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Public Utility Commission of Texas

TO: Stephen Journeay
Commission Counsel

All Parties of Record

FROM: Isaac Ta *I. T.*
Administrative Law Judge

RE: **Docket No. 52515** – *Petition of Belknap, FP, Ltd. to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release*

DATE: February 22, 2022

Enclosed is the Proposal for Decision (PFD) in the above-referenced case. By copy of this memo, the parties to this proceeding are being served with the PFD.

Please place this docket on an open meeting agenda for the Commissioners' consideration. Please notify me and the parties of the open meeting date, as well as the deadline for filing exceptions to the PFD, replies to the exceptions, and requests for oral argument.

If there are no corrections or exceptions, no response is necessary.

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DOCKET NO. 52515

**PETITION OF BELKNAP, FP, LTD. § PUBLIC UTILITY COMMISSION
TO AMEND MARILEE SPECIAL §
UTILITY DISTRICT'S CERTIFICATE § OF TEXAS
OF CONVENIENCE AND NECESSITY §
IN COLLIN COUNTY BY EXPEDITED §
RELEASE §**

PROPOSAL FOR DECISION

This Proposal for Decision (PFD) recommends that the Commission dismiss the petition by Belknap, FP, Ltd. for streamlined expedited release of a tract of land from Marilee Special Utility District's certificate of convenience and necessity (CCN) number 10150 in Collin County due to the petitioner's failure to state a claim for which relief can be granted, under 16 Texas Administrative Code (TAC) § 22.181(d)(8). The administrative law judge (ALJ) recommends that the dismissal be with prejudice.

I. Findings of Fact

The ALJ makes the following findings of fact.

Background

1. Belknap is a Texas limited partnership registered with the Texas secretary of state under filing number 11249310.
2. Marilee is a special utility district operating under chapter 65 of the Texas Water Code (TWC).
3. Marilee holds CCN number 10150 that obligates it to provide retail water service in its certificated service area in Collin County.
4. On September 3, 2021, Belknap filed a petition for streamlined expedited release of a tract of land in Collin County from Marilee's CCN number 10150.
5. On November 3, 2021, Belknap filed a first amended petition.

Motion to Dismiss

6. On January 27, 2022, Belknap filed a motion for extension of time. In its motion, counsel for Belknap stated that she recently learned that the tract at issue in this proceeding had been sold and that she was working to obtain a signed affidavit from the new landowner.

7. On January 27, 2022, Marilee filed a motion to dismiss on the grounds that the petitioner had failed to state a claim for which relief can be granted.
8. On February 16, 2022, Commission Staff filed a response stating it is unopposed Marilee's motion to dismiss.
9. Belknap did not file a response to the motion to dismiss.
10. No hearing was held on the motion to dismiss and no hearing is needed because the facts necessary to support dismissal are established as a matter of law.

Grounds for Dismissal

11. Belknap does not own the tract of land for which it seeks streamlined expedited release from Marilee's CCN number 10150 in Collin County.

II. Conclusions of Law

The ALJ makes the following conclusions of law.

1. The Commission has authority over the petition for streamlined expedited release under TWC §§ 13.254 and 13.2541.
2. 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.
3. Belknap does not own the tract of land for which it seeks streamlined expedited release, as required by TWC § 13.2541(b), and 16 Texas Administrative Code (TAC) § 24.245(h)(1).
4. Under 16 TAC § 22.181(c), dismissal of this case does not require a hearing because the facts necessary to support the dismissal are established as a matter of law.
5. Under 16 TAC § 22.181(d)(8), the ALJ may recommend to the Commission that it dismiss a proceeding, with or without prejudice, for failure to state a claim for which relief can be granted.
6. Under 16 TAC § 22.181(f)(2), dismissal of a case for reasons other than those specified in 16 TAC § 22.181(g)(1) or (2) requires preparation of a PFD.
7. Belknap's petition fails to state a claim for which relief can be granted, which warrants dismissal of this proceeding, with prejudice, under 16 TAC § 22.181(d)(8).

III. Ordering Paragraphs

The ALJ recommends the following ordering paragraphs.

1. The Commission dismisses Belknap's petition, with prejudice, for failure to state a claim for which relief can be granted.
2. The Commission denies all other motions, and any other requests for general or special relief if not expressly granted.

Signed at Austin, Texas the 22nd day of February 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read 'Isaac TA', written over a horizontal line.

**ISAAC TA
ADMINISTRATIVE LAW JUDGE**