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DOCKET NO. 52556

PETITION OF MONTGOMERY	§	PUBLIC UTILITY COMMISSION
ESTATES, LLC TO AMEND GULF	§	
COAST AUTHORITY’S SEWER	§	OF TEXAS
CERTIFICATE OF CONVENIENCE AND	§	
NECESSITY NO. 20465 IN CHAMBERS	§	
COUNTY BY STREAMLINED	§	
EXPEDITED RELEASE UNDER TEXAS	§	
WATER CODE § 13.2541 AND 16	§	
TAC § 24.245(h)	§	

JOINT CLARIFICATION IN RESPONSE TO ORDER NO. 3

COME NOW, Montgomery Estates, LLC (Montgomery Estates) and Gulf Coast Authority (the Authority) (collectively, the Parties), by and through their undersigned attorneys of record, and hereby file this Joint Clarification in Response to Order No. 3 (the Clarification). In support thereof, the Parties would respectfully show as follows:

I. BACKGROUND

On September 13, 2021, Montgomery Estates filed its Petition at the Public Utility Commission of Texas (the Commission) to Amend Gulf Coast Authority’s Sewer Certificate of Convenience and Necessity (CCN) in Chambers County, Texas by Streamlined Expedited Release Under Texas Water Code (TWC) § 13.2541 and 16 Texas Administrative Code (TAC) § 24.245(h) (the Petition). Administrative Law Judge (ALJ) Denmark issued her Order No. 3 in this Docket on December 3, 2021, requiring the parties to clarify the population of Chambers County, which would independently evidence that Montgomery Estates has met the requirement of TWC § 13.2541(b), rather than relying on the Commission’s “Approved List of Counties” guidance document. Order No. 3 established a deadline of December 9, 2021 for the parties to file such clarification. Therefore, this Clarification is timely filed.

II. CLARIFICATION

The Parties clarify that for the purposes of this Docket, the population of Chambers County is 43,837, validating Chambers County as a qualifying county under TWC § 13.2541(b). TWC § 13.2541(b) establishes the criteria for which landowners can submit a streamlined expedited CCN decertification petition at the Commission, as follows:

[T]he owner of a tract of land that is at least 25 acres and that is not receiving water or sewer service *may petition* for expedited release of the area from a certificate of public convenience and necessity in the manner provided by this section and is entitled to that release if the landowner's property is located in a county with a population of at least one million, a county adjacent to a county with a population of at least one million, or a county with a population of more than 200,000 and less than 220,000 that does not contain a public or private university that had a total enrollment in the most recent fall semester of 40,000 or more, *and not in a county that has a population of more than 45,500 and less than 47,500.*¹

Thus, to file a streamlined expedited CCN decertification petition under TWC § 13.2541(b), a landowner's tract must be within a qualifying county (amongst other criteria). Further, when determining whether a petitioner's land is in a qualifying county, the legislature established that the population count is based upon the day that the petition was filed at the Commission, as TWC § 13.2541(b) provides that meeting the population criteria enables a landowner to file the petition at the Commission.

Here, when Montgomery Estates filed its Petition at the Commission on September 13, 2021, the most recent population data available from the U.S. Census Bureau (the Bureau) was the

¹ TWC § 13.2541(b) (emphasis added).

Bureau's July 1, 2019 population estimate, provided by the Bureau's Population Estimate Program.² To that end, the July 1, 2019 population estimate for Chambers County was 43,837—outside of the 45,500 to 47,500 exception in TWC § 13.2541(b).³ The Parties agrees with Commission Staff that the 2020 Census population data was released in December, 2021.⁴ Said another way, while the Census may have commenced in April, 2020, the final findings of this significant undertaking were not released until December, 2021. Thus, since the plain language of TWC § 13.2541(b) states that a landowner “may petition for expedited release” if the property is located in a qualifying county, which, again, is based upon the time of filing of the petition, Montgomery Estates' September 13, 2021 Petition to decertify land in Chambers County correctly contemplates land in a qualifying county.⁵

III. CONCLUSION AND PRAYER

For these reasons, the Parties respectfully request that the presiding Administrative Law Judge: accept and apply this clarification to the Petition and grant all other and further relief to which it may be entitled.

² U.S. CENSUS BUREAU, QuickFacts Chambers County, Texas, <https://www.census.gov/quickfacts/fact/table/chamberscountytexas/POP010220>. Although the webpage has an entry for “Population, Census, April 1, 2020,” the April 1, 2020, date is the Census reference date, not the publication date.

³ *Id.*

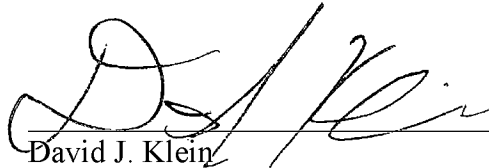
⁴ U.S. CENSUS BUREAU, Schedule, <https://www.census.gov/programs-surveys/popest/about/schedule.html>.

⁵ Chambers County is also a qualifying county as of October 4, 2021, the date the Petition was deemed administratively complete by the Commission.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was transmitted by fax, hand-delivery, and/or regular, first class mail on this the 9th day of December, 2021 to the parties of record, in accordance with the Order Suspending Rules, issued in Project No. 50664.



David J. Klein