



## Filing Receipt

**Received - 2022-05-20 10:59:34 AM**  
**Control Number - 53254**  
**ItemNumber - 10**

**DOCKET NO. 53254**

|                                      |          |                                  |
|--------------------------------------|----------|----------------------------------|
| <b>PETITION OF STC GROUP MILLER,</b> | <b>§</b> | <b>PUBLIC UTILITY COMMISSION</b> |
| <b>LLC TO AMEND BOLIVAR WATER</b>    | <b>§</b> |                                  |
| <b>SUPPLY CORPORATION’S</b>          | <b>§</b> | <b>OF TEXAS</b>                  |
| <b>CERTIFICATE OF CONVENIENCE</b>    | <b>§</b> |                                  |
| <b>AND NECESSITY IN DENTON</b>       | <b>§</b> |                                  |
| <b>COUNTY BY STREAMLINED</b>         | <b>§</b> |                                  |
| <b>EXPEDITED RELEASE</b>             |          |                                  |

**COMMISSION STAFF’S RECOMMENDATION ON FINAL DISPOSITION**

On February 22, 2022, STC Group Miller, LLC (STC) filed a petition for streamlined expedited release from Bolivar Water Supply Corporation’s (Bolivar WSC) water Certificate of Convenience and Necessity (CCN) No. 11257 under Texas Water Code (TWC) § 13.2541 and 16 Texas Administrative Code (TAC) § 24.245(h). STC asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Denton County, which is a qualifying county.

On May 6, 2022, the administrative law judge (ALJ) filed Order No. 3, establishing a deadline of May 20, 2022 for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a recommendation on final disposition. Therefore, this pleading is timely filed.

**I. RECOMMENDATION ON FINAL DISPOSITION**

Staff has reviewed the petition, Bolivar WSC’s response to the petition, and STC’s reply to Bolivar WSC’s response, and, as detailed in the attached memorandum from Jolie Mathis, Infrastructure Division, recommends that the petition satisfies the requirements of TWC § 13.2541 and 16 TAC § 24.245(h).

Bolivar WSC argued that it is capable of providing service to STC, through a 12-inch water distribution line that is in close proximity to the land requested for release and is supplied by an elevated water storage tank and two pump stations. STC replied and correctly argued that this does not mean that the land is *receiving* service. To receive water service, a retail water utility must have “facilities or lines committed to providing water to the particular tract or has performed acts or supplied anything to the particular tract . . . .”<sup>1</sup> Bolivar WSC’s argument is flawed, because the

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<sup>1</sup> *Tex. Gen. Land Office v. Crystal Clear Water Supply Corp.*, 449 S.W.3d.130, 140 (Tex. App.—Austin 2014, pet. denied); *see also* TWC § 13.002(21), 16 TAC § 24.3(33).

water line located in close proximity to the requested area has not been shown to be committed to providing water to the requested area. In *Crystal Clear*, the court looked to whether existing lines and facilities, located on or near property, were constructed for the purpose of providing water to the property in question.<sup>2</sup> Finding that the facilities were constructed to serve the greater area, and not the particular property, the court determined that the facilities were not committed to the particular tract of land, and therefore, the property in question was not receiving service.<sup>3</sup> Bolivar WSC's limited response on this issue is conclusory and does not demonstrate that the water line is committed in any way separate from supplying water to the greater area. Further, Bolivar WSC also argued that its elevated water storage tank and two pump stations connected to the 12-inch water line shows that it has adequate capacity and pressure maintenance to serve the requested area. However, merely having the capacity to serve the requested area is not sufficient to demonstrate that the requested area is receiving water.<sup>4</sup>

Accordingly, Staff recommends that the petition for streamlined expedited release be approved. Further, the final water CCN map and certificate are attached to this filing. Staff recommends that the final map and certificate be provided to Bolivar WSC and for Bolivar WSC to file a certified copy of the CCN map and a boundary description of the CCN service area in the Denton County Clerk's office, as required under TWC § 13.257(r)-(s).

## **II. CONCLUSION**

For the reasons detailed above, Staff recommends that the petition be approved and respectfully requests the entry of an order consistent with this recommendation.

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<sup>2</sup> *Crystal Clear*, 449 S.W.3d at 140.

<sup>3</sup> *Id.*

<sup>4</sup> *Petition of Imperial Heights, Ltd. to Amend Aqua Texas, Inc. 's Certificates of Convenience and Necessity in Harris County by Expedited Release*, Docket No. 51114, Open Meeting Tr. at 26-28 (Nov. 5, 2020); *see also* November 5, 2020 Open Meeting Discussion of Item No. 6 at 17:52 – 26:44 ([http://www.adminmonitor.com/tx/puct/open\\_meeting/20201105/](http://www.adminmonitor.com/tx/puct/open_meeting/20201105/), last visited September 3, 2021).

Dated: May 20, 2022

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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**DOCKET NO. 53254**

**CERTIFICATE OF SERVICE**

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on May 20, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Scott Miles  
Scott Miles

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Scott Miles, Attorney  
Legal Division

**FROM:** Jolie Mathis, Utility Engineering Specialist  
Infrastructure Division

**DATE:** May 20, 2022

**RE:** Docket No. 53254 – *Petition of STC Group Miller, LLC to Amend Bolivar Water Supply Corporation's Certificate of Convenience and Necessity in Denton County by Streamlined Expedited Release*

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On February 22, 2022, STC Group Miller LLC (STC) filed a petition for streamlined expedited release from Bolivar Water Supply Corporation's (Bolivar WSC) water Certificate of Convenience and Necessity (CCN) No. 11257 in Denton County, under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h). STC asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Denton County, which is a qualifying county.

STC provided a warranty deed confirming ownership of the tract of land within Bolivar WSC's certificated service area. In addition, STC submitted a sworn affidavit attesting that the tract of land was not receiving water service from the CCN holder. Bolivar WSC did not request to intervene, however did file a response to the petition on April 14, 2022.

Based on the mapping review by Dave Babicki, Infrastructure Division, it was determined the landowner's total property is approximately 202.7 acres. The tract of land in the petition for streamlined expedited release is approximately 202.7 acres, of which approximately 202.7 acres overlap Bolivar WSC (CCN No. 11257) and would be decertified from CCN No. 11257.

In accordance with TWC § 13.2541 and 16 TAC § 24.245(h), STC has met the Commission's requirements to allow for the release of the tract of land from Bolivar WSC's CCN No. 11257. Therefore, I recommend approval of the petition. Enclosed is a final map and certificate for Commission approval.

Additionally, I recommend that a final map and certificate be provided to the CCN holder.





# **Public Utility Commission of Texas**

**By These Presents Be It Known To All That**

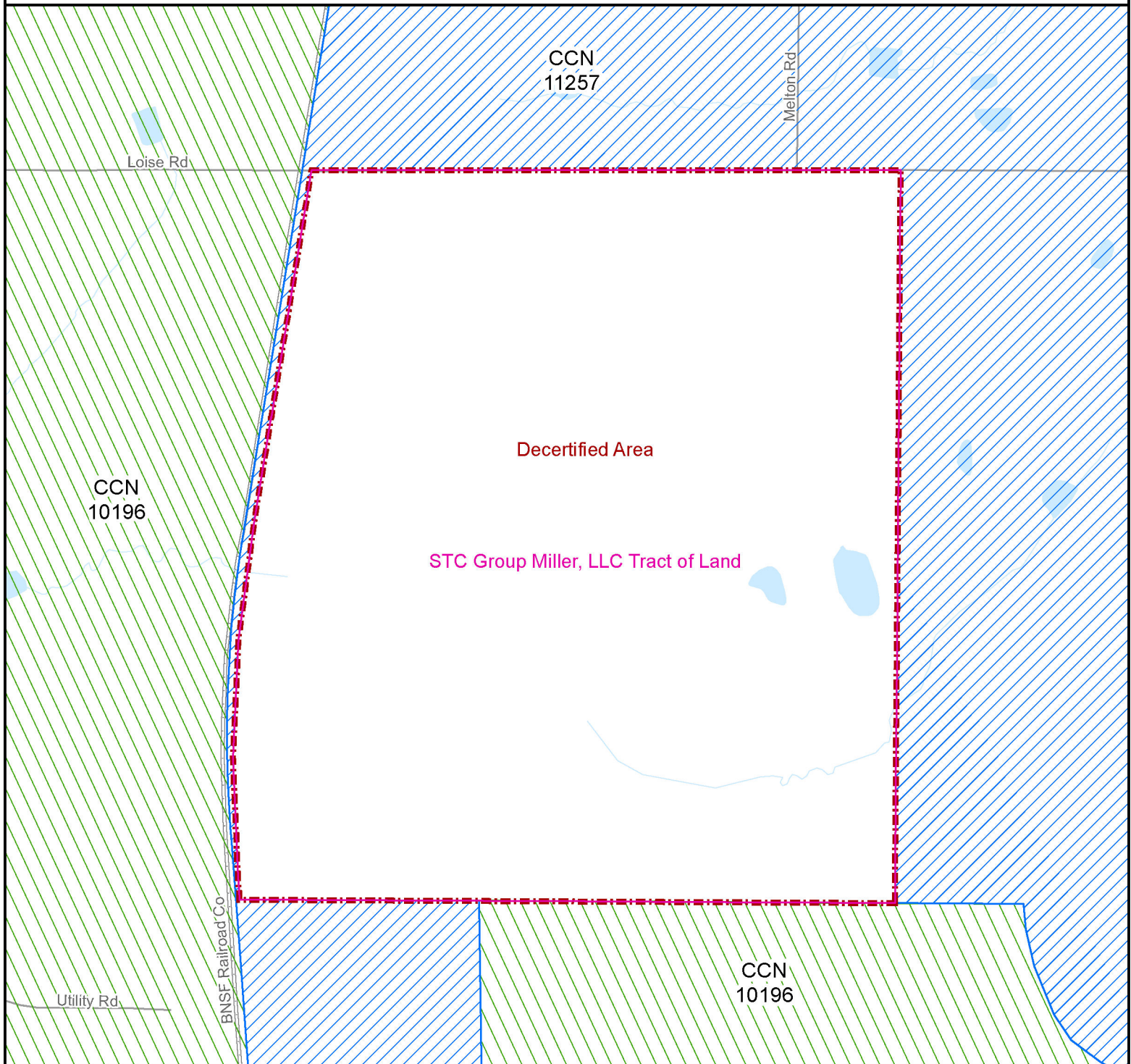
## **Bolivar Water Supply Corporation**

having obtained certification to provide water 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, Bolivar Water Supply Corporation is entitled to this



### **Certificate of Convenience and Necessity No. 11257**



to provide continuous and adequate water utility service to that service area or those service areas in Cooke, Denton, and Wise Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 53254 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 Bolivar Water Supply Corporation 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.

Bolivar Water Supply Corporation  
Portion of Water CCN No. 11257  
PUC Docket No. 53254  
Petition by STC Group Miller, LLC to Amend  
Bolivar Water Supply Corporation's CCN by Streamlined Expedited Release in Denton County



**Water CCN**

-  11257 - Bolivar WSC
-  10196 - City of Sanger

-  Decertified Area
-  Tract of Land

0 300 600  
Feet

