



Control Number: 52453



Item Number: 50

DOCKET NO. 52453

**APPLICATION OF SKYLINE DRIVE §
LANDOWNERS ASSOCIATION §
WATER SYSTEM TO DECERTIFY A §
PORTION OF ITS WATER §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY IN JOHNSON §
COUNTY §**

**PUBLIC UTILITY COMMISSION 40
OF TEXAS**
FILING CLERK

ORDER

This Order addresses the application of Skyline Drive Landowners Association Water System to amend its water certificate of convenience and necessity (CCN) number 12479 by decertifying a portion of its certificated service area in Johnson County. The Commission decertifies the requested area from Skyline Drive Landowners' certificated service area and amends Skyline Drive Landowners' CCN number 12479 to reflect the decertification of the requested area.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant and Interested Parties

1. Skyline Drive Landowners Association is an association of members who own land that is located along Skyline Drive in Johnson County, Texas.
2. Each member is the owner of an undivided 1/28 interest to a public water system that is registered with the Texas Commission on Environmental Quality (TCEQ) under identification number 1260060.
3. Randy Chitwood is a member of Skyline Drive Landowners and holds an undivided 1/28 interest in the public water system, identification number 1260060.
4. Randy Chitwood operates Skyline Drive Landowners in Johnson County, Texas.
5. Skyline Drive Landowners operates, maintains, and controls facilities for providing retail water service to customers in Johnson County under water CCN number 12479.

6. Skyline Drive Landowners operates the public water system registered under TCEQ identification number 1260060.

Application

7. On August 20, 2021, Skyline Drive Landowners filed the application at issue in this proceeding seeking to decertify a portion of its certificated service area in Johnson County under CCN number 12479.
8. Skyline Drive Landowners supplemented its application on September 15 and 21, 2021.
9. The requested area is located approximately five miles northeast of downtown Godley, Texas and is generally bounded on the north by 1st Street (Highcrest Estates); on the east by County Road 915; on the south by County Road 915; and on the west by Clearview Drive.
10. The requested area is approximately 22 acres and has zero current connections.
11. The requested area was incorrectly included in Skyline Drive Landowners' initial certificated service area.
12. The requested area does not include any area owned by a member of Skyline Drive Landowners Association.
13. In Order No. 3 filed on November 4, 2021, the administrative law judge (ALJ) found the application, as supplemented, administratively complete.

Notice and Good-Cause Exception

14. On November 12, 2021, Skyline Drive Landowners filed the affidavit of Mr. Chitwood, manager, system operator, and authorized representative for Skyline Drive Landowners, attesting that notice was mailed to neighboring utilities and affected parties on November 10, 2021.
15. On November 23, 2021, Skyline Drive Landowners filed a supplement to the proof of notice.
16. In Order No. 4 filed on December 14, 2021, the ALJ found the notice sufficient.

17. On September 21, 2022, Commission Counsel filed a memorandum requiring the parties to identify the location in the evidentiary record of the proof of individual notice to all landowners in the requested area.
18. Skyline Drive Landowners provided notice to the only landowner in the requested area, WB Joshua Land LLC, but provided that notice after the application was filed.
19. On October 19, 2022, the parties requested a good-cause exception to the requirements of 16 TAC § 24.245(d)(2)(A) because WB Joshua Land has consented in writing to the decertification.
20. Good cause exists for waiver of notice at the time the application was filed to landowners in the requested area.

Evidentiary Record

21. In Order No. 11 filed on July 11, 2022, the ALJ admitted the following evidence into the record of this proceeding: (a) Skyline Drive Landowners' application and all attachments filed on August 20, 2021; (b) Skyline Drive Landowners' supplements to the application filed on September 15 and 21, 2021; (c) Commission Staff's supplemental recommendation on administrative completeness and proposed notice filed on November 4, 2021; (d) Skyline Drive Landowners' proof of notice filed on November 12 and 23, 2021; (e) Commission Staff's recommendation on sufficiency of notice filed on December 13, 2021; (f) Skyline Drive Landowners' proof of ownership filed on March 28 and 30, 2022; (g) Skyline Drive Landowners' request for good-cause exception and certificate name filed on April 7, 2022; (h) Commission Staff's recommendations on good-cause exception and certificate name and request to restyle the docket filed on April 18, 2022; (i) Commission Staff's proposed procedural schedule with existing certificate attached filed on May 13, 2022; (j) Skyline Drive Landowners' signed consent form filed on May 20, 2022; and (k) Commission Staff's final recommendation and all attachments filed on June 6, 2022.
22. In Order No. 12 filed on October 25, 2022, the ALJ admitted the following evidence into the record of this proceeding: (a) WB Joshua Land consent letter with maps filed on

October 17, 2022; and (b) the parties' joint response to memorandum filed on October 19, 2022.

Circumstances of Decertification

23. Skyline Drive Landowners has never provided water service to any customers in the requested area.
24. Skyline Drive Landowners has not received any requests for water service in the requested area.
25. Skyline Drive Landowners consented in writing to decertification of the requested area.

Effect on Customers and Landowners in the Requested Area

26. Skyline Drive Landowners has no customers and owns no facilities in the requested area.
27. WB Joshua Land consented to decertification; therefore, there will be no adverse effect on landowners in the requested area.
28. Skyline Drive Landowners will not be required to provide continuous and adequate service to the requested area.

Continuous and Adequate Service to Customers and Landowners

29. Decertification of the requested area will not impact Skyline Drive Landowners' ability to serve the customers in its certificated service area, who are served by the public water system outside of the requested area.

Adverse Impact on the Requested Area in the Present or Future

30. Skyline Drive Landowners has no customers and owns no facilities in the requested area so service to the requested area will not be discontinued, reduced, or impaired.
31. New facilities would need to be constructed by a future CCN holder to serve the requested area.

Compensation from a Prospective Retail Public Utility

32. Skyline Drive Landowners is not entitled to compensation from a prospective retail public utility because it requested decertification of the requested area by consent.

Map, Certificate, and Tariff

33. On May 20, 2022, Commission Staff emailed the proposed final map, certificate, and tariff to Skyline Drive Landowners.
34. On May 20, 2022, Skyline Drive Landowners filed its consent to the proposed final map, certificate, and tariff.
35. On June 6, 2022, Commission Staff filed the proposed final map, certificate, and tariff as attachments to its final recommendation.

Informal Disposition

36. More than 15 days have passed since the completion of notice provided in this docket.
37. No person filed a protest or motion to intervene.
38. Skyline Drive Landowners and Commission Staff are the only parties to this proceeding.
39. No party requested a hearing and no hearing is needed.
40. Commission Staff recommended that the application be approved.
41. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this proceeding under Texas Water Code (TWC) §§ 13.041, 13.241, 13.244, 13.246, 13.250, and 13.254.
2. Skyline Drive Landowners is a retail public utility as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. The application meets the requirements of TWC § 13.244.
4. Good cause exists under 16 TAC § 24.2(b) to grant an exception to the requirement in 16 TAC § 24.245(d)(2)(A) that notice of the application be provided at the time the application was filed to landowners in the requested area.

5. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,¹ the TWC and Commission rules.
6. Skyline Drive Landowners met the requirements of TWC § 13.254 and 16 TAC § 24.245 for decertification of the requested area.
7. Skyline Drive Landowners consented to decertification of the requested area in writing in accordance with TWC § 13.254(a), 16 TAC § 24.245(d)(1)(E), and 16 TAC § 24.245(d)(2).
8. Under TWC § 13.254(h), after decertification of the requested area, Skyline Drive Landowners will no longer be obligated to provide service to the requested area.
9. After consideration of the factors in 16 TAC § 24.245(d)(2), Skyline Drive Landowners demonstrated that existing customers and landowners will not be adversely affected by decertification of the requested area.
10. Under TWC § 13.257(r) and (s), Skyline Drive Landowners must record a certified copy of the approved map and certificate, along with a boundary description of the service area, in the real property records of Johnson County within 31 days of this Order and must submit evidence of the recording to the Commission.
11. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

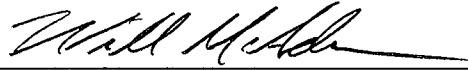
1. The Commission decertifies the requested area from Skyline Drive Landowners' certificated service area and amends Skyline Drive Landowners' CCN number 12479 to reflect the decertification of the requested area.
2. The Commission approves the map and tariff attached to this Order.

¹ Tex. Gov't Code §§ 2001.001–2001.903

3. The Commission issues the certificate attached to this Order.
4. Skyline Drive Landowners must provide service to every customer and applicant for service within the approved area under CCN number 12479 who requests water service and meets the terms of its water service policies, and such service must be continuous and adequate.
5. Skyline Drive Landowners must comply with the recording requirements of TWC § 13.257(r) and (s) for the area in Johnson County affected by this application and file in this docket proof of the recording no later than 45 days after the date of this Order.
6. The Commission denies all other motions and any other requests for general and specific release that have not been expressly granted.

Signed at Austin, Texas the 3rd day of November 2022.

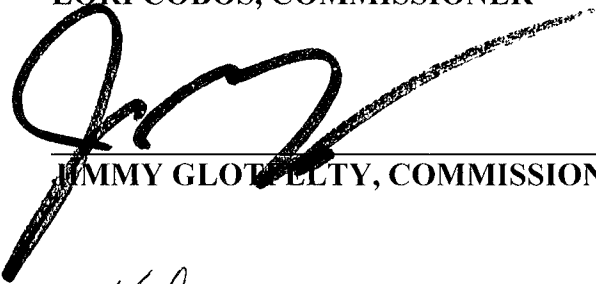
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