



Filing Receipt

Received - 2022-05-24 12:19:01 PM

Control Number - 53254

ItemNumber - 11

Peter M. Lake
Chairman

Will McAdams
Commissioner

Lori Cobos
Commissioner

Jimmy Glotfelty
Commissioner



Greg Abbott
Governor

Thomas J. Gleeson
Executive Director

Public Utility Commission of Texas

TO: Stephen Journeay
Commission Counsel

All Parties of Record

FROM: Isaac Ta *I. T.*
Administrative Law Judge

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*

DATE: May 24, 2022

Enclosed is the Proposed Order in the above-referenced case. By copy of this memo, the parties to this proceeding are being served with the Proposed Order.

Please place this docket on an open meeting agenda for the Commissioners' consideration. Please notify me and the parties of the open meeting date. The parties must file corrections or exceptions to the Proposed Order by June 8, 2022.

If a party proposes a correction or exception, the party must fully explain the correction or exception and must provide a citation to the record to support the correction or exception.

If there are no corrections or exceptions, no response is necessary.

/ag
q:\cadm\doCKET management\water\ccn_expedited\53xxx\53254 pomemo.docx



DOCKET NO. 53254

PETITION OF STC GROUP MILLER,	§	PUBLIC UTILITY COMMISSION
LLC TO AMEND BOLIVAR WATER	§	
SUPPLY CORPORATION'S	§	OF TEXAS
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY IN DENTON	§	
COUNTY BY STREAMLINED	§	
EXPEDITED RELEASE	§	

**PROPOSED ORDER
GRANTING STREAMLINED EXPEDITED RELEASE**

This Order addresses the petition by STC Group Miller, LLC for streamlined expedited release of a tract of land in Denton County from Bolivar Water Supply Corporation's service area under certificate of convenience and necessity (CCN) number 11257. For the reasons stated in this Order, the Commission releases the tract of land from Bolivar's certificated service area. In addition, the Commission amends Bolivar's CCN number 11257 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 Bolivar WSC, which will be addressed by separate order.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

1. STC Group Miller is a Texas limited liability company registered with the Texas secretary of state under filing number 803758626.

CCN Holder

2. Bolivar is a Texas non-profit water supply corporation registered with the Texas secretary of state under filing number 25730701.
3. Bolivar holds CCN number 11257 that obligates it to provide retail water service in its certificated service area in Denton County.

Petition

4. On February 22, 2022, the petitioner filed a petition for streamlined expedited release of a tract of land from the CCN holder's service area under CCN number 11257.
5. The petition includes an affidavit, dated January 20, 2022, of Jon Anderson, the petitioner's authorized representative; general and detail location maps; a special warranty deed with vendor's lien, dated October 22, 2021; legal name and entity details of the petitioner; digital mapping data; and proof of notice to the CCN holder.
6. In Order No. 2 filed on March 25, 2022, the administrative law judge (ALJ) found the petition administratively complete.

Notice

7. The petitioner sent a copy of the petition by certified mail, return receipt requested, to the CCN holder on February 22, 2022.
8. In Order No. 2 filed on March 25, 2022, the ALJ found the notice sufficient.

Response to the Petition

9. On April 14, 2022, Bolivar WSC filed a response to the petition, which includes the declaration, dated April 13, 2022, of James Parkman, the CCN holder's general manager; financial statements and independent auditors' report dated December 31, 2021; the declaration, dated April 12, 2022, of Kerry D. Maroney, the CCN holder's corporate engineer; a letter of engineering review dated April 8, 2022; and general and detail location maps.

The Tract of Land

10. The petitioner owns a tract of land in Denton County that is approximately 202.7 acres, and for which the petitioner seeks streamlined expedited release.
11. The tract of land is located within the CCN holder's certificated service area.

Ownership of the Tract of Land

12. The petitioner acquired its property by a special warranty deed with vendor's lien dated October 22, 2021.

Qualifying County

13. Denton County abuts Dallas and Tarrant counties and has a population more than 47,500.

14. Dallas County and Tarrant County each has a population of at least one million.

Water Service

15. The tract of land not receiving actual water service from the CCN holder.
16. The petitioner has not received any invoices from the CCN holder for water service to the tract of land.
17. The CCN holder does not have any water meters on the tract of land.
18. There are no easements on the tract of land granted to the CCN holder.
19. The CCN holder owns and operates a 12-inch waterline running parallel to, but outside of, a portion of the northern boundary of the tract of land but does not provide water service to the tract of land.
20. The CCN holder owns and operates a 12-inch waterline adjacent and parallel to the eastern boundary of the tract of land but does not provide water service to the tract of land.
21. The CCN holder owns and operates a water storage tank and two pump stations that are located outside of, but in proximity to, the tract of land that could be used to provide service to the tract, if requested to do so.
22. The CCN holder has not committed or dedicated any facilities or lines to the tract of land for water service.
23. The CCN holder has no facilities or lines that provide water service to the tract of land.
24. The CCN holder has not performed any acts for or supplied anything to the tract of land.

Map and Certificate

25. On May 20, 2022, Commission Staff filed its recommendation on final disposition that included a certificate and a map on which it identified the tract of land in relation 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 the petition for streamlined expedited release under Texas Water Code (TWC) §§ 13.254 and 13.2541.

2. The petitioner provided notice of the petition in compliance with 16 Texas Administrative Code (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 and 13.2541 and 16 TAC § 24.245(h) 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.
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 service under TWC § 13.2541(b). Whether a tract of land might have previously received water 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. Denton County is a qualifying county under TWC § 13.2541(b) and 16 TAC § 24.245(h)(2).
12. The tract of land is not receiving water 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 water service to the 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 water 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 Denton 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) and 13.2541(a), provide retail water 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 11257.
2. The Commission does not decertify 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 11257 in accordance with this Order.
4. The Commission approves the map attached to this Order.
5. The Commission issues the certificate attached to this Order.

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 ___ day of _____ 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

PETER M. LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER



Public Utility Commission of Texas

By These Presents Be It Known To All That

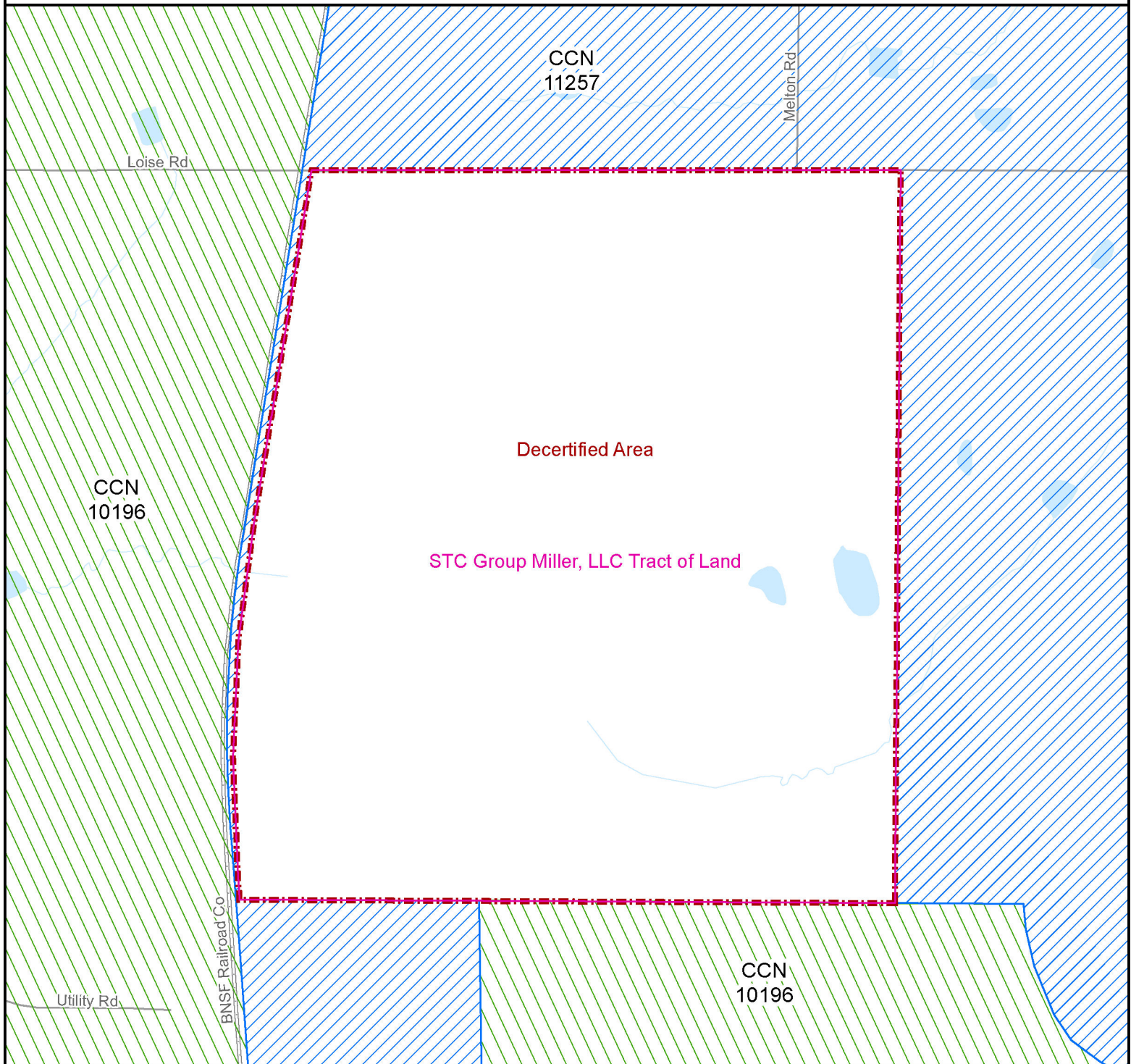
Bolivar Water Supply Corporation

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

