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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. 16
REQUIRING A SUPPLEMENTED OR AMENDED APPLICATION**

In this matter, E Real Estate, LLC seeks streamlined expedited release for two tracts of land—the West Tract and the East Tract—from Marilee Special Utility District’s certificate of convenience and necessity (CCN) number 10150 in Collin County.

On August 15, 2022, Marilee SUD filed a response to the petition. Included in the response are:

- an affidavit by Michael Garrison, special project inspector for Marilee, in which he states, among other things, that there are two meters, Meter Nos. 77 and 360, lying within the boundaries of what constitutes the East Tract;
- an affidavit by Eddy Daniel, an engineer retained by Marilee SUD, in which he states, among other things, that the district maintains active meters within the land in question; and
- a detailed map prepared by engineer Daniel which appears to depict three Marilee SUD meters, Meter Nos. 77, 315, and 360, within the boundaries of the East Tract.

To counter this evidence, E Real Estate filed, on December 19, 2022, an affidavit of Van Nichols. Mr. Nichols does not disclose how he has authority to speak for E Real Estate. Mr. Nichols states that that meters referenced by Marilee SUD are not located in the areas to be decertified. However, Mr. Nichols does not claim to have personally inspected the tracts in question. Rather, his assertion about the meters is based on his comparison of the map provided by E Real Estate against the map provided by Marilee SUD.

In their final recommendation filed on March 1, 2023, Commission Staff states, “E Real Estate filed a revised petition and mapping, showing the meters were outside of the amended maps.” The administrative law judge (ALJ) cannot find such revised petition and mapping by

E Reals Estate. When the ALJ does a side-by-side comparison of the E Real Estate map (filed December 19, 2022) and the Marilee SUD map (filed August 15, 2022) he reaches a different conclusion than Mr. Nichols and, apparently, Commission Staff. In other words, at this time, the preponderance of the credible evidence indicates that there are three Marilee SUD meters located within the boundaries of the East Tract. If that is correct, then it would mean that Marilee SUD has committed or dedicated facilities or lines to the East Tract and, therefore, E Real Estate would not be entitled to streamlined expedited release for the East Tract.

Consistent with the approach taken by the Commission in factually similar dockets,¹ the ALJ orders as follows:

- By March 20, 2023, E Real Estate may supplement its petition in an effort to prove that Meter Nos. 77, 315, and 360 do not lie within the boundaries of the East Tract, or amend its petition to exclude those meters; and
- If E Real Estate supplements or amends its petition by March 20, 2023, then, by April 20, 2023, Commission Staff must file a supplemental recommendation on final disposition.

If E Real Estate does not supplement or amend its petition by March 20, 2023, the ALJ will prepare a Proposed Order that recommends granting release for the West Tract and denying release for the East Tract.

¹ See, e.g., *Petition of Meritage Homes of Texas, LLC to Amend North Collin Special Utility District's Certificate of Convenience and Necessity in Collin County by Streamlined Expedited Release*, Docket No. 52442, Order Remanding to Docket Management (Mar. 25, 2022); *Petition of Central Frisco, Ltd. to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Streamlined Expedited Release*, Docket No. 52442, Order Remanding to Docket Management (May 26, 2022).

Signed at Austin, Texas the 7th day of March 2023.

PUBLIC UTILITY COMMISSION OF TEXAS



HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE