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## *Public Utility Commission of Texas*

TO: Stephen Journey  
Commission Counsel

All Parties of Record

*KMM* for

FROM: Gregory R. Siemankowski  
Administrative Law Judge

RE: **Docket No. 51933** – *Petition of Montgomery Estates, LLC to amend C C Water Works, Inc.'s Certificate of Convenience and Necessity in Chambers County by Expedited Release*

DATE: September 10, 2021

Enclosed is a copy of the Revised Proposed Order in the above-referenced matter. A Proposed Order was filed on August 17, 2021. On September 1, 2021, Montgomery Estates, LLC (the petitioner) recommended corrections to the Proposed Order. I agree with the petitioner's recommendations. Specifically, I recommend that the Proposed Order be revised as shown below. The attached Revised Proposed Order incorporates my recommended changes.

This Order addresses the petition by Montgomery Estates, LLC for streamlined expedited release of a portion of a tract of land in Chambers County from the service area under certificate of convenience and necessity (CCN) number 13038. C C Water Works, Inc. (C C Water) is the holder of CCN number 13038. For the reasons stated in this Order, the Commission releases the portion of the tract of land from C C Water's certificated service area. In addition, the Commission amends C C Water's CCN number 13038 to reflect the removal of this tract of land from the service area.

Finding of fact 2 is edited as follows:

2. C C Water is a Texas corporation registered with the Texas secretary of state under filing number 0800208061.

Conclusion of law 15 is edited as follows:

15. A retail public utility may not under TWC § 13.254(d) provide retail water service to the public within the release property unless just and ~~reasonable~~



adequate compensation under TWC § 13.254(g) has been paid to the CCN holder.

Further, on September 1, 2021, C C Water Works Inc. (the CCN holder) filed corrections to the Proposed Order. However, C C Water simply stated that certain findings of fact were incorrect without providing proposed corrections or providing a citation to the record to support a claim that the findings of fact are incorrect. Therefore, I decline to make any of the suggested corrections.

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**DOCKET NO. 51933**

<b>PETITION OF MONTGOMERY</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>ESTATES, LLC TO AMEND C C</b>	<b>§</b>	
<b>WATER WORKS, INC.’S</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CERTIFICATE OF CONVENIENCE</b>	<b>§</b>	
<b>AND NECESSITY IN CHAMBERS</b>	<b>§</b>	
<b>COUNTY BY EXPEDITED RELEASE</b>	<b>§</b>	

**REVISED PROPOSED ORDER**

This Order addresses the petition by Montgomery Estates, LLC for streamlined expedited release of a portion of a tract of land in Chambers County from the service area under certificate of convenience and necessity (CCN) number 13038. C C Water Works, Inc. (C C Water) is the holder of CCN number 13038. For the reasons stated in this Order, the Commission releases the portion of the tract of land from C C Water’s certificated service area. In addition, the Commission amends C C Water’s CCN number 13038 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 C C Water, which will be addressed by separate order.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Petitioner**

1. The petitioner is a Texas limited liability company registered with the Texas secretary of state under filing number 803220296.

**CCN Holder**

2. C C Water is a Texas corporation registered with the Texas secretary of state under filing number 800208061.
3. C C Water holds CCN number 13038 that obligates it to provide retail water service in its certificated service area in Chambers County.

**Petition**

4. On March 24, 2021, the petitioner filed a petition for streamlined expedited release of a portion of a tract of land from the CCN holder's service area under CCN number 13038.
5. The petition includes the notarized affidavit, dated March 16, 2021, of Iqbal "John" Khowaja, petitioner's president, a general location map, a detailed property map, and a warranty deed with vendor's lien dated February 26, 2019.
6. In Order No. 2 filed on April 28, 2021, the administrative law judge (ALJ) found the petition administratively incomplete.
7. On May 26, 2021, the petitioner filed a supplement to the petition containing a general location map, detailed map, digital mapping data, and a metes and bounds survey.
8. In Order No. 4 filed on June 29, 2021, the ALJ found the petition, as supplemented, administratively complete.

**Notice**

9. The petitioner sent a copy of the petition by certified mail, return receipt requested, to the CCN holder on or about March 24, 2021.
10. In Order No. 2 filed on April 28, 2021, the ALJ found the notice sufficient.

**Intervention**

11. No motions to intervene were filed in this docket.

**Responses to Petition**

12. On May 4, 2021, the CCN holder filed response to the petition and a motion for leave to file a response.
13. The CCN holder's response includes the notarized affidavit of Alan Karl, the CCN holder's co-owner and president.
14. On May 11, 2021, the petitioner filed a response to the CCN holder's response.
15. In Order No. 3 filed on May 12, 2021, the ALJ granted the CCN holder's motion for leave to file a response.
16. On July 19, 2021, the CCN holder filed a response to the administratively complete petition.

17. On August 9, 2021, the petitioner filed a response to the CCN holder's response to the administratively complete petition.

**The Tract of Land**

18. The tract of land is approximately 100 acres in Chambers County.
19. The portion of the tract of land for which the petitioner seeks streamlined expedited release (the release property) is approximately 98.9 acres.
20. The release property is located within the CCN holder's certificated service area.

**Ownership of the Tract of Land**

21. The petitioner acquired the tract of land by a warranty deed with vendor's lien dated February 26, 2019.

**Qualifying County**

22. Chambers County abuts Harris County and has a population of less than 45,500.
23. Harris County has a population greater than one million people.

**Water Service**

24. The release property is not receiving actual water service from the CCN holder.
25. The petitioner has not requested that the CCN holder provide water service to the release property or paid any fees or charges to initiate or maintain such service.
26. There are no billing records or other documents indicating an existing account with the CCN holder for the provision of water service to the release property.
27. The CCN holder has not committed or dedicated any facilities or lines to the release property for water service.
28. The CCN holder has no facilities or lines that provide water service to the release property.
29. The CCN holder has not performed any acts for or supplied anything to the release property.

**Map and Certificate**

30. On August 2, 2021, Commission Staff filed its recommendation that included the proposed certificate and a map identifying the release property 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.
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 and includes the release property for which it seeks streamlined expedited release through the petition.
8. Chambers County is a qualifying county under TWC § 13.2541(b) and 16 TAC § 24.245(h)(2).
9. The release property 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 release property from the CCN holder's certificated service area.
11. After the date of this Order, the CCN holder has no obligation to provide retail water service to the petitioner's release property.

12. The Commission may release only the property of the landowner from a CCN under TWC § 13.2541(b). The Commission has no authority to decertificate any facilities or equipment owned and operated by the CCN holder to provide retail sewer 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 Chambers 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 release property unless just and adequate 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 release property identified in the petition from the CCN holder's certificated service area under CCN number 13038.
2. The Commission does not decertificate any of the CCN holder's equipment or facilities that may lay on or under the release property.
3. The Commission amends CCN number 13038 in accordance with this Order.
4. The Commission approves the map attached to this Order.
5. The Commission issues the certificate attached to this Order.
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. 4. 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 \_\_\_\_\_ 2021.

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**PETER LAKE, CHAIRMAN**

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**WILL MCADAMS, COMMISSIONER**

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**LORI COBOS, COMMISSIONER**

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**JIMMY GLOTFELTY, COMMISSIONER**