



Control Number: 51545



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DOCKET NO. 51545

2021 JUL -8 PM 2: 03

PETITION OF COMPASS
DATACENTERS DFW III, LLC TO
AMEND ROCKETT SPECIAL
UTILITY DISTRICT'S CERTIFICATE
OF CONVENIENCE AND NECESSITY
IN ELLIS COUNTY BY EXPEDITED
RELEASE

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PUBLIC UTILITY COMMISSION
OF TEXAS

COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION

On November 20, 2020, Compass Datacenters DFW III, LLC (Compass) filed a petition for streamlined expedited release from Rockett Special Utility District's (Rockett SUD) water certificate of convenience and necessity (CCN) number 10099 under Texas Water Code (TWC) § 13.2541 and 16 Texas Administrative Code (TAC) § 24.245(h). Compass asserts that the tract of land to be released is at least 25 contiguous acres, is not receiving water service, and is located in Ellis County, which is a qualifying county. On June 4, 2021, the administrative law judge (ALJ) filed Order No. 6, denying Rockett SUD's second motion to dismiss and directing the Staff of the Public Utility Commission of Texas (Staff) to file a recommendation on the final disposition of the petition by July 8, 2021. Therefore, this pleading is timely filed.

I. RECOMMENDATION ON FINAL DISPOSITION

Staff has reviewed the petition and supplemental information, and as detailed in the attached memorandum from Patricia Garcia, Infrastructure Division, recommends that the petition be approved. Staff recommends that Compass has met the requirements of TWC § 13.2541 and 16 TAC § 24.245(h), and further recommends that the petition for release of the requested area from Rockett SUD's CCN number 10099 be granted. Staff provides the attached final water CCN map and certificate and recommends that they be provided to Rockett SUD.

Additionally, Staff recommends that Rockett SUD's motion to dismiss be denied. In support of its motion, Rockett SUD argues that the petition should be dismissed because the property is receiving service under the standard set forth in *Texas General Land Office v. Crystal*

Clear Water Supply Corp., 449 S.W.3d 130, (Tex. App.—Austin 2014, pet. denied).¹ Staff disagrees with this assertion. Based on the information provided by the parties, Staff has concluded that the portion of Compass’s property that Rockett SUD has identified as receiving service is not included in the area for which release is requested.

Staff further recommends that Rockett SUD’s claim of protection under 7 U.S.C. § 1926(b) is moot. The TWC explicitly states that “[t]he utility commission may not deny the petition based on the fact that the certificate holder is a borrower under a federal loan program.”² While a federal district court had previously held that 7 U.S.C. § 1926(b) preempted TWC § 13.2541 (formerly, TWC § 13.254(a-5) and (a-6)), that decision has been vacated by the Fifth Circuit.³

II. CONCLUSION

For the reasons detailed above, Staff respectfully recommends that the petition be approved and that the Commission issue an order consistent with this recommendation.

¹ Rockett Special Utility District’s Response and Objection to the Administratively Complete Petition and Motion to Dismiss at 8-10 (Jun. 24, 2021).

² TWC § 13.2541(d).

³ *Crystal Clear Special Util. Dist v Marquez*, No. 19-50556 (5th Cir. Nov. 6, 2020) (per curiam).

Dated: July 8, 2021

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on July 8, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Forrest Smith
Forrest Smith

Public Utility Commission of Texas

Memorandum

TO: Forrest Smith, Attorney
Legal Division

FROM: Patricia Garcia, Senior Engineering Specialist
Infrastructure Division

DATE: July 8, 2021

RE: Docket No. 51545 – *Petition of Compass Datacenters DFW III, LLC to Amend Rockett Special Utility District's Certificate of Convenience and Necessity in Ellis County by Expedited Release*

On November 20, 2020, Compass Datacenters DFW III, LLC (Compass) filed a petition for streamlined expedited release from Rockett Special Utility District's (Rockett SUD) water certificate of convenience and necessity (CCN) No. 10099 in Ellis County, under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h). Compass asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Ellis County, which is a qualifying county.

Tracy Montes, Infrastructure Division, determined that the map and digital data are sufficient for determining the location of the tracts of land considered for streamlined expedited release are located within Rockett SUD's water CCN. Furthermore, Compass provided warranty deeds confirming ownership of the tracts of land within Rockett SUD's certificated service area. In addition, Compass submitted a sworn affidavit attesting that the property was not receiving water service from the CCN holder.

Based on the mapping review by Ms. Montes, it was determined that the entire tract of land is 171.158 acres. The portion of the tract considered for release is 149.34 acres. If approved, the area to be released from Rockett SUD (CCN No. 10099) is 149.34 acres.

Rockett SUD requested to intervene. Rockett SUD provided documentation stating that the property is receiving water service and that it is protected by federal loans. However, based on the map provided by Rockett SUD on June 24, 2021, and the maps provided by Compass, the portion of the property that Rockett SUD claims is receiving service is not being requested to be released and will remain a part of Rockett SUD's CCN service area.

In accordance with TWC § 13.2541 and 16 TAC § 24.245(h), Compass has met the Commission's requirements to allow for the release of the tract of land from Rockett SUD's

CCN No. 10099. Therefore, I recommend approval of the petition. Enclosed is a final map and certificate for Commission approval.

Additionally, I recommend that a final map and certificate be provided to the CCN holder.



Public Utility Commission of Texas

By These Presents Be It Known To All That

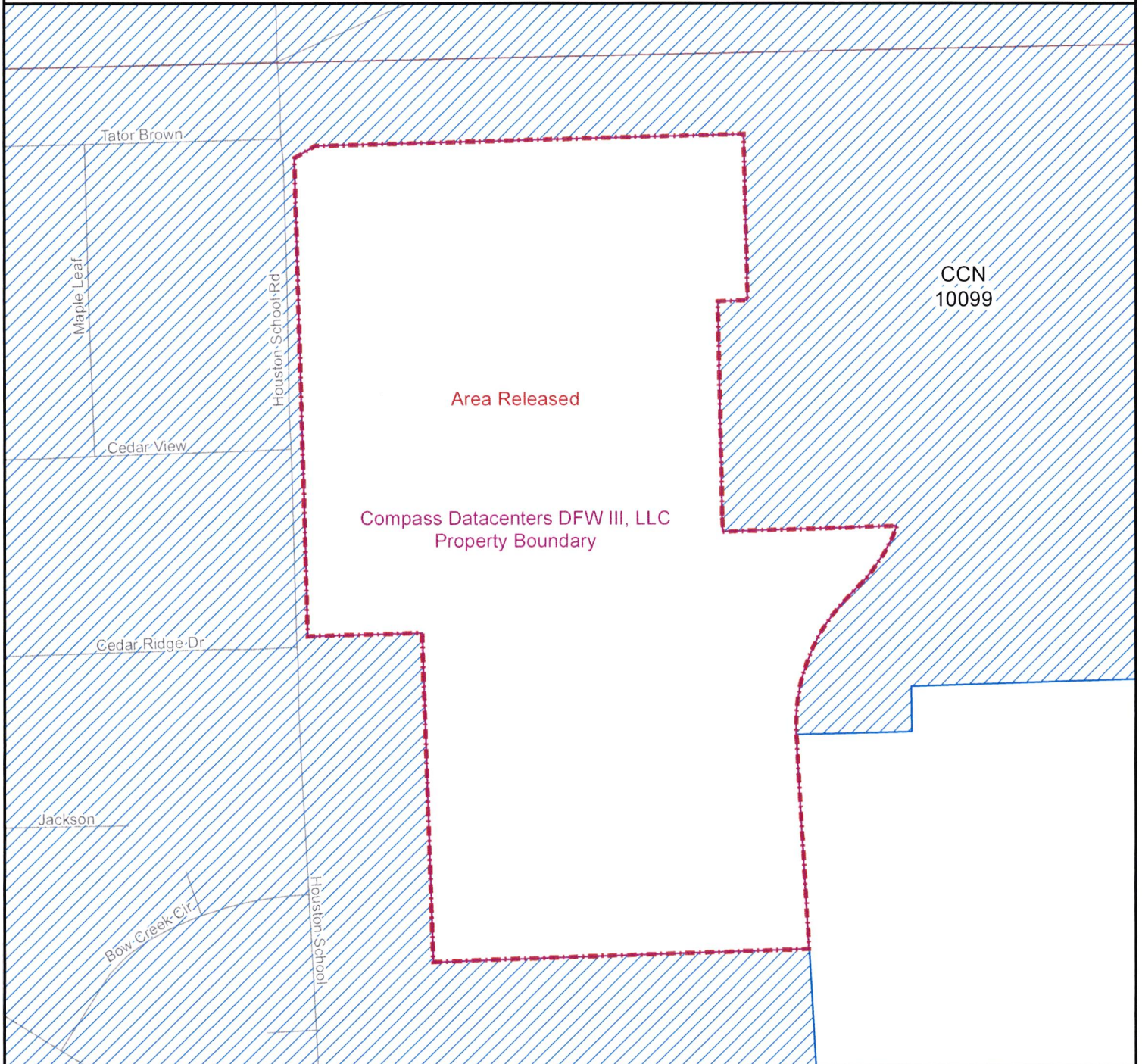
Rockett Special Utility District

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, Rockett Special Utility District is entitled to this


Certificate of Convenience and Necessity No. 10099

to provide continuous and adequate water utility service to that service area or those service areas in Dallas and Ellis Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 51545 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 Rockett Special Utility District 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.

Rockett Special Utility District
Portion of Water CCN No. 10099
PUC Docket No. 51545
Petition by Compass Datacenters DFW III, LLC to Amend
Rockett Special Utility District's CCN by Expedited Release in Ellis County



Water CCN

 10099 - Rockett SUD

 Area Released
 Property Boundary

0 300 600
Feet

