



Control Number: 52497



Item Number: 25

DOCKET NO. 52497

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PETITION OF HC CELINA 414, LLC §
TO AMEND MARILEE SPECIAL §
UTILITY DISTRICT'S CERTIFICATE §
OF CONVENIENCE AND NECESSITY §
IN COLLIN COUNTY BY EXPEDITED §
RELEASE §

PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

ORDER

This Order addresses the petition by HC Celina 414, LLC for streamlined expedited release of a tract of land in Collin County from Marilee Special Utility District's service area under certificate of convenience and necessity (CCN) number 10150. For the reasons stated in this Order, the Commission releases the tract of land from Marilee SUD's certificated service area. In addition, the Commission amends Marilee SUD's CCN number 10150 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 Marilee SUD, which will be addressed by separate order.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

1. HC Celina 414 is a Texas limited liability company registered with the Texas secretary of state under filing number 803852919.

CCN Holder

2. Marilee SUD is a Texas water district and special utility district operating under chapters 49 and 65 of the Texas Water Code (TWC).
3. Marilee SUD holds CCN number 10150 that obligates it to provide retail water service in its certificated service area in Collin County.
4. Marilee SUD is the successor to Gunter Special Utility District and Gunter Rural Water Supply Corporation.

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Petition and Supplemental Filings

5. On September 1, 2021, the petitioner filed a petition for streamlined expedited release of a tract of land from the CCN holder's service area under CCN number 10150.
6. The petition includes an affidavit, dated August 31, 2021, of Phillip Huffines, petitioner's manager; maps of the tract of land; and a special warranty deed with an effective date of December 30, 2020.
7. On October 8, 2021, the petitioner supplemented the petition with higher resolution maps.
8. On November 22, 2021, the petitioner filed an amended petition, in which the petitioner clarified the acreage for which it seeks streamlined expedited release.
9. In Order No. 5 filed on December 3, 2021, the administrative law judge (ALJ) found the petition administratively complete.
10. On February 28, 2022, the Commission Counsel filed a memorandum that requested additional documentation from the parties on the location of meter number 521 and to identify all structures that are served by the meter.
11. On March 10, 2022, the petitioner filed a response to the Commission Counsel memorandum. The petitioner provided additional information and a map to demonstrate that meter number 521 is located outside the boundary of the tract of land, that meter number 521 only provides service to a house outside of the tract of land, and that the remaining nearby structures are abandoned or uninhabitable.

Notice

12. The petitioner sent a copy of the petition by certified mail to the CCN holder on September 1, 2021.
13. The petitioner sent a copy of the amended petition to the CCN holder's legal representative on November 22, 2021.
14. In Order No. 5 filed on December 3, 2021, the ALJ found the notice sufficient.

Intervention

15. In Order No. 4 filed on October 13, 2021, the ALJ granted the CCN holder's motion to intervene.

Response to the Petition

16. On December 23, 2021, the CCN holder filed a response to the petition, which includes an affidavit, dated December 21, 2021, of Michael Garrison, the CCN holder's assistant manager; a loan commitment letter dated April 13, 2021; a letter from the United States Department of Agriculture dated July 19, 2021, with attachments; a voting proposition form from the CCN holder dated November 2, 2021; a summary results report of general and special elections held by the CCN holder on November 2, 2021, dated November 8, 2021; an affidavit, dated December 22, 2021, of Eddy Daniel, the CCN holder's engineer of record; an affidavit, dated December 21, 2021, of Chris Boyd, general manager for the Mustang Special Utility District; an active contests options list dated November 2, 2021 for Mustang SUD; a cumulative results report for a Mustang SUD election held on November 2, 2021, dated November 9, 2021.

The Tract of Land

17. The petitioner owns property in Collin County that is approximately 413.88 acres.
18. The tract of land for which the petitioner seeks streamlined expedited release is a portion of the petitioner's property that is approximately 406.7 acres.
19. The tract of land is located within the CCN holder's certificated service area.

Ownership of the Tract of Land

20. The petitioner acquired their property by a special warranty deed dated December 30, 2020.

Qualifying County

21. Collin County has a population of more than 47,500 and is adjacent to Dallas County.
22. Dallas County has a population of at least one million.

Water Service

23. The tract of land is not receiving actual water service from the CCN holder.
24. The petitioner has not requested that the CCN holder provide water service to the tract of land.
25. The petitioner has not paid to the CCN holder any fees or charges to initiate or maintain water service for the tract of land.

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 tract of land.
27. The CCN holder operates and maintains an active water meter, meter number 520, that is located just outside the tract of land, and the meter is used to provide water service to an area outside the tract of land.
28. The CCN holder operates and maintains an active water meter, meter number 521, that is located outside of the tract of land. Meter number 521 is utilized by the CCN holder to provide water service to a one-story house located outside the tract of land, and it is not used to provide water service to the tract of land.
29. The CCN holder owns and operates a one-and-a-half-inch water line that runs parallel to, but just outside of, a portion of the northern boundary of the tract of land.
30. The CCN holder owns and operates a twelve-inch water line that runs parallel to a portion of the eastern boundary of the tract of land. For roughly half of this distance, the twelve-inch line runs just inside the boundary of the tract of land; for the remainder, it runs just outside of the boundary of the tract of land.
31. Neither the one-and-a-half-inch line nor the twelve-inch line provides water service to the tract of land.
32. The CCN holder owns and operates additional water system infrastructure located outside of, but in proximity to, the tract of land. None of this infrastructure provides water service to the tract of land.
33. The CCN holder has not committed or dedicated any facilities or lines to the tract of land for water service.
34. The CCN holder has no facilities or lines that provide water service to the tract of land.
35. The CCN holder has not performed any acts for or supplied anything to the tract of land.

Map and Certificate

36. On January 6, 2022, Commission Staff filed its recommendation that included a certificate and a map on which it identified the tract of land 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 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 and, under 16 TAC § 24.245(h)(7), no hearing will be held on such a petition.
4. Petitions for streamlined expedited release filed under TWC §§ 13.254 or 13.2541 and 16 TAC § 24.245(h)(7) 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. Under 16 TAC § 24.245(h)(7), the Commission's decision is based on the information submitted by the landowner, the CCN holder, and Commission Staff.
7. 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.
8. The time that the petition is filed is the only relevant time period to consider when evaluating whether a tract of land is receiving water service under TWC § 13.2541(b). Whether a tract of land might have previously received water or sewer service is irrelevant.
9. A landowner is not required to seek the streamlined expedited release of all of its property.
10. The petitioner owns the tract of land that is at least 25 acres for which it seeks streamlined expedited release.
11. Collin County is a qualifying county under TWC § 13.2541(b) and 16 TAC § 24.245(h)(2).

12. The tract of land 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).
13. The petitioner is entitled under TWC § 13.2541(b) to the release of the tract of land from the CCN holder's certificated service area.
14. After the date of this Order, the CCN holder has no obligation under TWC §13.254(h) to provide retail water service to the tract of land.
15. 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 water service through the streamlined-expedited-release process under TWC § 13.2541(b).
16. The Commission processed the petition in accordance with the TWC and Commission rules.
17. 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 Collin County no later than the 31st day after the date the CCN holder receives this Order.
18. A retail public utility may not under TWC § 13.254(d) provide retail water service to the public within the tract of land 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 tract of land identified in the petition from the CCN holder's certificated service area under CCN numbers 10150.
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 10150 in accordance with this Order.

- 4. The Commission approves the attached map.
- 5. The Commission issues 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. 5. 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 4th day of April 2022.

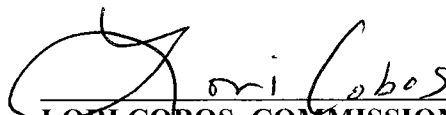
PUBLIC UTILITY COMMISSION OF TEXAS



PETER M. LAKE, CHAIRMAN



WILL MCADAMS, COMMISSIONER

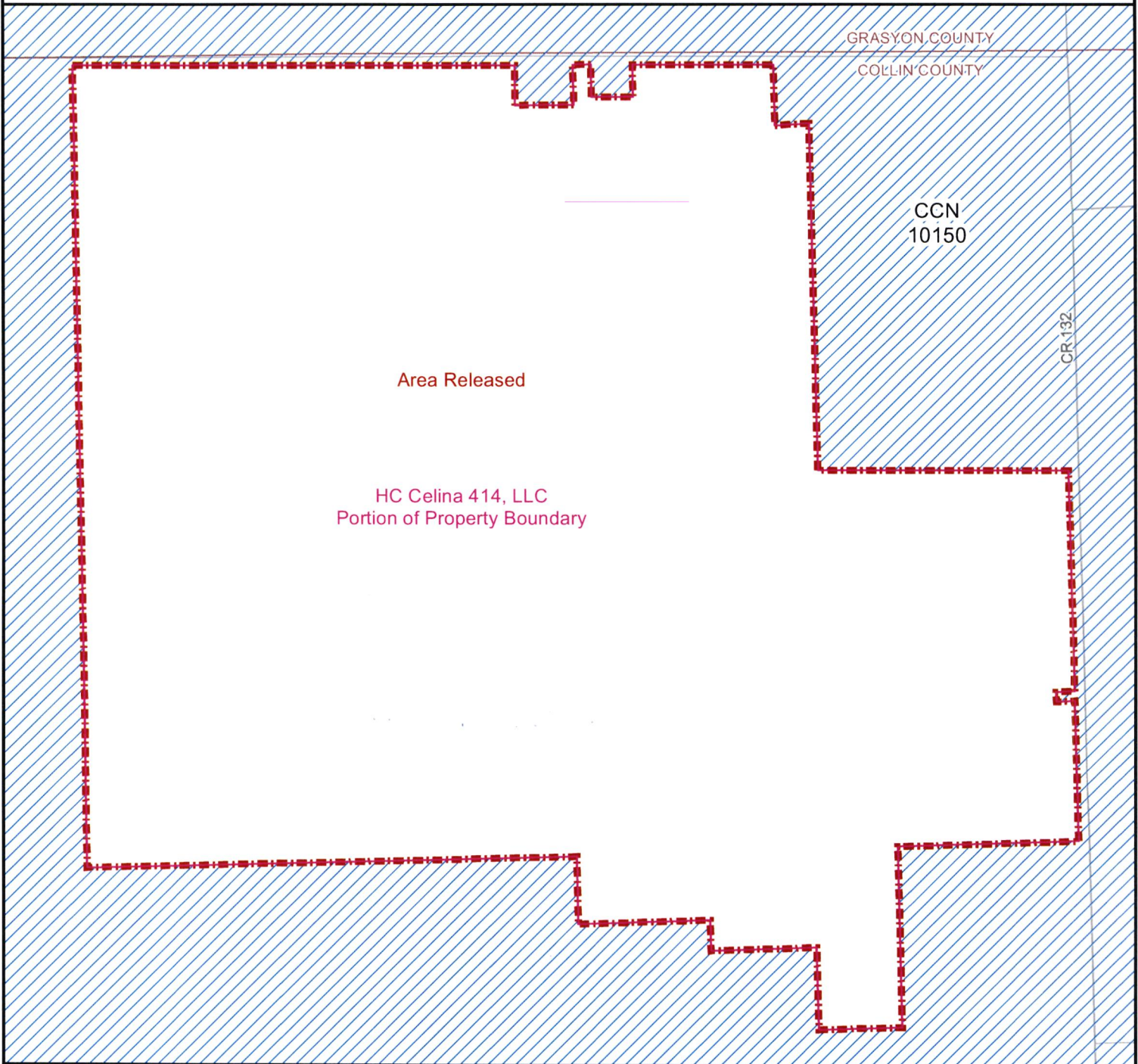


LORI COBOS, COMMISSIONER




JIMMY GLOTFELTY, COMMISSIONER

Marilee Special Utility District
Portion of Water CCN No. 10150
PUC Docket No. 52497
Petition by HC Celina 414, LLC to Amend
Marilee Special Utility District's CCN by Expedited Release in Collin County



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

Water CCN

 10150 - Marilee SUD

 Area Released

 Portion of Property Boundary

0 350 700
Feet



Map by: Komal Patel
Date: December 20, 2021
Project: 52497MarileeSUD.mxd



Public Utility Commission of Texas

By These Presents Be It Known To All That

Marilee Special Utility District

having obtained certification to provide water 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, Marilee Special Utility District is entitled to this

Certificate of Convenience and Necessity No. 10150

to provide continuous and adequate water utility service to that service area or those service areas in Collin and Grayson Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 52497 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 Marilee Special Utility District 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.