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DOCKET NO. 51166

PETITION OF COLORADO RIVER PROJECT, LLC TO AMEND SWWC UTILITIES, INC. DBA HORNSBY BEND UTILITY'S CERTIFICATE OF CONVENIENCE AND NECESSITY IN TRAVIS COUNTY BY EXPEDITED RELEASE § § § § § § §

PUBLIC UTILITY COMMISSION OF TEXAS BY FILING CLERK

ORDER NO. 4 FINDING APPLICATION ADMINISTRATIVELY INCOMPLETE AND PROVIDING AN OPPORTUNITY TO CURE

In this matter, Colorado River Project, LLC seeks streamlined expedited release of land it owns in Travis County from the certificated areas of the water and sewer certificates of convenience and necessity (CCNs) held by SWWC Utilities, Inc, dba Hornsby Bend Utility, CCN numbers 11978 and 20650, respectively. Colorado River Project claims to own 2,122.27 acres and that a portion of that land lies within the subject CCN boundaries. Commission Staff recommends that the application be found administratively complete. SWWC contends that the application is incomplete.

The administrative law judge (ALJ) finds that the application is administratively incomplete, but for reasons other than those espoused by SWWC. Streamlined expedited release is an option available for a contiguous tract of land that is at least 25 acres in size. As noted in a prior Commission proceeding:

[T]o constitute a single tract of land under TWC § 13.254(a-5) [now TWC § 13.2541] the property must have common ownership and be contiguous, meaning that all portions of the property must be in uninterrupted physical contact. A single tract cannot be separated by other property with different ownership, such as road [sic] and railroads, whether owned by governmental entities or private interests.¹

At this preliminary stage and based on the pleadings filed thus far, the facts relevant to the land in question appear to be as follows. Colorado River Project owns 2,122.27 acres of land, but

¹ Petition of SLF IV-114 Assemblage, LP to Amend Aqua Texas, Inc.'s Certificate of Convenience and Necessity in Denton County by Expedited Release, Docket No. 44667, Order at 5-6 (Sept. 11, 2015)(emphasis added).

the land is comprised of separate tracts,² as follows:

Tract 1	1,369.83 acres;
Tract 2	442.94 acres;
Tract 3	18.08 acres;
Tract 4	67.94 acres; and
Tract 5	223.49 acres

None of these tracts is contiguous with any of the others. Thus, it appears to the ALJ that this is not an application for streamlined expedited release of a single 2,122.27-acre tract of land, but for release of five separate tracts, and the appropriateness of release for each tract must be weighed independently. It further appears, however, that only one of the tracts—Tract 1—lies within the boundaries of the CCNs in question. Thus, it appears to the ALJ that the application in this case should be one for streamlined expedited release solely of the portion of the 1,369.83-acre tract (Tract 1) that lies within the SWWC CCNs.

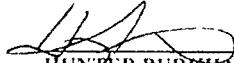
By October 21, 2020, Colorado River Project must either: (1) file an amended application that seeks release solely for Tract 1; or (2) confirm its intent to stand by its current application seeking release for 2,122.27 acres, and provide briefing explaining why it disagrees with the ALJ's preliminary analysis.

By November 4, 2020, Commission Staff must, and SWWC may, provide a supplemental recommendation on the completeness of the application and, if applicable, respond to any briefing by Colorado River Project. If appropriate, Commission Staff must also propose a procedural schedule for further processing.

² Colorado River Project describes the portions that make up the 2,122.27 acres as "parcels" but, in order to maintain fidelity with the terminology of the statute and Commission rule, the ALJ will refer to them as "tracts."

Signed the 30th day of September 2020.

PUBLIC UTILITY COMMISSION OF TEXAS



HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE