



Filing Receipt

Received - 2022-01-21 12:54:52 PM

Control Number - 52530

ItemNumber - 13

DOCKET NO. 52530

PETITION OF E REAL ESTATE, LLC	§	PUBLIC UTILITY COMMISSION
TO AMEND MARILEE SPECIAL	§	
UTILITY DISTRICT'S CERTIFICATE	§	OF TEXAS
OF CONVENIENCE AND NECESSITY	§	
IN COLLIN COUNTY BY EXPEDITED	§	
RELEASE (TRACT 5)	§	

**COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION ON
ADMINISTRATIVE COMPLETENESS AND NOTICE**

On September 8, 2021, E Real Estate, LLC (E Real Estate) filed a petition for streamlined expedited release from Marilee Special Utility District's (Marilee SUD) water Certificate of Convenience and Necessity (CCN) No. 10150 under Texas Water Code (TWC) § 13.2541 and 16 Texas Administrative Code (TAC) § 24.245(h). E Real Estate asserts that the land to be released is at least 25 contiguous acres, is not receiving water service, and is located in Collin County, which is a qualifying county¹. According to the 2010 Census,² Collin County has a population of 782,341.³ Additionally, Collin County is adjacent to Dallas County, which has a population of 2,368,139.⁴ E Real Estate filed supplemental information on October 8, 22, 26, and December 13, 2021.

On December 6, 2021, the administrative law judge (ALJ) filed Order No. 4, establishing a deadline of January 21, 2022 for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file supplemental comments regarding the administrative completeness of the petition and notice. Therefore, this pleading is timely filed.

¹ TWC § 13.2541(b) and 16 TAC § 24.245(h)(2).

² See Tex. Gov't Code § 2058.0021 for applicability of 2010 Census in determination whether the land is in a qualifying county.

³ U.S. Census Bureau, Census Data for Collin County, QuickFacts Collin County, Texas (2010) <https://www.census.gov/quickfacts/fact/table/collincountytexas/POP010210> (last accessed Jan. 5, 2022).

⁴ U.S. Census Bureau, Census Data for Dallas County, QuickFacts Dallas County, Texas (2010) <https://www.census.gov/quickfacts/fact/table/dallascountytexas/POP010210> (last accessed Jan. 5, 2022).

I. ADMINISTRATIVE COMPLETENESS

Staff has reviewed the petition and supplemental information and, as detailed in the attached memorandum from Pai Liu, Infrastructure Division, recommends that the petition is administratively complete. Staff's recommendation on administrative completeness is not a comment on the merits of the petition.

I. NOTICE SUFFICIENCY

Under 16 TAC § 24.245(h)(3)(f), a landowner seeking streamlined expedited release must provide proof that a copy of the petition has been mailed to the current CCN holder via certified mail on the day that the landowner submits the petition to the Commission. E Real Estate stated that it mailed a copy of its petition to the CCN holder, Marilee SUD, by certified mail on the day the petition was filed with the Commission. E Real Estate also included an affidavit attesting to this provision of notice to Marilee SUD. Accordingly, Staff recommends that the notice is sufficient.

II. PROCEDURAL SCHEDULE

Under 16 TAC § 24.245(h)(7), there is an expedited deadline of 60 days for approval of the requested release that begins once the ALJ issues an order finding a petition administratively complete. Staff recommends that the petition be found administratively complete. Therefore, Staff proposes the following procedural schedule and requests that the ALJ populate the deadlines accordingly when the ALJ issues that order.

Event	Date
Deadline for Marilee SUD and intervenors to file a response to the administratively complete petition	20 days from the date of the order finding the petition administratively complete
Deadline for Staff's recommendation on final disposition	34 days from the date of the order finding the petition administratively complete
Deadline for petitioner to file a reply to both Marilee SUD's response and Staff's recommendation on final disposition	41 days from the date of the order finding the petition administratively complete
Sixty-day administrative approval of streamlined expedited release	60 days from the date of the order finding the petition administratively complete
<i>In the event streamlined expedited release is granted and petitioner and Marilee SUD can select an agreed-upon appraiser</i>	

Deadline for petitioner and Marilee SUD to make a filing stating that they have selected an agreed-upon appraiser	Within 10 days after the Commission approves streamlined expedited release
Deadline for appraiser's report	Within 70 days after the Commission approves streamlined expedited release
Deadline for Commission's final order determining the amount of monetary compensation, if any, owed by petitioner to Marilee SUD	Within 60 days after appraiser's report
Deadline for petitioner to pay any compensation due to Marilee SUD	Within 90 days of the Commission's final order on compensation
<i>In the event streamlined expedited release is granted and petitioner and Marilee SUD are unable to select an agreed-upon appraiser</i>	
Deadline for petitioner and Marilee SUD to make a filing stating that they have been unable to select an agreed-upon appraiser and affirming that they will pay half of the cost of Commission Staff's appraiser ⁵	Within 10 days after the Commission approves streamlined expedited release ⁶
Deadline for reports from petitioner's appraiser and Marilee SUD's appraiser	Within 70 days after the Commission approves streamlined expedited release
Deadline for Staff's appraiser's report	Within 100 days after the Commission approves streamlined expedited release
Deadline for Commission's final order determining the amount of monetary compensation, if any, owed by petitioner to Marilee SUD	Within 60 days after the Commission receives the final appraisal
Deadline for petitioner to pay any compensation due to Marilee SUD	Within 90 days of the Commission's final order on compensation

III. CONCLUSION

For the reasons detailed above, Staff recommends that the petition be found administratively complete, that the notice be found sufficient, and that the proposed procedural schedule be adopted. Staff respectfully requests the entry of an order consistent with these recommendations.

⁵ TWC § 13.2541(i).

⁶ It is critical for Staff to know as soon as possible after the Commission grants the petition whether Staff needs to secure the services of a third appraiser. If the petitioner and CCN holder are unable to agree, and fail to make this filing, Staff may need additional time to file its appraiser's report.

Dated: October 8, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

Sneha Patel
Managing Attorney

/s/ Forrest Smith
Forrest Smith
State Bar No. 24093643
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7388
(512) 936-7268 (facsimile)
Forrest.Smith@puc.texas.gov

DOCKET NO. 52530

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on January 21, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Forrest Smith
Forrest Smith

Public Utility Commission of Texas

Memorandum

TO: Forrest Smith, Attorney
Legal Division

FROM: Pai Liu, Infrastructure Analyst
Infrastructure Division

DATE: January 18, 2022

RE: Docket No. 52530 – *Petition of E Real Estate, LLC to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Streamlined Expedited Release (Tract 5).*

On September 8, 2021, E Real Estate, LLC (E Real Estate) filed a petition for streamlined expedited release from Marilee Special Utility District's (Marilee SUD) water Certificate of Convenience and Necessity (CCN) No. 10150 in Collin County, under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h). E Real Estate asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Collin County, which is a qualifying county.

E Real Estate submitted a sworn affidavit attesting that the property was not receiving water service from Marilee SUD, and a warranty deed confirming E Real Estate's ownership of the tract of land. Based on the mapping review by Tracy Montes, Infrastructure Division, the digital data submitted with Item 9 on October 26, 2021, and the maps submitted with Item 12 on December 13, 2021, are sufficient for determining the location of the tract of lands considered for streamlined expedited release are located within Marilee SUD's water CCN. On December 13, 2021, the Petitioner's engineer informed staff of an acreage correction on the original deed for tract 3 that had the incorrect acreage as 59.916 acres, when the actual acreage is 56.916 acres as noted on the revised detailed map. This revision was most likely due to a typographical error in the original deed. As indicated by the first amended petition and affidavit, the landowner's property is 221.89 acres, instead of 224.89 acres.

Based on the mapping review by Ms. Montes it was determined the landowner's total property is approximately 221.89 acres. The tract of land to be released is 55.88 acres, of which approximately 55.88 acres overlap Marilee SUD (CCN No. 10150) and are to be decertified from CCN No. 10150.

The petition also includes a statement indicating a copy of the petition was sent via certified mail to Marilee SUD on the date the petition was filed with the Commission.

Based on the mapping review by Ms. Montes and my technical and managerial review of the additional information provided by E Real Estate on October 26, 2021 and December 13, 2021, I recommend the petition be deemed administratively complete and accepted for filing.