



Control Number: 50404



Item Number: 77

Public Utility Commission of Texas

Commissioner Memorandum

TO: Chairman Peter M. Lake
Commissioner Will McAdams
Commissioner Lori Cobos

FROM: Commissioner Jimmy Glotfelty

DATE: January 12, 2022

RE: January 13, 2022 Open Meeting – Item No. 3
Docket No. 50404 – Petition of Sterling Deason O'Donnell and Darwin Deason, Co-Trustees of the Sterling Deason O'Donnell DD 2012 Trust Under Agreement of the DD 2014-B Grantor Retained Annuity Trust to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release.

I recommend the Commission grant rehearing on the order filed in the above docket on October 12, 2021 for the purpose of modifying certain language to be more consistent with statutory language and to add several conclusions of law that should be standard in the Commission's orders for streamlined-expedited-release proceedings.

The term *tract of land* as used in Texas Water Code (TWC) § 13.2541(b) and as defined in 16 Texas Administrative Code (TAC) § 24.3(38) refers to the area of land being released from a certificated service area. A tract of land must be at least 25 acres in area, must be located within a qualifying county, and must not be receiving water or sewer service. A tract of land may include the landowner's property that is outside of the certificated service area from which release is sought but connected to that area and chosen by the landowner to be part of the tract of land to be released. A tract of land may likewise exclude property that is part of the landowner's total property but not chosen by the landowner to be part of the tract of land to be released.

The orders currently use the term *tract of land* to refer not only to the statutory tract of land being released in each proceeding but also to the larger area of property owned by the landowner. The orders should be modified to accurately use the statutory term *tract of land* in contrast to the landowner's total property, which in these proceedings is larger than the tract of land being released.

In addition, certain conclusions of law should be added to the orders because they should be standard in streamlined-expedited-release proceedings. The Commission should add a conclusion of law to the effect that under 16 TAC § 24.245(h)(7), the Commission's decision is based on the information submitted by the landowner, the CCN holder, and Commission Staff. The Commission should also add a conclusion of law clarifying that the only relevant time period to consider when evaluating whether a tract of land is receiving water or sewer service under TWC § 13.2541(b) is the time the petition is filed. Further, the Commission should add a conclusion of

law specifying that a landowner is not required to seek the streamlined expedited release of their entire property.

Finally, the Commission should delegate to the Office of Policy and Docket Management staff the authority to modify the order to conform to the *Citation and Style Guide for the Public Utility Commission of Texas* and to make other non-substantive changes to the order for such matters as capitalization, spelling, grammar, punctuation, style, correction of numbering, and readability.

I look forward to discussing this matter with you at the open meeting.

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