



Control Number: 51163



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FILED

PETITION OF OLEX (UNITED STATES), INC., FKA OLEX CORPORATION NV TO AMEND AQUA TEXAS, INC.'S CERTIFICATE OF CONVENIENCE AND NECESSITY IN DENTON COUNTY BY EXPEDITED RELEASE § § § § § § §

PUBLIC UTILITY COMMISSION OF TEXAS

2021 APR 28 10:13 AM

ORDER

This Order addresses the petition by Olex (United States), Inc. fka Olex Corporation NV for streamlined expedited release of a portion of a tract of land in Denton County from the service area under water certificate of convenience and necessity (CCN) number 13201. Aqua Texas, Inc. is the holder of water CCN number 13201. For the reasons stated in this Order, the Commission releases the tract of land from Aqua Texas's certificated service area. In addition, the Commission amends Aqua Texas's water CCN number 13201 to reflect the removal of this property from the service area.

Following entry of this Order, the Commission will determine the amount of compensation, if any, to be awarded to Aqua Texas, which will be addressed by separate order.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

- 1. Olex is a Delaware corporation registered with the Texas secretary of state under filing number 7747306.

CCN Holder

- 2. Aqua Texas is a Texas corporation registered with the Texas secretary of state under filing number 0800304878.
- 3. Aqua Texas holds CCN number 13201 that obligates it to provide retail water service in its certificated service area in Denton County.

Petition

4. On August 13, 2020, the petitioner filed a petition for streamlined expedited release of a portion of a tract of land from the CCN holder's service area under CCN number 13201.
5. The petition includes an affidavit, dated August 13, 2020, of Lars Springman, the petitioner's president, a general location map, a site location map, a survey with a metes and bounds description, and a general warranty deed with vendor's lien dated January 4, 1982.
6. On October 14, 2020, the petitioner filed supplemental information.
7. The supplemental information includes a revised and updated general location map, site location map, and a survey with a metes and bounds description.
8. On November 13, 2020, the petitioner again supplemented the petition.
9. The supplemental information includes full-size version of the survey with a metes and bounds description, filed on October 14, 2020, and digital mapping data.
10. In Order No. 5 filed on November 30, 2020, the administrative law judge (ALJ) found the petition administratively complete.

Notice

11. The petitioner sent a copy of the petition by certified mail, return receipt requested, to the CCN holder on August 13, 2020.
12. In Order No. 5 filed on November 30, 2020, the ALJ found the notice sufficient.

Intervention and Response to Petition

13. In Order No. 2 filed on September 4, 2020, the ALJ granted the CCN holder's motion to intervene.
14. The CCN holder filed a response to the petition on December 11, 2020.
15. The response includes an affidavit, dated December 11, 2020, of Darryl Waldock, the North Texas Area Manager of the CCN holder, and a map.

The Tract of Land

16. The tract of land is approximately 409.11 acres and is in Denton County.

17. The portion of the tract of land for which the petitioner seeks streamlined expedited release (the release property) is approximately 234.390 acres.
18. The release property is located within the CCN holder's certificated service area.

Ownership of the Tract of Land

19. The petitioner acquired the tract of land by a general warranty deed with vendor's lien dated January 4, 1982.

Qualifying County

20. Denton County abuts Dallas and Tarrant counties and has a population greater than 47,500.
21. Dallas and Tarrant counties each have a population greater than one million people.

Water Service

22. The release property is not receiving actual water service from the CCN holder.
23. The petitioner has not requested that the CCN holder provide water service to the release property or paid any fees or charges to initiate or maintain such service, and there are no billing records or other documents indicating an existing account with the CCN holder for water service for the release property.
24. The CCN holder has water facilities approximately one mile to the southwest of the release property but does not have any facilities on the release property.
25. The CCN holder has not committed or dedicated any facilities or lines to the release property for water service.
26. The CCN holder has no facilities or lines that provide water service to the release property.
27. The CCN holder has not performed any acts for or supplied anything to the release property.

Map and Certificate

28. On January 15, 2021, Commission Staff filed its recommendation that included a certificate and a map on which it identified the release property in relationship to the CCN holder's certificated service area.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this petition for streamlined expedited release under TWC §§ 13.254 and 13.2541.
2. The petitioner provided notice of the petition in compliance with 16 TAC § 24.245(h)(3)(F).
3. No opportunity for a hearing on a petition for streamlined expedited release is provided under TWC §§ 13.254 and 13.2541 or 16 TAC § 24.245(h)(7).
4. Petitions for streamlined expedited release filed under TWC §§ 13.254 and 13.2541 and 16 TAC § 24.245(h) are not contested cases.
5. Landowners seeking streamlined expedited release under TWC §§ 13.254 and 13.2541 and 16 TAC § 24.245(h) are required to submit a verified petition through a notarized affidavit, and the CCN holder may submit a response to the petition.
6. To obtain release under TWC § 13.2541(b), 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 service of the type that the current CCN holder is authorized to provide under the applicable CCN.
7. The petitioner owns the tract of land, which is at least 25 acres and includes the release property for which they seek streamlined expedited release through the petition.
8. Denton County is a qualifying county under TWC § 13.2541(b) and 16 TAC § 24.245(h)(2).
9. The release property is not receiving water service under TWC §§ 13.002(21) and 13.2541(b) and 16 TAC § 24.245(h), as interpreted in *Texas General Land Office v. Crystal Clear Water Supply Corporation*, 449 S.W.3d 130 (Tex. App.—Austin 2014, pet. denied).
10. The petitioner is entitled under TWC § 13.2541(b) to the release of the release property from the CCN holder's certificated service area.

11. After the date of this Order, the CCN holder has no obligation under TWC § 13.254(h) to provide retail sewer service to the release property.
12. The Commission has no authority to decertificate any facilities or equipment owned and operated by the CCN holder to provide retail water service or retail sewer service through the streamlined-expedited-release process under Texas Water Code § 13.2541(b).
13. The Commission processed the petition in accordance with the TWC and Commission rules.
14. Under TWC § 13.257(r) and (s), the CCN holder is required to record certified copies of the approved certificate and map, along with a boundary description of the service area, in the real property records of Denton County no later than the 31st day after the date the CCN holder receives this Order.
15. A retail public utility may not under TWC § 13.254(d) provide retail water service or retail sewer service to the public within the tract of land unless just and reasonable compensation under TWC § 13.254(g) has been paid to the CCN holder.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission releases the release property identified in the petition from the CCN holder's service area under CCN number 13201.
2. The Commission does not decertificate any of the CCN holder's equipment or facilities that may lay on or under the petitioner's tract of land.
3. The Commission amends CCN number 13201 in accordance with this Order.
4. The Commission approves the attached map.
5. The Commission approves the attached certificate.
6. The CCN holder must file in this docket proof of the recording required in TWC § 13.257(r) and (s) within 45 days of the date of this Order.

- 7. The proceeding to determine the amount of compensation, if any, that should be awarded to the CCN holder commences with the filing of this Order in accordance with the schedule adopted in Order No. 5. Any decision on compensation will be made by a separate order.
- 8. The Commission denies all other motions and any other requests for general or specific relief not expressly granted by this Order.

Signed at Austin, Texas the 5th day of March 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

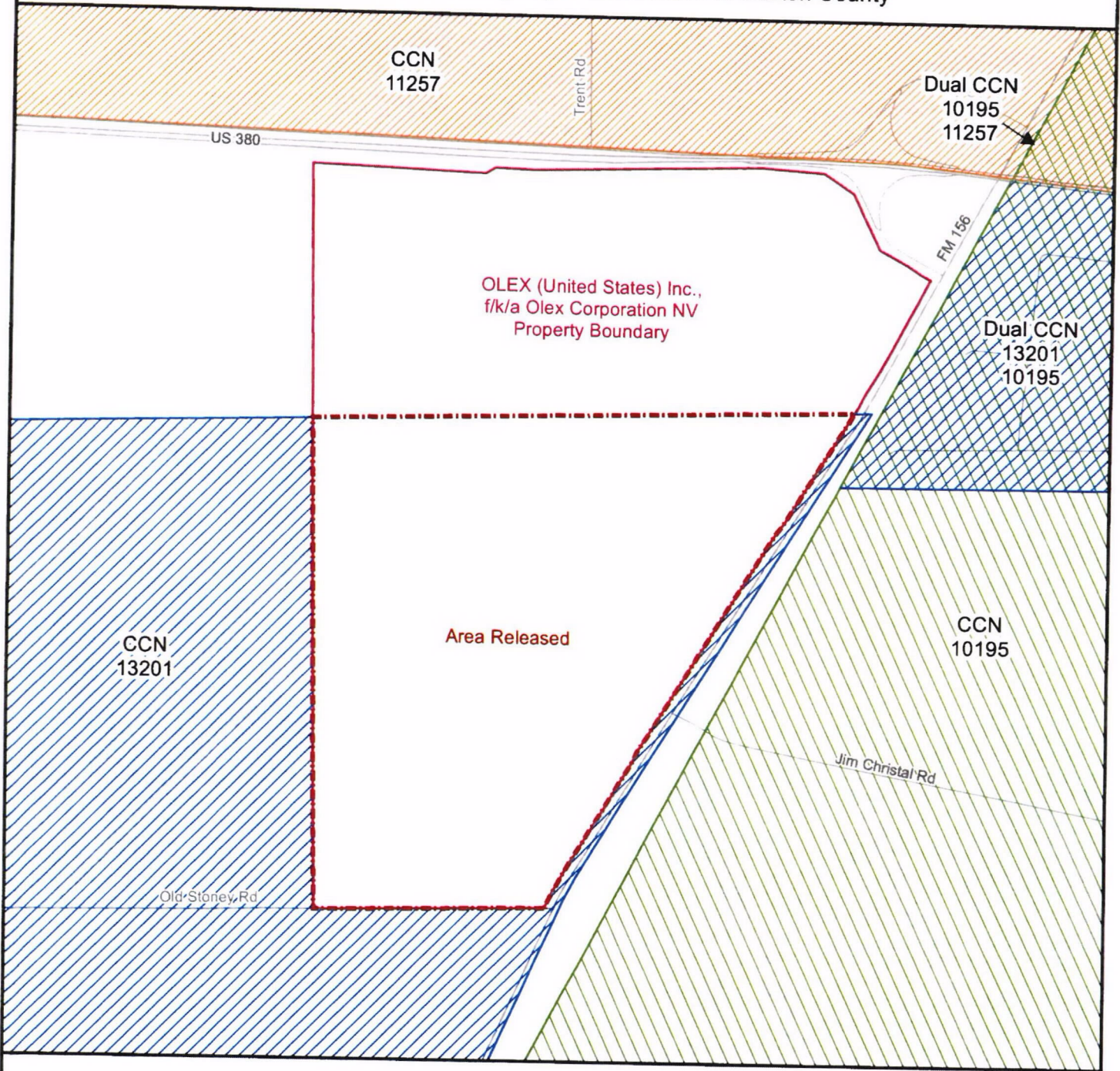


ARTHUR C. D'ANDREA, CHAIRMAN






SHELLY BOTKIN, COMMISSIONER

Aqua Texas, Inc.
Portion of Water CCN No. 13201
PUC Docket No. 51163
Petition by OLEX (United States) Inc., f/k/a Olex Corporation NV to Amend
Aqua Texas, Inc.'s CCN by Expedited Release in Denton County

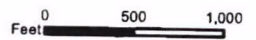


Public Utility Commission of Texas
 1701 N. Congress Ave
 Austin, TX 78701

Water CCN

-  13201 - Aqua Texas Inc
-  11257 - Bolivar WSC
-  10195 - City of Denton

-  Area Released
-  Property Boundary



Map by: Komal Patel
 Date created: January 8, 2021
 Project Path: n:\finalmapping\
 51163AquaTx.mxd



Public Utility Commission of Texas

By These Presents Be It Known To All That

Aqua Texas, Inc.

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 by Aqua Texas, Inc., is entitled to this

Certificate of Convenience and Necessity No. 13201

to provide continuous and adequate water utility service to that service area or those service areas in Anderson, Bosque, Camp, Cherokee, Collin, Cooke, Denton, Erath, Grayson, Gregg, Henderson, Hood, Hunt, Johnson, Kaufman, Marion, McLennan, Parker, Smith, Somervell, Tarrant, Taylor, Wise, and Wood Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 51163 are on file at the Commission offices in Austin, Texas; and is a matter 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, the 5th day of March 2021.