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DOCKET NO. 52101

PETITION OF CCD-NORTH SKY, LLC	§	PUBLIC UTILITY COMMISSION
TO AMEND MARILEE SPECIAL	§	
UTILITY DISTRICT'S CERTIFICATE	§	OF TEXAS
OF CONVENIENCE AND NECESSITY	§	
IN COLLIN COUNTY BY EXPEDITED	§	
RELEASE	§	

**ORDER NO. 9
DENYING MOTION TO DISMISS**

In this matter, CCD-North Sky, LLC (North Sky) seeks streamlined expedited release for a tract of land from Marilee Special Utility District's water certificate of convenience and necessity (CCN) number 10150 in Collin County. On July 6, 2021, North Sky amended its petition and mapping data to revise the requested area. On July 28 and August 17, 2021, Marilee SUD filed supplemental mapping. In Order No. 2 filed on June 9, 2021, the administrative law judge (ALJ) granted Marilee SUD's motion to intervene.

On June 16, 2021, Marilee SUD filed a motion to dismiss. Marilee SUD asserted that the petition should be dismissed as the requested area is currently receiving service from Marilee SUD. Additionally, Marilee SUD argues that North Sky's petition should be dismissed for failure to comply with requirements under Texas Water Code §§ 13.254 and 13.2541, specifically that North Sky's deficient application could not be remedied within the 60-day statutory deadline for approval.

On June 29, 2021, North Sky filed a response to Marilee SUD's motion to dismiss. North Sky argues that Marilee SUD has improperly interpreted the 60-day statutory deadline for approval. North Sky also asserts that the residence receiving service from Marilee SUD was inadvertently included in the initial requested area as the result of a mapping error which was rectified in North Sky's July 6, 2021 amended petition.

On September 13, 2021, Commission Staff filed its response to Marilee SUD's motion to dismiss. Commission Staff has reviewed and confirmed that North Sky's amended petition removed a portion of the property in the general area of the residence receiving service from the requested area. Further, Commission Staff asserts that the 60-day timeline for approval does not begin until an order has been issued finding the petition administratively complete.

The arguments made by Marilee SUD in the motion to dismiss in part address the merits of the petition; additionally, the motion to dismiss does not identify a ground for dismissal specified in the Commission's dismissal rule, 16 Texas Administrative Code (TAC) § 22.181(d). Instead, while the motion to dismiss lists some of the reasons for dismissal in 16 TAC § 22.181(d), it does not specifically identify a reason that dismissal of the petition is warranted. Accordingly, the motion to dismiss is denied.

Signed at Austin, Texas the 14 day of September 2021.

PUBLIC UTILITY COMMISSION OF TEXAS



KATIE MOORE MARX
ADMINISTRATIVE LAW JUDGE