

Control Number: 51939



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DOCKET NO. 51939

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PETITION OF NPH MARKET STREET, § PUBLIC UTILITY COMMISSION
LLC TO AMEND GULF COAST §
AUTHORITY'S SEWER CERTIFICATE §
OF CONVENIENCE AND NECESSITY §
IN CHAMBERS COUNTY BY §
EXPEDITED RELEASE §

**ORDER NO. 5
GRANTING STREAMLINED EXPEDITED RELEASE**

This Order addresses the petition by NPH Market Street, LLC for streamlined expedited release of a tract of land in Chambers County from the service area under certificate of convenience and necessity (CCN) number 20465. Gulf Coast Authority is the holder of CCN number 20465. For the reasons stated in this Order, the Commission releases the tract of land from Gulf Coast's certificated service area. In addition, the Commission amends Gulf Coast's CCN number 20465 to reflect the removal of the 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 Gulf Coast, which will be addressed by separate order.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

1. NPH Market Street is a Delaware limited liability company registered with the Texas secretary of state under filing number 803341311.

CCN Holder

2. Gulf Coast is a conservation and reclamation district that operates, maintains, and controls facilities for providing sewer service for compensation.
3. Gulf Coast holds CCN number 20465 that obligates it to provide retail sewer service in its certificated service area in Chambers County.

Petition

4. On March 25, 2021, the petitioner filed a petition for streamlined expedited release of its tract of land from the CCN holder's service area under CCN number 20465.

5. The petition includes: (a) an affidavit of Ryan T. Lovell, the petitioner's vice president; (b) a special warranty deed dated May 19, 2020, with a metes and bounds description; (c) a special warranty deed dated December 29, 2020, with a metes and bounds description; (d) a special warranty deed dated March 3, 2020, with a metes and bounds description; (e) a general location map; (f) a detailed map; and (g) digital mapping data.
6. In Order No. 2 filed on April 27, 2021, the administrative law judge (ALJ) found the petition administratively complete.

Notice

7. The petitioner sent a copy of the petition by certified mail, return receipt requested, to the CCN holder, on March 25, 2021.
8. In Order No. 2 filed on April 27, 2021, the ALJ found the notice sufficient.

Intervention and Response to the Petition

9. The CCN holder has not sought to intervene in this proceeding.
10. The CCN holder did not file a response to the petition.

The Tract of Land

11. The tract of land is approximately 134.09 acres, is in Chambers County, and is comprised of the following four contiguous parcels: (a) parcel 1 is 60.722 acres; (b) parcel 2 is 5.078 acres; (c) parcel 3 is 6.9374 acres; and (d) parcel 4 is 61.353 acres.
12. The tract is located within the CCN holder's certificated service area.

Ownership of the Land

13. The petitioner acquired parcels 1 and 2 by special warranty deed dated May 19, 2020.
14. The petitioner acquired parcel 3 by special warranty deed dated December 29, 2020.
15. The petitioner acquired parcel 4 by special warranty deed dated March 3, 2020.

Qualifying County

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

Sewer Service

18. The tract is not receiving actual sewer service from the CCN holder.
19. The tract has never received sewer service from the CCN holder.

20. The petitioner has never asked the CCN holder to provide sewer service to the tract.
21. The petitioner has no contracts with the CCN holder for the provision of sewer service to the tract and has received no bills from the CCN holder for sewer service to the tract.
22. The CCN holder has not committed or dedicated any facilities or lines to the tract for sewer service.
23. The CCN holder has no facilities or lines that provide sewer service to the tract.
24. The CCN holder has not performed any acts for or supplied anything to the tract.

Map and Certificate

25. On June 1, 2021, Commission Staff filed its recommendation that included a certificate and a map on which it identified the tract in relationship to the CCN holder's certificated service area.
26. On June 25, 2021, Commission Staff filed a revised map and certificate reflecting the name change to Gulf Coast Authority.

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 the tract of land, which is at least 25 acres, 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 tract is not receiving sewer 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 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 sewer service to the tract.
12. 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 sewer 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 20465.
2. The Commission does not decertificate any of the CCN holder's equipment or facilities that may lay on or under the tract of land.
3. The Commission amends CCN number 20465 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.

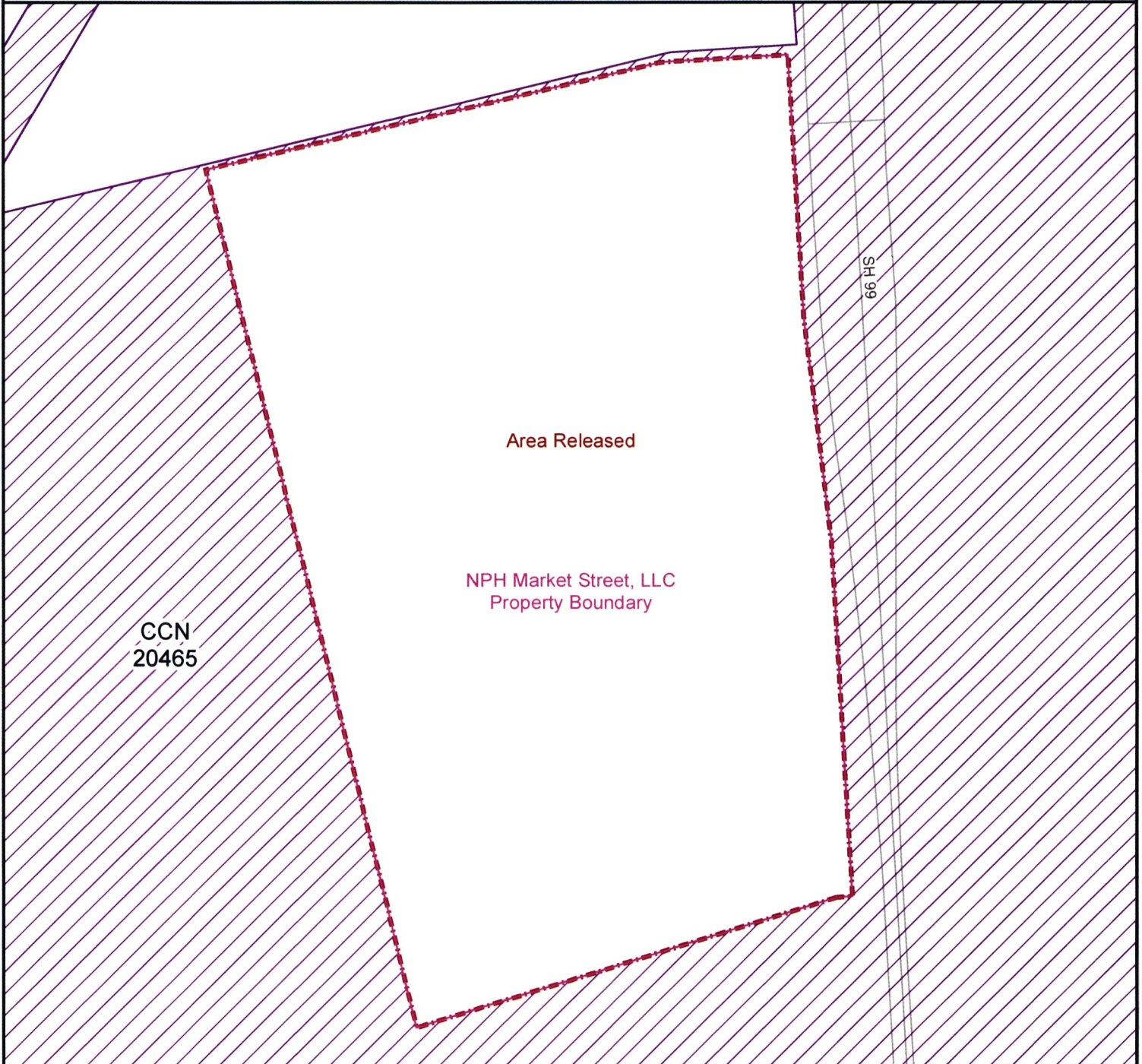
Signed at Austin, Texas the 28th day of June 2021.

PUBLIC UTILITY COMMISSION OF TEXAS



CHRISTINA DENMARK
ADMINISTRATIVE LAW JUDGE

Gulf Coast Authority
Sewer CCN No. 20465
PUC Docket No. 51939
Petition by NPH Market Street, LLC to Amend
Gulf Coast Authority's CCN by Expedited Release in Chambers County



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

Sewer CCN

 20465 Gulf Coast Authority

0 250 500
Feet



Map by: Komal Patel
Date created: May 10, 2021
Project Name: 51939GulfCoastWDA.mxd



Public Utility Commission Of Texas

By These Presents Be It Known To All That

Gulf Coast Authority

having obtained certification to provide sewer 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, Gulf Coast Authority is entitled to this

Certificate of Convenience and Necessity No. 20465

to provide continuous and adequate sewer utility service to that service area or those service areas in Brazoria, Chambers, Galveston and Harris Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 51939 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 Gulf Coast Authority 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 28th day of June 2021.