGI Homes - Texas, LLC 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 (Petitioner) 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) Chapter § 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.

The Petitioner 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 area within Bolivar Water Supply Corporation's certificated area. Mapping Staff was 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 subject property. In addition, the Petitioner submitted a sworn affidavit attesting that the property is not receiving water from the Bolivar Water Supply Corporation. 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 recommends that there is no useless or valueless property. If the Commission determines that there is no useless or valueless property, pursuant to 16 TAC § 24.245(n)(7), Staff further recommends that a compensation proceeding is not necessary.

In accordance with TWC § 13.254(a-5) and 16 TAC § 24.245(l), Staff recommends that the Petitioners has met the requirements for the release of the requested area from Bolivar Water Supply Corporation's CCN No. 11257 and recommends approval of the petition. Enclosed is a certificate for Commission approval. Additionally, Staff recommends that the certificate be provided to the CCN holder.

# **Attachment B**



# **Public Utility Commission of Texas**

**By These Presents Be It Known To All That**

## **Bolivar Water Supply Corporation**

having obtained certification to provide water 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, the Bolivar Water Supply Corporation is entitled to this

### **Certificate of Convenience and Necessity No. 11257**

to provide continuous and adequate water utility service to that service area or those service areas in Cooke, Denton, and Wise Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 49433 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 the Bolivar Water Supply Corporation 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 \_\_\_\_\_ day of \_\_\_\_\_ 2019.