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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. 12
REQUIRING A SECOND REVISED COMMISSION STAFF FINAL
RECOMMENDATION

On September 6, 2022, Commission Staff submitted a final recommendation in this matter. In Order No. 10 filed on September 21, 2022, the administrative law judge (ALJ) concluded that, for a number of reasons, the final recommendation was insufficient and inaccurate. In Order No. 10, the ALJ explained his suspicion that the petition could be described as follows:

- 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.

Order No. 10 directed Commission Staff to file a revised final recommendation that: (a) utilized the proper legal analysis; (b) included an updated and corrected map; (c) provided the acreages asked for by the ALJ or otherwise explained why the ALJ's analysis was incorrect; (d) analyzed and evaluated 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; and (e) included a level of detail and analysis similar to that found in Commission Staff's recommendation on final disposition filed in Docket No. 53037.

On October 24, 2022, Commission Staff filed a revised final recommendation. The revised recommendation is inadequate to enable an accurate assessment of the petition. The revised recommendation only addresses item (d) from Order No. 10. Commission Staff concludes that

three meters are located on the land for which release is sought and, therefore, recommends that the petition should be wholly denied. For a number of reasons, the ALJ concludes that this analysis is inadequate. For example, as noted above, the ALJ suspects this petition seeks the release of *two separate tracts*. If this is correct and if, in fact, there are three meters located within the boundaries of the eastern tract, then that might mean release should be denied for the eastern tract, but it would not mean that release should be denied for the western tract. Moreover, in order to write a final order, the ALJ must know the specific acreages of the tracts at issue.

Therefore, the ALJ again directs Commission Staff to file a second revised final recommendation that fully complies with all of the requirements of Order No. 10. Commission Staff must do so by November 8, 2022.

Signed at Austin, Texas the 25th day of October 2022.

PUBLIC UTILITY COMMISSION OF TEXAS



HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE