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DOCKET NO. 52531

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	§	

ORDER NO. 10
REQUIRING A REVISED COMMISSION STAFF FINAL RECOMMENDATION

On September 6, 2022, Commission Staff submitted a final recommendation in this matter. For several reasons, the administrative law judge (ALJ) concludes that the final recommendation is insufficient and inaccurate. First, Commission Staff applied the incorrect analysis, treating this as an application to obtain a certificate of convenience and necessity (CCN), rather than a petition by a landowner seeking streamlined expedited release. For example, Commission Staff concludes that “E Real Estate . . . is capable of providing continuous and adequate service” and that approval of the application is “necessary for the service, accommodation, convenience, and safety of the public.”

Second, it does not appear to the ALJ that Commission Staff has accurately analyzed the specific land at issue in this case. According to Commission Staff, this case involves 316.322 acres to the west of County Road 101. Commission Staff mentions that the petitioner also owns 602.89 acres to the east of CR 101, but states this land “is not included in the petitioner’s request for streamlined expedited release.” Commission Staff concludes, “[t]he tract of land in the petition . . . is approximately 486.85 acres.” These statements appear to be inaccurate and contradictory, and may erroneously include consideration of land at issue in other streamlined expedited release cases filed by E Real Estate.

As to this docket, the ALJ *believes* the following is accurate:

- 1) The petitioner is seeking release of two tracts of land, one lying east of CR 101, and one lying west of CR 101;
- 2) To the west of CR 101, the petitioner is seeking release for a tract of land that consists of a portion of a 272.545-acre parcel owned by the petitioner. The ALJ needs to know the acreage of the tract for which release is sought.

- 3) To the east of CR 101, the petitioner owns the following contiguous parcels – a 18.748-acre parcel; a 78.613-acre parcel, a 66.676-acre parcel, a 0.937-acre parcel, a 167.027-acre parcel, and a 57.414-acre parcel. Collectively, these parcels add up to a 388.478-acre property. The petitioner is seeking release for a tract of land that consists of a portion of the 388.478-acre property. The ALJ needs to know the acreage of the tract of land for which release is sought.

By October 4, 2022, Commission Staff must file a revised final recommendation that utilizes the proper legal analysis, includes an updated and corrected map, and, among other things, provides the acreages asked for by the ALJ, above, or otherwise explains why the ALJ's analysis is incorrect. Further, Commission Staff must analyze and evaluate the arguments made, and evidence presented, by the CCN holder, including a discussion of the meters identified by the CCN holder, such as meter nos. 315, 360, and 77, among others. The revised final recommendation must include a level of detail and analysis similar to that found in Commission Staff's recommendation on final disposition filed in Docket No. 53037.

Signed at Austin, Texas the 21st day of September 2022.

PUBLIC UTILITY COMMISSION OF TEXAS



HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE