



Control Number: 51492



Item Number: 11

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DeAnn T. Walker
Chairman

Arthur C. D'Andrea
Commissioner

Shelly Botkin
Commissioner

Thomas J. Gleeson
Executive Director



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Public Utility Commission of Texas

TO: DeAnn T. Walker, Chairman
Arthur C. D'Andrea, Commissioner
Shelly Botkin, Commissioner

All Parties of Record

FROM: Hunter Burkhalter *LB*
Chief Administrative Law Judge

RE: **Open Meeting of February 25, 2021**
Docket No. 51492 – *Petition of Denton 114 LP to Amend Aqua Texas, Inc.'s Certificate of Convenience and Necessity in Denton County by Expedited Release*

DATE: January 28, 2021

Because of the COVID-19 state of disaster, the Commission has moved to a work-at-home environment and is working to maintain operations as normally as possible. However, all known challenges have not yet been overcome and the dates provided in this notice are subject to change

Enclosed is a copy of the Proposed Order in the above-referenced docket. The Commission will consider this docket at an open meeting currently scheduled to begin at 9:30 a.m. on Thursday, February 25, 2021, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties must file corrections or exceptions to the Proposed Order on or before Friday, February 5, 2021.

If a party proposes a correction or exception, the party must fully explain the correction or exception and must provide a citation to the record to support the correction or exception.

If there are no corrections or exceptions, no response is necessary.

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DOCKET NO. 51492

PETITION OF DENTON 114 LP TO	§	PUBLIC UTILITY COMMISSION
AMEND AQUA TEXAS, INC.'S	§	
CERTIFICATE OF CONVENIENCE	§	OF TEXAS
AND NECESSITY IN DENTON	§	
COUNTY BY EXPEDITED RELEASE	§	

PROPOSED ORDER

This Order addresses the petition by Denton 114 LP for streamlined expedited release of a tract of land in Denton County from the service area under certificate of convenience and necessity (CCN) number 13201. Aqua Texas, Inc. is the holder of CCN number 13201. For the reasons stated in this Order, the Commission releases the tract of land from Aqua Texas' certificated service area. In addition, the Commission amends Aqua Texas' CCN number 13201 to reflect the removal of this tract of land 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. Denton 114 is a Texas limited partnership registered with the secretary of state under filing number 803390043.

CCN Holder

2. Aqua Texas is a Texas for-profit 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 November 6, 2020, the petitioner filed a petition for streamlined expedited release of a tract of land from the CCN holder's service area under CCN number 13201.

5. The petition includes an affidavit, dated November 3, 2020, of Julian Hawes Jr., President of Provident Realty Advisors, Inc.; maps of the subject property and digital data; and a special warranty deed with vendor's lien dated August 28, 2019.
6. On December 17, 2020, the petitioner filed a supplemental affidavit, dated December 17, 2020, of Mr. Hawes, the vice president of PRA GP No. 2, which is the sole manager of Denton 114 GP LLC, which is the general partner of the petitioner.
7. In Order No. 2 filed on December 8, 2020, the administrative law judge (ALJ) found the petition administratively complete.

Notice

8. The petitioner sent a copy of the petition by certified mail, return receipt requested, to the CCN holder on November 5, 2020.
9. In Order No. 2 filed on December 8, 2020, the ALJ found the notice sufficient.

Intervention and Response to Petition

10. In Order No. 3 filed on December 16, 2020, the ALJ granted the CCN holder's motion to intervene.
11. The CCN holder filed a response to the petition on December 30, 2020.
12. The response includes an affidavit, dated December 30, 2020, of Darryl Waldock, the CCN holder's North Texas Area manager; and a map of the tract of land and surrounding area.

The Tract of Land

13. The tract of land for which the petitioner seeks streamlined expedited release is 90.546 acres and is in Denton County.
14. The tract of land is located within the CCN holder's certificated service area.

Ownership of the Tract of Land

15. The petitioner acquired the tract of land by a special warranty deed with vendor's lien dated August 28, 2019.

Qualifying County

16. Denton County is adjacent to Dallas and Tarrant counties and has a population of more than 47,500.

17. Dallas and Tarrant counties each have a population greater than one million people.

Water Service

18. The tract of land is not receiving actual water service from the CCN holder.
19. The petitioner has not requested that the CCN holder provide water service to the tract of land, or paid any fees or charges to initiate or maintain such service.
20. There are no billing records or other documents indicating an existing account with the CCN holder for the provision of water service to the tract of land.
21. The CCN holder owns and operates its Shale Creek public water system that is located a considerable distance to the west of the tract of land.
22. The CCN holder maintains a regional office in Fort Worth, Texas.
23. The CCN holder has not committed or dedicated any facilities or lines to the tract of land for water service.
24. The CCN holder has no facilities or lines that provide water service to the tract of land.
25. The CCN holder has not performed any acts for or supplied anything to the tract of land.

Map and Certificate

26. On January 11, 2021, Commission Staff filed its recommendation that included a certificate and a map on which it identified the tract of land 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 Texas Water Code (TWC) §§ 13.254 and 13.2541.
2. The petitioner provided notice of the petition in compliance with 16 Texas Administrative Code (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 or 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 that must be verified by a notarized affidavit.
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 a tract of land, which is at least 25 acres, for which it seeks 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 tract 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 tract of land 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 water service to the petitioner's tract of land.
12. The Commission has no authority to decertify any facilities or equipment owned and operated by the CCN holder to provide retail water service through the streamlined-expedited-release process under TWC § 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 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 tract of land 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 to be awarded to the CCN holder, if any, commences with the filing of this Order in accordance with the schedule adopted in Order No. 2. 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 __ day of February 2021.

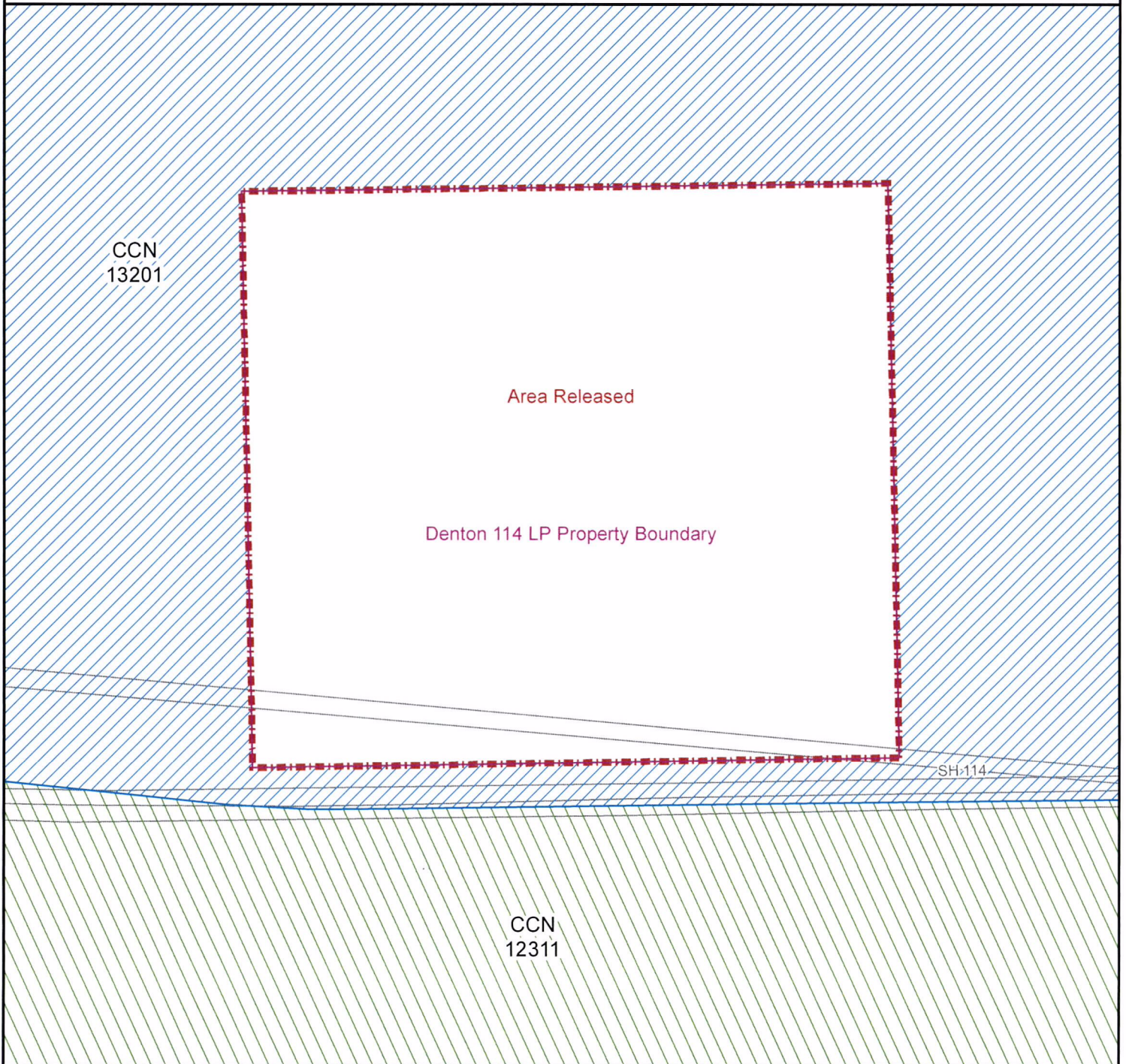
PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER



SHELLY BOTKIN, COMMISSIONER

Aqua Texas, Inc.
Portion of Water CCN No. 13201
PUC Docket No. 51492
Petition by Denton 114 LP to Amend
Aqua Texas, Inc.'s CCN by Expedited Release in Denton County

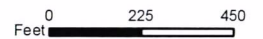


Public Utility Commission of Texas
1701 N. Congress Ave
Austin, TX 78701

Water CCN

-  13201 - Aqua Texas Inc
-  12311 - City of Fort Worth

-  Area Released
-  Property Boundary



Map by: Komal Patel
Date created: December 28, 2020
Project Path: n:\finalmapping\
51492AquaTexas.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, 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, Wise, and Wood Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 51492 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 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, this ____ day of February 2021.