



Control Number: 52515



Item Number: 32

2022 JUN -7 PM 2: 01  
PUBLIC UTILITY COMMISSION  
OF TEXAS  
FILING CLERK

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

**ORDER**

This Order addresses petition of Belknep, FP, Ltd. for streamlined expedited release of a tract of land in Collin County from Marilee Special Utility District's certificate of convenience and necessity (CCN) number 10150. After filing the petition in this proceeding, the petitioner sold the tract of land for which it was seeking expedited release. On January 27, 2022, Marilee Special Utility District filed a motion to dismiss for failure to state a claim upon which relief can be granted because the petitioner no longer owns the tract of land. The administrative law judge (ALJ) filed a proposal for decision on February 22, 2022 recommending the Commission dismiss the petition, with prejudice, under 16 Texas Administrative Code (TAC) § 22.181(d)(8) due to the petitioner's failure to state a claim for which relief can be granted.

The Commission agrees with the ALJ's determination that Belknep does not own the tract of land at issue; therefore, the tract of land is not eligible for streamlined expedited release under Texas Water Code (TWC) § 13.2541(b). However, the Commission disagrees with the ALJ's recommendation that the petition be dismissed for failure to state a claim for which relief can be granted. The Commission denies Belknep's request to release the tract of land identified in the petition from Marilee Special Utility District's service area under CCN number 10150.

Accordingly, the Commission makes the following modifications to the proposal for decision. The Commission deletes conclusions of law 4 through 7 because the Commission denies the petition rather than dismisses it for failure to state a claim for which relief can be granted. The Commission also makes non-substantive changes for such matters as capitalization, spelling, grammar, punctuation, style, correction of numbering, and readability.

## I. Findings of Fact

The Commission adopts 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 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 to 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.

### Ownership of the Tract of Land

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 Commission adopts 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 TAC § 24.245(h)(1).
4. DELETE.
5. DELETE.
6. DELETE.
7. DELETE.

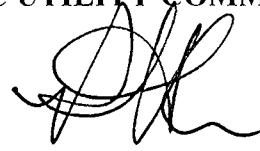
### **III. Ordering Paragraphs**

In light of the above findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission modifies the proposal for decision to the extent provided in this Order.
2. The Commission denies Belknap's request to release the tract of land identified in the petition from Marilee Special Utility District's service area under CCN number 10150.
3. The Commission denies all other motions, and any other requests for general or special relief if not expressly granted.

Signed at Austin, Texas the 7<sup>th</sup> day of June 2022.

**PUBLIC UTILITY COMMISSION OF TEXAS**



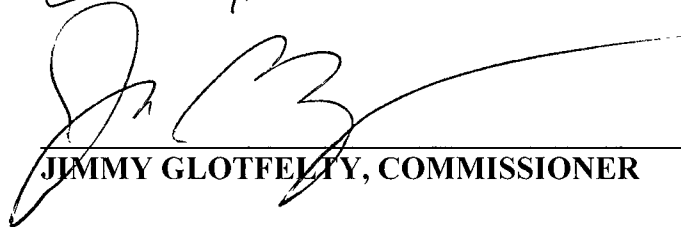
**PETER M. LAKE, CHAIRMAN**



**WILL MCADAMS, COMMISSIONER**



**LORI COBOS, COMMISSIONER**



**JIMMY GLOTFELTY, COMMISSIONER**