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**PUC DOCKET NO. 51933**

**PETITION OF MONTGOMERY  
ESTATES, LLC TO AMEND CC  
WATER WORKS, INC.'S WATER  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY NO. 13038 IN  
CHAMBERS COUNTY BY  
STREAMLINED EXPEDITED  
RELEASE UNDER TEXAS WATER  
CODE § 13.2541 AND 16  
TAC § 24.245(h)**

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**BEFORE THE  
PUBLIC UTILITY COMMISSION  
OF TEXAS**

**MONTGOMERY ESTATES, LLC'S REPLY TO CC WATER WORKS, INC.'S  
RESPONSE TO ADMINISTRATIVELY COMPLETE PETITION AND  
COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION**

COMES NOW, Montgomery Estates, LLC (Montgomery Estates), by and through its undersigned attorneys of record, and hereby files this Reply to CC Water Works, Inc.'s (CCWW) Response to Administratively Complete Petition (the Petition) and Commission Staff's Recommendation on Final Disposition (the Reply). In support thereof, Montgomery Estates would respectfully show as follows:

**I. BACKGROUND**

On March 24, 2021, Montgomery Estates filed its Petition to Amend CCWW's Certificate of Convenience and Necessity (CCN) in Chambers County by Streamlined Expedited Release under Texas Water Code (TWC) § 13.2541 and 16 Texas Administrative Code (TAC) § 24.254(h) (the Petition) with the Public Utility Commission of Texas (the Commission). On May 26, 2021, Montgomery Estates filed a Supplement to the Petition. On June 29, 2021, Commission Administrative Law Judge (ALJ) Siemankowski issued Order No. 4 Finding Petition, as Supplemented, Administratively Complete, and Establishing Procedural Schedule, setting: (i) a deadline of July 19, 2021 for CCWW to file a response to the administratively complete Petition; (ii) a deadline of August 2, 2021 for Commission Staff to file a recommendation on final

disposition; and (iii) a deadline of August 9, 2021 for Montgomery Estates to file a reply to CCWW's response to the administratively complete Petition and Commission Staff's recommendation on final disposition. On July 19, 2021, CCWW filed a response to the administratively complete petition (Response). On August 2, 2021, Commission Staff filed their Recommendation on Final Disposition (Recommendation) requesting that the Petition be approved and an order be issued consistent with the Recommendation. Therefore, this Reply is timely filed.

## **II. CC WATER WORKS, INC.'S RESPONSE IS UNTIMELY**

CCWW's Response is untimely and should not be considered. CCWW filed its Response to the administratively complete Petition on the Commission Interchange on July 19, 2021, at 3:17:30 p.m., as confirmed by the electronic timestamp on its filing. Title 16 Texas Administrative Code (TAC) § 22.71(h) states that "[a]ll documents shall be filed by 3:00 p.m. on the date due, unless otherwise ordered by the presiding officer." 16 TAC § 22.71(e) states that "[p]leadings and any other document shall be deemed filed when the required number of copies and the electronic copy, if required, in conformance with § 22.72 of this title are presented to the commission clerk for filing. ..." According to the Commission Interchange, effective July 13, 2021, electronic filing submissions are complete after submitting through the Commission Interchange Filer. Here, CCWW's Response was filed after 3:00 p.m. on the date due. Therefore, CCWW's Response should be found untimely and not worthy of consideration in this Docket.

## **III. REPLY TO CC WATER WORKS, INC.'S UNTIMELY RESPONSE**

Should the ALJ find that CCWW's Response was timely or consider the substance of the Response, Montgomery Estates maintains that the Petition is administratively complete and should be granted, as requested. In its Response, CCWW alleges that Montgomery Estates provided insufficient notice of the Petition. However, as Montgomery Estates has already clarified in its

May 11, 2021 Reply to CC Water Works, Inc.’s Response to Petition, Montgomery Estates properly provided notice of the Petition in accordance with the applicable Commission Rule, 16 TAC § 24.245(h)(3)(F). This rule requires a petitioner seeking streamlined expedited release to provide in its petition “proof that a copy of the petition was mailed to the current CCN holder via certified mail on the day that the landowner filed the petition with the commission.” According to 16 TAC § 22.74(b)(1), “[s]ervice by mail shall be complete upon deposit of the document, enclosed in a wrapper properly addressed, stamped and sealed, in a post office or official depository of the United States Postal Service, except state agencies.” On March 24, 2021, Montgomery Estates mailed a copy of the Petition to CCWW’s address on record with the Commission and filed its Petition at the Commission, including a copy of the U.S. Postal Service Certified Mail Receipt (the Service).

On April 9, 2021, the undersigned attorneys for Montgomery Estates received the Service with a “return to sender” label indicating that CCWW rejected service. Although Montgomery Estates had fully complied with 16 TAC §§ 24.245(h)(3)(F) and 22.74(b)(1), as a courtesy, it mailed another copy of the Petition to CCWW’s registered agent on record at the Secretary of State on April 16, 2021 (Supplemental Service). On April 22, 2021, Supplemental Service was accepted by CCWW’s registered agent. Attached as Exhibit A to this Reply is the Affidavit of Christina Thompson, providing additional details and supporting documents regarding the filing of this Petition, the Service of the Petition on CCWW, and the Supplemental Service (previously filed with Montgomery Estates’ May 11, 2021 Reply).

CCWW also alleges in its Response that the CCN decertification, as proposed by the Petition, would deny CCWW’s ability to serve some or all of the acreage within CCWW’s CCN, resulting in financial and operational harm. Based on those premises, CCWW seeks compensation

for any decertified property. However, CCWW's ability to serve is not a factor under TWC § 13.2541 and the Petition should be granted since it has been found administratively complete. TWC § 13.2541(b) allows "the owner of a tract of land that is at least 25 acres and that is not receiving water or sewer service" to petition for expedited release "and is entitled to that release" if the tract is one of the counties described therein. TWC § 13.2541(c) states that the Commission "shall grant the petition not later than the 60th day after the date the landowner files the petition." Therefore, whether or not the proposed decertification will affect CCWW's ability to serve some or all of its current CCN service area is irrelevant to this Petition. The Petition has been found administratively complete and should be granted by August 27, 2021—the 60th day after administrative approval.

As to CCWW's allegations regarding compensation, Montgomery Estates asserts that such allegations are irrelevant and not yet ripe, as the regulatory rubric for CCN decertification by streamlined expedited release provides that the compensation process does not commence until after the petition is approved. Commission Rule 16 TAC § 24.245(i) states that "[t]he amount of compensation, if any, will be determined after the commission has granted a petition for streamlined expedited release filed under subsection (h) of this section. The amount of compensation, if any, will be decided in the same proceeding as the petition for streamlined expedited release." Accordingly, Montgomery Estates will refrain from explaining why CCWW is not entitled to any compensation in this matter at this time and instead make those arguments later in this regulatory process, once the Petition is granted.

Thus, the arguments asserted in CCWW's untimely Response regarding notice and compensation should be disregarded not only because they are untimely, but also because: (i) Montgomery Estates has provided proof that notice was properly served on CCWW; and

(ii) compensation is not a factor to be considered by the Commission when deciding whether to decertify land from a CCN under TWC §§ 13.254 and 13.2541, and 16 TAC § 24.245.

#### **IV. REPLY TO STAFF'S RECOMMENDATION ON FINAL DISPOSITION**

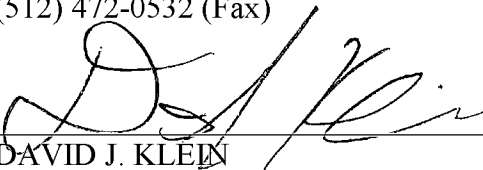
Montgomery Estates agrees with Commission Staff's Recommendation that the ALJ: (i) approve the Petition for streamlined expedited release from CCWW's CCN No. 13038 in Chambers County; and (ii) issue an order consistent with that Recommendation.

#### **V. CONCLUSION & PRAYER**

For these reasons, Montgomery Estates, LLC, respectfully requests that the presiding ALJ: (i) find CCWW's Response untimely; (ii) find that Montgomery Estates provided adequate notice to CCWW of the Petition and that the Petition is administratively complete; (iii) issue an order approving the Petition; and (iv) grant all other and further relief to which it may be entitled.

Respectfully submitted,

**LLOYD GOSSELINK**  
**ROCHELLE & TOWNSEND, P.C.**  
816 Congress Ave., Suite 1900  
Austin, Texas 787012  
(512) 322-5800  
(512) 472-0532 (Fax)



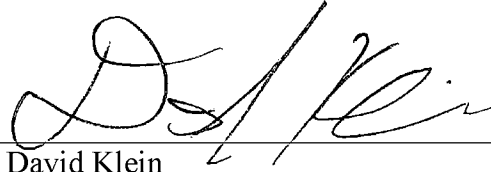
DAVID J. KLEIN  
State Bar No. 24041257

DANIELLE LAM  
State Bar No. 24121709

**ATTORNEYS FOR MONTGOMERY  
ESTATES, LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was transmitted by fax, hand-delivery, and/or regular, first class mail on this the 9th day of August, 2021 to the parties of record, in accordance with the Order Suspending Rules, issued in Project No. 50664.

A handwritten signature in black ink, appearing to read 'D. Klein', is written over a horizontal line.

David Klein

**EXHIBIT A**

Affidavit of Christina Thompson



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**PETITION OF MONTGOMERY  
ESTATES, LLC TO AMEND C C  
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**BEFORE THE  
  
PUBLIC UTILITY COMMISSION  
  
OF TEXAS**

**AFFIDAVIT OF CHRISTINA THOMPSON**

On this day, appeared before me, the undersigned notary public, Christina Thompson, and after I administered an oath to her, upon her oath, she said:

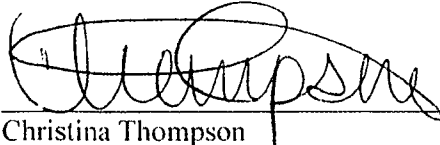
“My name is Christina Thompson. I am a paralegal at Lloyd Gosselink Rochelle & Townsend, P.C., attorneys for Montgomery Estates, LLC (“*Montgomery Estates*”). I am more than twenty-one (21) years of age and capable of making this affidavit. I have personal knowledge of the facts stated herein, which are true and correct.

1. On March 24, 2021, Montgomery Estates filed its Petition to Amend CC Water Works, Inc.’s (“CC Water Works”) Certificate of Convenience and Necessity No. 13038 in Chambers County by Streamlined Expedited Release (the “Application”) at the Public Utility Commission (the “Commission”).
2. On March 24, 2021, Montgomery Estates mailed via certified mail a copy of the Application to CC Water Works (the “Service”) at 5602 FM 3180 Road, Baytown, Texas 77523, the address of record on the Commission’s website (<http://www.puc.texas.gov/WaterSearch/Utility?siteId=97465>). A copy of the U.S. Postal Service Certified Mail Receipt is attached hereto as Attachment A.
3. The Service was rejected by CC Water Works. A copy of the Certified Mail envelope with the “return to sender” label is attached hereto as Attachment B.
4. On April 16, 2021, Montgomery Estates mailed via certified mail another copy of the Application to CC Water Works via Candace C. Smith at River Oaks Tower, 3730 Kirby Drive, Suite 650, Houston, Texas 77002, its registered agent according to the Secretary of

State's records ("Supplemental Service"). A copy of the U.S. Postal Service Certified Mail Receipt is attached hereto as Attachment C.

5. On April 22, 2021, the Supplemental Service was accepted by CC Water Works' registered agent. A copy of the USPS Tracking page is attached hereto as Attachment D.

FURTHER AFFIANT SAYETH NOT.



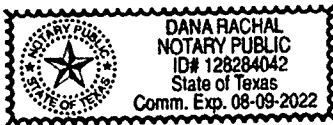
Christina Thompson  
Paralegal, Lloyd Gosselink Rochelle & Townsend,  
P.C.

STATE OF TEXAS

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COUNTY OF TRAVIS

Sworn to and subscribed before me the undersigned authority on this the 11th day of May, 2021.



Notary Public, State of Texas

# ATTACHMENT A

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF RETURN ADDRESS, FOLD AT DOTTED LINE

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Extra Services & Fees (check box, add fee as appropriate)

☒ Return Receipt (hardcopy) \$ 2.05

☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required \$

☐ Adult Signature Restricted Delivery \$

Postage  
\$

Total Postage and Fees  
\$

C C Water Works, Inc.  
5602 FM 3180 Road  
Baytown, Texas 77523-8075

for instructions

## SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

C C Water Works, Inc.  
5602 FM 3180 Road  
Baytown, Texas 77523-8075



9590 9402 5949 0062 1023 56

2. Article Number (Transfer from service label)

7020 1810 0000 3153 3507

PS Form 3811, July 2015 PSN 7530-02-000-9053

## COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Insured Mail

☐ Insured Mail Restricted Delivery (over \$500)

☐ Priority Mail Express®

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☐ Return Receipt for Merchandise

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

## ATTACHMENT A

### Certified Mail service provides the following benefits:

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- A unique identifier for your mailpiece.
- Electronic verification of delivery or attempted delivery.
- A record of delivery (including the recipient's signature) that is retained by the Postal Service™ for a specified period.

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- You may purchase Certified Mail service with First-Class Mail®, First-Class Package Service®, or Priority Mail® service.
- Certified Mail service is not available for international mail.
- Insurance coverage is not available for purchase with Certified Mail service. However, the purchase of Certified Mail service does not change the insurance coverage automatically included with certain Priority Mail items.
- For an additional fee, and with a proper endorsement on the mailpiece, you may request the following services:
  - Return receipt service, which provides a record of delivery (including the recipient's signature). You can request a hardcopy return receipt or an electronic version. For a hardcopy return receipt, complete PS Form 3811, Domestic Return Receipt, attach PS Form 3811 to your mailpiece, for an electronic return receipt, see a retail associate for assistance. To receive a duplicate return receipt for no additional fee, present this USPS® postmarked Certified Mail receipt to the retail associate.
  - Restricted delivery service, which provides delivery to the addressee specified by name, or to the addressee's authorized agent.
  - Adult signature service, which requires the signer to be at least 21 years of age (not available at retail).
  - Adult signature restricted delivery service, which requires the signer to be at least 21 years of age and provides delivery to the addressee specified by name, or to the addressee's authorized agent (not available at retail).
- To ensure that your Certified Mail receipt is accepted as legal proof of mailing, it should bear a USPS postmark. If you would like a postmark on this Certified Mail receipt, please present your Certified Mail item at a Post Office™ for postmarking. If you don't need a postmark on this Certified Mail receipt, detach the barcoded portion of this label, affix it to the mailpiece, apply appropriate postage, and deposit the mailpiece.

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PS Form 3800, April

USPS TRACKING #



9590 9402 5949 0062 1023 56



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Postage & Fees Paid  
USPS  
Permit No. G-10

United States  
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

Lloyd Gosselink  
Attn: Christina Thompson  
816 Congress Avenue, Suite 1900  
Austin, Texas 78701

4236-0 Petition

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY																	
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to:</p> <p style="text-align: center;">C C Water Works, Inc 5602 FM 3180 Road Baytown, Texas 77523-8075</p> <p>9590 9402 5949 0062 1023 56</p> <p>2. Article Number (Transfer from service label) 7020 1810 0000 3153 3507</p> <p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p>		<p>A. Signature <b>X</b></p> <p>B. Received by (Printed Name)</p> <p>C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below. <input type="checkbox"/> No</p> <p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Insured Mail</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td> <td></td> </tr> </table>		<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Insured Mail		<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	
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Domestic Return Receipt

<p><b>Lloyd Gosselink</b> ATTORNEYS AT LAW Lloyd Gosselink Rochelle &amp; Townsend, P.C. 816 Congress Avenue Suite 1900 Austin, Texas 78701</p>		<p>To:</p> <p>C C Water Works, Inc. 5602 FM 3180 Road Baytown, Texas 77523-8075</p>
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Certified Mail  
Return Receipt Requested

**First Class Mail**

773 CE 1 7204/07/21

100 3153 3507

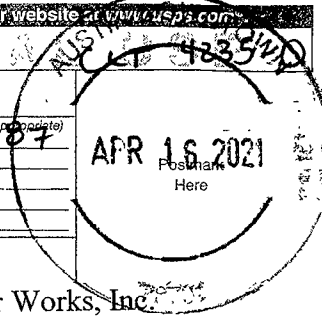


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Certified Mail Fee \$ <b>3.57</b>	
Extra Services & Fees (check box, add fee as appropriate)	
<input checked="" type="checkbox"/> Return Receipt (hardcopy) \$ <b>2.87</b>	
<input type="checkbox"/> Return Receipt (electronic) \$	
<input type="checkbox"/> Certified Mail Restricted Delivery \$	
<input type="checkbox"/> Adult Signature Required \$	
<input type="checkbox"/> Adult Signature Restricted Delivery \$	
Postage \$ <b>1.41</b>	
Total Postage \$ <b>7.85</b>	
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Street and	Candace C. Smith
City, State	River Oaks Tower
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	Houston, Texas 77002
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