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DOCKET NO. 52556

PETITION OF MONTGOMERY	§	PUBLIC UTILITY COMMISSION
ESTATES, LLC TO AMEND GULF	§	
COAST AUTHORITY'S CERTIFICATE	§	OF TEXAS
OF CONVENIENCE AND NECESSITY	§	
IN CHAMBERS COUNTY BY	§	
EXPEDITED RELEASE	§	

ORDER NO. 6
GRANTING STREAMLINED EXPEDITED RELEASE

This Order addresses the petition of Montgomery Estates, LLC for streamlined expedited release of a tract of land in Chambers County from Gulf Coast Authority's service area under certificate of convenience and necessity (CCN) number 20465. For the reasons stated in this Order, the Commission releases the tract of land from Gulf Coast's certificated service area. In addition, the Commission amends Gulf Coast's CCN number 20465 to reflect the removal of the tract of land from the service area.

Following entry of this Order, the Commission will determine the amount of compensation, if any, to be awarded to Gulf Coast, which will be addressed by separate order.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

1. Montgomery Estates is a Texas limited liability company registered with the Texas secretary of state under filing number 803220296.

CCN Holder

2. Gulf Coast is a conservation and reclamation district that holds CCN number 20465 that obligates it to provide retail sewer service in its certificated service area in Brazoria, Chambers, Galveston, and Harris counties.

Petition

3. On September 13, 2021, the petitioner filed a petition for streamlined expedited release of a tract of land from the CCN holder's service area under CCN number 20465.

4. The petition includes warranty deeds, which include metes-and-bounds descriptions of the tract of land, dated February 26, 2019, and July 24, 2020; location maps for the tract of land; digital mapping data; proof of notice to the CCN holder; and an affidavit, dated September 10, 2021, of Iqbal “John” Khowaja, president of Montgomery Estates.
5. In Order No. 2 filed on October 14, 2021, the administrative law judge (ALJ) found the petition administratively complete.

Notice

6. The petitioner sent a copy of the petition by certified mail, return receipt requested, to the CCN holder on September 13, 2021.
7. In Order No. 2 filed on October 14, 2021, the ALJ found the notice sufficient.

Response of CCN Holder

8. Gulf Coast did not file a response to the petition.

Certified Question and Motion to Abate

9. In Order No. 4 filed on December 23, 2022, the ALJ certified the following question to the Commission due to conflicting population data for Chambers County:

For purposes of identifying whether a county is a qualifying county under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h)(2), is population of a county determined at the time the petition is filed, at the time the petition is deemed administratively complete, or at the time the Commission issues a decision on the request for release?

10. The ALJ abated the proceeding while the certified issue was pending.
11. On February 10, 2022, the Commission issued an order on the certified question finding that, until September 1, 2023, the population of Chambers County must be determined using the 2010 census prepared by the United States Census Bureau, and that, therefore, Chambers County is a qualifying county under TWC § 13.2541(b).
12. In Order No. 5 filed on February 11, 2022, the ALJ lifted the abatement.

The Tract of Land

13. The petitioner owns a tract of land in Chambers County that is approximately 147 acres.
14. The tract of land is located within the CCN holder’s certificated service area.

Ownership of the Tract of Land

15. The petitioner acquired its tract of land through two transactions.
16. The petitioner acquired an approximately 100-acre portion by a warranty deed with vendor's lien dated February 26, 2019.
17. The petitioner acquired the remainder, an approximately 47.36-acre portion, by a warranty deed with vendor's lien dated July 24, 2020.

Qualifying County

18. Chambers County is adjacent to Harris County and has a population that is less than 45,500.
19. Harris County has a population of at least one million.

Sewer Service

20. The tract of land is not receiving actual sewer service from the CCN holder.
21. The tract of land has never received retail sewer service from the CCN holder.
22. The petitioner has never requested that the CCN holder provide sewer service to the tract of land.
23. The petitioner has no contract with the CCN holder for the provision of sewer service to the tract of land.
24. The petitioner has not received any bills from the CCN holder for sewer service to the tract of land.
25. The CCN holder has not committed or dedicated any facilities or lines to the tract of land for sewer service.
26. The CCN holder has no facilities or lines that provide sewer service to the tract of land.
27. The CCN holder has not performed any acts for or supplied anything to the tract of land.

Map and Certificate

28. On November 17, 2021, Commission Staff filed its final recommendation that included a certificate and a map on which it identified the tract of land in relationship to the CCN holder's certificated service area.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this petition for streamlined expedited release under TWC §§ 13.254 and 13.2541.
2. The petitioner provided notice of the petition in compliance with 16 TAC § 24.245(h)(3)(F).
3. No opportunity for a hearing on a petition for streamlined expedited release is provided under TWC §§ 13.254 or 13.2541 and, under 16 TAC § 24.245(h)(7), no hearing will be held on such a petition.
4. Petitions for streamlined expedited release filed under TWC §§ 13.254 or 13.2541 and 16 TAC § 24.245(h)(7) are not contested cases.
5. Landowners seeking streamlined expedited release under TWC §§ 13.254 and 13.2541 and 16 TAC § 24.245(h) are required to submit a verified petition through a notarized affidavit, and the CCN holder may submit a response to the petition that must be verified by a notarized affidavit.
6. Under 16 TAC § 24.245(h)(7), the Commission's decision is based on the information submitted by the landowner, the CCN holder, and Commission Staff.
7. 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.
8. The time that the petition is filed is the only relevant time period to consider when evaluating whether a tract of land is receiving water or sewer service under TWC § 13.2541(b). Whether a tract of land might have previously received water or sewer service is irrelevant.
9. A landowner is not required to seek the streamlined expedited release of all of its property.
10. The petitioner owns the tract of land that is at least 25 acres for which it seeks streamlined expedited release.

11. Chambers County is a qualifying county under Texas Government Code § 2058.0021, TWC § 13.2541(b), and 16 TAC § 24.245(h)(2).
12. The tract of land is not receiving sewer service under TWC §§ 13.002(21) and 13.2541(b) and 16 TAC § 24.245(h), as interpreted in *Texas General Land Office v. Crystal Clear Water Supply Corporation*, 449 S.W.3d 130 (Tex. App.—Austin 2014, pet. denied).
13. The petitioner is entitled under TWC § 13.2541(b) to the release of the tract of land from the CCN holder's certificated service area.
14. After the date of this Order, the CCN holder has no obligation under TWC §13.254(h) to provide retail sewer service to the petitioner's tract of land.
15. The Commission may release only the property of the landowner from a CCN under TWC § 13.2541(b). The Commission has no authority to decertify any facilities or equipment owned and operated by the CCN holder to provide retail sewer service through the streamlined-expedited-release process under TWC § 13.2541(b).
16. The Commission processed the petition in accordance with the TWC and Commission rules.
17. Under TWC § 13.257(r) and (s), the CCN holder is required to record certified copies of the approved certificate and map, along with a boundary description of the service area, in the real property records of Chambers County no later than the 31st day after the date the CCN holder receives this Order.
18. A retail public utility may not under TWC § 13.254(d) provide retail sewer service to the public within the tract of land unless just and adequate compensation under TWC § 13.254(g) has been paid to the CCN holder.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission releases the tract of land identified in the petition from the CCN holder's certificated service area under CCN number 20465.

2. The Commission does not decertificate any of the CCN holder's equipment or facilities that may lay on or under the tract of land.
3. The Commission amends CCN number 20465 in accordance with this Order.
4. The Commission approves the attached map.
5. The Commission issues the attached certificate.
6. The CCN holder must file in this docket proof of the recording required in TWC § 13.257(r) and (s) within 45 days of the date of this Order.
7. The proceeding to determine the amount of compensation to be awarded to the CCN holder, if any, commences on the date of this Order in accordance with the schedule adopted in Order No. 2. Any decision on compensation will be made by a separate order.
8. The Commission denies all other motions and any other requests for general or specific relief not expressly granted by this Order.

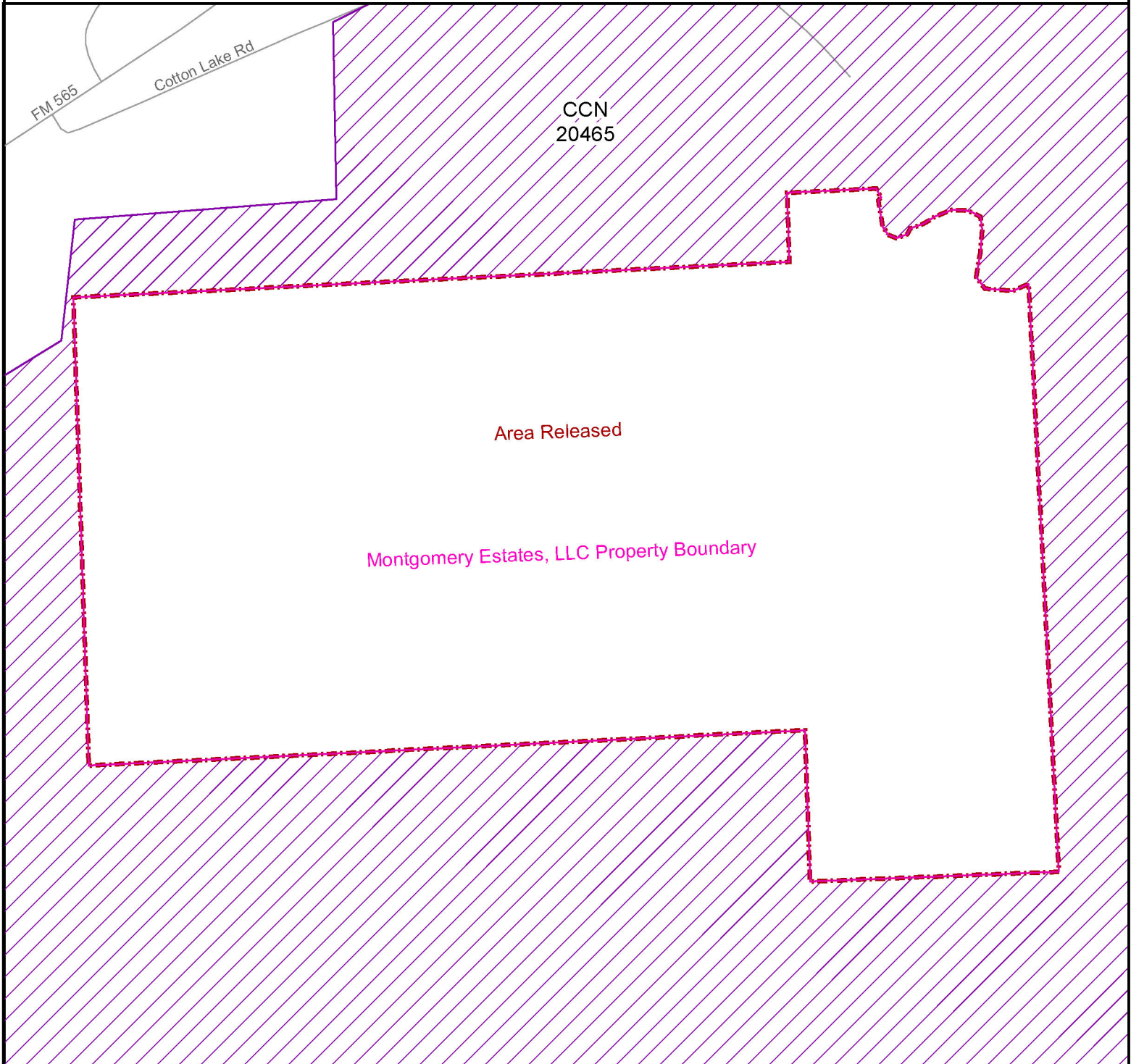
Signed at Austin, Texas the 11th day of February 2022.

PUBLIC UTILITY COMMISSION OF TEXAS



CHRISTINA DENMARK
ADMINISTRATIVE LAW JUDGE

Gulf Coast Authority
Portion of Sewer CCN No. 20465
PUC Docket No. 52556
Petition by Montgomery Estates, LLC to Amend
Gulf Coast Authority's CCN by Expedited Release in Smith County



Public Utility Commission of Texas
1701 N. Congress Ave
Austin, TX 78701

Sewer CCN

 20465 - Gulf Coast Authority

 Area Released

 Property Boundary

0 250 500
Feet



Map by: Komal Patel
Date: November 1, 2021
Project: 52556GulfCoastAuthority.mxd



Public Utility Commission Of Texas

By These Presents Be It Known To All That

Gulf Coast Authority

having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Gulf Coast Authority is entitled to this

Certificate of Convenience and Necessity No. 20465

to provide continuous and adequate sewer utility service to that service area or those service areas in Chambers, Galveston and Harris Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 52556 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the Gulf Coast Authority to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.