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# NewGen Strategies & Solutions

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## COMPENSTATION FOR DECERTIFICATION OF A PROTION OF C C WATER WORKS, INC.'S CERTIFICATE OF CONVENIENCE AND NECESSITY

FEBRUARY 10, 2022

Prepared for:  
Public Utility Commission of Texas  
1701 North Congress Avenue  
Austin, Texas 78711-3326

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February 10, 2022  
Mr. Arnett D. Caviel  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326

**Re: Decertification Compensation Report**

Dear Mr. Caviel:

NewGen Strategies & Solutions is pleased to provide the Public Utility Commission of Texas with a summary report for the third party appraisal to determine appropriate compensation for the expedited decertification of a portion of C C Water Works, Inc.'s service area covered under water certificate of convenience and necessity number 13038.

If you have any questions concerning this report, please contact us.

Sincerely,


DocuSigned by:  
  
1870379CE9854F5  
Zak Wright, ASA  
Manager



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## Section 1

# PREMISE OF THE APPRAISAL

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The Public Utility Commission of Texas (PUCT or Client) retained NewGen Strategies and Solutions, LLC (NewGen) to perform an independent appraisal to determine appropriate compensation for the decertification of a portion of C C Water Works, Inc.'s (CC or Certificate Holder) service area covered under water certificate of convenience and necessity (CCN) number 13038. The particular area at issue in this analysis (Decertified Area) is composed of one contiguous tract of land in Chambers County, Texas. The Decertified Area was requested to be decertified via expedited release, as codified in Texas Water Code §13.254 and Texas Water Code §13.2541, by Montgomery Estates, LLC (Montgomery or Petitioner) in Docket No. 51933 at the Public Utility Commission of Texas (PUCT). NewGen was appointed by the PUCT to provide a third appraisal to make a determination of the compensation, as dictated by Texas Water Code §13.254(g-1). The third appraiser shall make a determination of compensation that may not be less than the lower appraisal or more than the higher appraisal.

### Scope of Services

The purpose of the appraisal is to determine appropriate compensation for the decertification in accordance with applicable laws, statutes and the Uniform Standards of Professional Appraisal Practice (USPAP). In particular, the conduct of this analysis was dictated by Texas Water Code §13.254(g) and §13.254(g-1). Thus, NewGen relied upon a jurisdictional exception to conduct the scope of services as described herein. This report was prepared in conformance with the 2020-2021 Edition of USPAP as promulgated by the Appraisal Standards Board of the Appraisal Foundation (extended through December 31, 2022).

### Date of Valuation

The compensation was determined as of January 18, 2022.

### Date of Report

The date of this report is February 10, 2022

### Factors for Compensation

The factors ensuring just and adequate compensation in Texas Water Code §13.254(g) include:

- The value of real property owned and utilized by the retail public utility for its facilities (as determined according to the standards set forth in Chapter 21, Property Code, governing actions in eminent domain);
- The amount of the retail public utility's debt allocable for service to the area in question;
- The value of the service facilities of the retail public utility located within the area in question;





## Section 1

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- The amount of any expenditures for planning, design, or construction of service facilities that are allocable to service to the area in question;
- The amount of the retail public utility's contractual obligations allocable to the area in question;
- Any demonstrated impairment of service or increase of cost to consumers of the retail public utility remaining after the decertification;
- The impact on future revenues lost from existing customers;
- Necessary and reasonable legal expenses and professional fees; and
- Other relevant factors.

## NewGen Strategies and Solutions

NewGen is a management and economic consulting firm specializing in serving the utility industry and market. We provide financial, valuation, strategy, expert witness, stakeholder and sustainability consulting services to water, wastewater, solid waste, and energy clients across the country. Our expertise includes litigation support in state and federal regulatory proceedings, valuation of utility property, business and financial planning, and strategic planning for electric, water, wastewater, solid waste, and natural gas utilities.



## Section 2

### **ASSUMPTIONS, CONSIDERATIONS AND LIMITING CONDITIONS**

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In the preparation of this report, NewGen has made certain assumptions and used certain considerations with respect to conditions which may exist or events which may occur in the future. While we believe these considerations and assumptions to be reasonable based upon conditions known to us as of the date of this report, they are dependent upon future events and actual conditions may differ from those assumed.

While we believe the use of such information and assumptions to be reasonable for the purposes of this report, we offer no other assurances with respect thereto, and some assumptions may vary significantly due to unanticipated events and circumstances. To the extent actual future conditions differ from those assumed herein, or from the assumptions provided by others, the actual results may vary from those estimated.

The conclusion and opinions found in this report are made expressly subject to the following conditions and stipulations:

- ▣ The scope of work was dictated by Texas Water Code §13.254(g) and §13.254(g-1) and, thus, NewGen relied on a jurisdictional exception to conduct the scope of services as described herein.
- ▣ No personal inspection of the property that is the subject of this report was made.
- ▣ No responsibility is assumed by NewGen for matters that are legal in nature, nor does NewGen render any opinion as to the title, land and/or land rights, which are assumed to be good and marketable. No opinion is intended to be expressed for matters that would require specialized investigation or knowledge beyond that normally used by an appraiser engaged in valuing the type of system described in this report.
- ▣ NewGen made no determination as to the validity, enforceability, or interpretation of any law, contract, rule, or regulation applicable to the water system or its operation. However, for the purposes of this report, NewGen assumed that all such laws, contracts, rules, and regulations will be fully enforceable in accordance with their terms as NewGen understands them and that the operators of the water system will operate the utility in accordance with all applicable laws, contracts, rules, and regulations. NewGen assumed that the water system conforms to all applicable zoning and use regulations and restrictions.
- ▣ We assume there are no hidden conditions that would make the Decertified Area more or less valuable.
- ▣ Individuals affiliated with NewGen and contributing to this report are Mr. Zak Wright, ASA, Manager, and Mr. Nick Coomer, Consultant.
- ▣ The studies and analyses undertaken in the preparation of the opinions contained herein have been performed in accordance with USPAP.





## Section 3 ANALYSES

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### Introduction

The compensation factors contained in Texas Water Code §13.254(g) are designed to ensure the utility losing a portion of its service territory, or CCN, (the Decertified Utility) is not financially harmed by the decertification. These factors are intended to provide just and adequate compensation to the Decertified Utility so that the remaining customers of the Decertified Utility will not have to bear a greater portion of the Decertified Utility's total costs as a result of the decertification. Water utilities are fixed cost intensive entities, which make investments in infrastructure in order to provide water service to existing and expected future customers. As such, the compensation factors focus on mitigating stranded fixed costs, rather than potential lost profits. Water utilities are tasked with planning for the provision of service to future customers and, further, water utilities have an obligation to provide continuous and adequate service to the area within their CCN, as required under Chapter 13 of the Texas Water Code.

In this particular circumstance, the Decertified Area is composed of undeveloped land within CC's CCN. The PUCT has determined the Decertified Area is not currently receiving water service.<sup>1</sup> However, CC contends that the removal of the Decertified Area from the CCN will result in financial and/or operational harm.<sup>2</sup>

### Analysis of Factors for Compensation

1. **Factor:** The value of real property owned and utilized by the retail public utility for its facilities (as determined according to the standards set forth in Chapter 21, Property Code, governing actions in eminent domain)

**Analysis:** There is no real property being transferred as a result of the decertification nor any real property rendered useless or permanently under-utilized as a result of the decertification. Therefore, there is no compensation due related to this factor.

2. **Factor:** The amount of the retail public utility's debt allocable for service to the area in question

**Analysis:** NewGen reviewed the annual reports that CC filed on the PUCT Interchange for calendar years 2017 through 2020.<sup>3</sup> CC does not appear to have any outstanding debt as of the valuation date for this appraisal report. The appraisal reports filed by both the Petitioner and Certificate Holder also did not find evidence of outstanding debt.<sup>4</sup> Therefore, there is no compensation due related to this factor.

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<sup>1</sup> Docket No. 51933, Commission Order dated November 2, 2021

<sup>2</sup> Docket No. 51933, C C Water Works, Inc.'s Response to the Petition of Montgomery Estates, LLC for Expedited Release and Motion for Leave to File the Response dated May 4, 2021, Exhibit A

<sup>3</sup> PUCT Annual Report filings for CCN 13038 under Docket Nos. 47833, 48918, 50316, and 51720

<sup>4</sup> Docket No. 51933, C C Water Works, Inc.'s Submission of Appraisal report, dated January 11, 2022, and Montgomery Estates, LLC's Appraiser's Report, dated January 11, 2022



### Section 3

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3. **Factor:** The value of the service facilities of the retail public utility located within the area in question

**Analysis:** NewGen understands there are no facilities owned by CC located within the Decertified Area nor have we been made aware of any facilities rendered permanently useless or under-utilized as a result of the decertification. The appraisal reports filed by both the Petitioner and Certificate Holder also did not find evidence of any existing service facilities located within the Decertified Area.<sup>4</sup> Thus, there is no compensation due related to this factor.

4. **Factor:** The amount of any expenditures for planning, design, or construction of service facilities that are allocable to service to the area in question

**Analysis:** NewGen did not identify any expense related to this category for the Decertified Area. The appraisal reports filed by both the Petitioner and Certificate Holder also did not find evidence of any expense related to this factor for the Decertified Area.<sup>4</sup> Thus, there is no compensation due related to this factor.

5. **Factor:** The amount of the retail public utility's contractual obligations allocable to the area in question

**Analysis:** CC did not provide any indication of contractual obligations that would be allocable to the Decertified Area. NewGen was not able to identify any relevant contractual obligations allocable to the Decertified Area through a review of publicly available information. The appraisal reports filed by both the Petitioner and Certificate Holder also did not find evidence of any contractual obligations allocable to the Decertified Area.<sup>4</sup> Thus, no compensation was identified related to this factor.

6. **Factor:** Any demonstrated impairment of service or increase of cost to consumers of the retail public utility remaining after the decertification

**Analysis:** NewGen did not identify the need for any compensation related to this factor. There was no demonstrated impairment of service to consumers of the retail public utility remaining after the decertification. The service to existing consumers of the retail public utility is not changed as a result of the decertification. Further, there was no increase of costs to consumers of the retail public utility as a result of the decertification. Finally, to the extent that stranded fixed costs may be allocable to the Decertified Area, these costs are accounted for in the other factors for compensation.

7. **Factor:** The impact on future revenues lost from existing customers

**Analysis:** Given there are no existing customers being taken from CC in this decertification, NewGen did not identify any relevant compensation for this factor. The appraisal reports filed by both the Petitioner and Certificate Holder also did not find evidence of any compensation due related to this factor.<sup>4</sup>

8. **Factor:** Necessary and reasonable legal expenses and professional fees

**Analysis:** CC is entitled to recovery of any necessary and reasonable legal expenses and professional fees related to this decertification. NewGen reviewed the estimated legal expenses and professional fees related to this decertification that were included in the appraisal submitted by the Certificate Holder.<sup>5</sup> At the time these costs were estimated, legal expenses were approximately \$6,435 and professional fees from CC's appraiser were approximately \$5,000. The total compensation for this factor is **\$11,435**. However, compensation for this factor may need to be updated at a later date if additional prudent professional expenses related to this decertification are incurred.

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<sup>5</sup> Docket No. 51933, C C Water Works, Inc.'s Submission of Appraisal report, dated January 11, 2022



9. **Factor:** Other relevant factors.

**Analysis:** NewGen did not identify any other relevant factors requiring compensation. The appraisal reports filed by both the Petitioner and Certificate Holder also did not find evidence of any allocable expense, or compensation due, related to this factor for the Decertified Area.<sup>4</sup>

Conclusions

The resulting compensation for decertification under Texas Water Code §13.254(g) is summarized in Table 3-1 below.

Table 3-1  
Compensation Summary

Factor Allocable to Decertified Area	Compensation
Legal Expenses and Professional Fees *	\$11,435
	\$11,435



## Section 4

### CERTIFICATION

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I, the undersigned, certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding the agreement to perform this assignment.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the Client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice (2020-2021 Edition) (extended through December 31, 2022)*.
- No personal inspection of the property that is the subject of this report was made.
- Nick Coomer (Consultant at NewGen Strategies and Solutions, LLC) provided significant personal property appraisal assistance to the person signing this certification.

Respectfully submitted,

**NewGen Strategies & Solutions, LLC**

DocuSigned by:



1870379CE9854F5  
Zak Wright, ASA

February 10, 2022





NewGen  
Strategies & Solutions



# THANK YOU!



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