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Public Utility Commission of Texas


Commissioner Memorandum

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PUBLIC UTILITY COMMISSION
FILE NO. 10000000000000000000

TO: Commissioner Arthur C. D'Andrea
Commissioner Shelly Botkin

FROM: Chairman DeAnn T. Walker 

DATE: January 13, 2021

RE: January 14, 2021 Open Meeting – Item No. 8

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*

I recommend that the Commission make the following changes to the order in this proceeding.

Proposed findings of fact 5 and 10 should be modified to be consistent with the Commission's past orders in expedited release proceedings and for accuracy.

5. On August 13, 2020, the petitioner filed its petition for streamlined expedited release of five separate tracts ~~tract~~ of land ~~comprising, in total, approximately 2,122.27 acres,~~ from the CCN holder's service areas under water CCN number 11978 and sewer CCN number 20650.
10. On October 9, 2020, the petitioner ~~filed an amended petition. In the amended petition, the petitioner clarified~~ amended its petition to clarify that it is only seeking the release of certain portions of one of its five tracts, ~~consisting of approximately 1,369.33 acres,~~ from water CCN number 11978 and sewer CCN number 20650.

Proposed findings of fact 11 and 12 should be deleted to remove unnecessary information from the order. Subsequent findings of fact should be renumbered accordingly.

- ~~11. The requested area to be released from the CCN holder's water CCN number 11978 consists of 1,322.36 acres.~~
- ~~12. The requested area to be released from the CCN holder's sewer CCN number 20650 consists of 1,331.62 acres.~~

Proposed findings of fact 21 and 22 should be modified, and a new finding of fact should be added, to be consistent with the Commission's past orders in expedited release proceedings and for accuracy. Subsequent findings of fact should be renumbered accordingly.

21. The tract of land ~~for which the petitioner seeks expedited release~~ is approximately 1,369.833 acres and is in Travis County.
22. ~~A~~The portion of the petitioner's tract of land is located within the CCN holder's certificated service areas for which the petitioner seeks expedited release from water CCN number 11978 (the water CCN release property) is approximately 1,322.36 acres.
- XX. The portion of the tract of land for which the petitioner seeks expedited release from sewer CCN number 20650 (the sewer CCN release property) is approximately 1,331.62 acres.

Proposed conclusions of law 9, 10, and 11 should be modified and renumbered, and three new conclusions of law should be added, to be consistent with the Commission's past orders in expedited release proceedings and for accuracy. Subsequent conclusions of law should be renumbered accordingly.

9. The tract of land is not receiving water ~~or sewer~~ 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 tract of land is not receiving sewer service under TWC §§ 13.002(21) and 13.2541 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~~11. The petitioner is entitled under TWC § 13.2541(b) to the release of its ~~tract of land~~ the water CCN release property from the CCN holder's certificated service areas under water CCN number 11978.
12. The petitioner is entitled under TWC § 13.2541(b) to the release of the sewer CCN release property from the CCN holder's certificated service area under sewer CCN number 20650.
- ~~11~~13. After the date of this Order, the CCN holder has no obligation ~~under TWC § 13.254(h)~~ to provide retail water service ~~or retail sewer service~~ to the petitioner's ~~tract of land~~ water CCN release property.
14. After the date of this Order, the CCN holder has no obligation to provide retail sewer service to the petitioner's sewer CCN release property.

Proposed ordering paragraph 1 should be modified for clarity, in part by dividing it into a new ordering paragraph. Subsequent ordering paragraphs should be renumbered accordingly.

1. The Commission releases the water CCN release property identified in the amended petition from the CCN holder's certificated service areas under water CCN number 11978 ~~and sewer CCN number 20650.~~

2. The Commission releases the sewer CCN release property identified in the amended petition from the CCN holder's certificated service area under sewer CCN number 20650.

Finally, I propose delegating 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.