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Governor

Thomas J. Gleeson
Executive Director

Public Utility Commission of Texas

TO: Stephen Journeay
Commission Counsel

All Parties of Record

FROM: Katie Moore Marx
Administrative Law Judge *KMM*

RE: **Docket No. 53514** – *Petition of Sater, LP to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release*

DATE: July 14, 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 July 28, 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.

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DOCKET NO. 53514

PETITION OF SATER, LP TO AMEND	§	PUBLIC UTILITY COMMISSION
MARILEE SPECIAL UTILITY	§	
DISTRICT'S CERTIFICATE OF	§	OF TEXAS
CONVENIENCE AND NECESSITY IN	§	
COLLIN COUNTY BY EXPEDITED	§	
RELEASE	§	

PROPOSED ORDER

This Order addresses the petition by Sater, LP for streamlined expedited release a tract of land in Collin County from Marilee Special Utility District's service area under certificate of convenience and necessity (CCN) number 10150. For the reasons stated in this Order, the Commission releases the tract of land from Marilee SUD's certificated service area. In addition, the Commission amends Marilee SUD's CCN number 10150 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 Marilee SUD, which will be addressed by separate order.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

1. Sater is a Texas limited partnership registered with the Texas secretary of state under filing number 10654310.

CCN Holder

2. Marilee SUD is a special utility district operating under chapter 65 of the Texas Water Code (TWC).
3. Marilee SUD holds CCN number 10150 that obligates it to provide retail water service in its certificated service area in Collin County.
4. On November 2, 2021, Marilee SUD and Mustang Special Utility District were consolidated into a single entity.

Petition and Supplemental Material

5. On April 21, 2022, the petitioner filed a petition for streamlined expedited release of a tract of land from the CCN holder's service area under water CCN number 10150.
6. The petition includes an affidavit, dated March 9, 2022, of Jacob Allen, manager of Allen's Happy Place LLC, the petitioner's general partner; general and detailed maps; a metes-and-bounds description of the subject tract of land; a special warranty deed dated December 17, 2021; a water meter locations map; and digital mapping data.
7. On May 6, 2022, petitioner filed a supplement to the petition with updated general, detailed, and water meter location maps.
8. In Order No. 2 filed on May 26, 2022, the administrative law judge (ALJ) found the petition, as supplemented, administratively complete.

Notice

9. On April 21, 2022, the petitioner sent a copy of the petition by via certified mail, return receipt requested, to the CCN holder.
10. In Order No. 2 filed on May 26, 2022, the ALJ found the notice sufficient.

Intervention and Response to the Petition

11. In Order No. 3 filed on June 17, 2022, the ALJ granted the motion to intervene.
12. On June 15, 2022, the CCN holder filed a response to the petition.
13. The response includes an affidavit, dated June 14, 2022, of Michael Garrison, special project inspector for the CCN holder, and attachments thereto consisting of customer account information for various water meters under the name of Gregg Allen, including charges, cost of service notices, service applications, and not-fully-executed and undated service agreements for each water meter; a loan commitment letter from Live Oak Bank to the CCN holder dated April 13, 2021; a letter concerning a loan from the United States Department of Agriculture to the CCN holder dated July 19, 2021, with attachments; a voting proposition form from the CCN holder dated November 2, 2021; and a summary results report of general and special elections held by the CCN holder on November 2, 2021, dated November 8, 2021. The response also includes the affidavit of Eddy Daniel,

dated June 13, 2022, representative and engineer of record of the CCN holder, and an attachment thereto consisting of a water meter locations map; and the affidavit of Chris Boyd, dated June 14, 2022, general manager of the CCN holder, and attachments thereto consisting of an active contests options list for a special election dated November 2, 2021, and the official report of the November 2, 2021, dated November 9, 2021.

The Tract of Land

14. The petitioner owns property in Collin County that is approximately 275.5 acres.
15. The tract of land for which the petitioner seeks streamlined expedited release is a portion of the petitioner's property that is approximately 262.8 acres.
16. The tract of land is located within the CCN holder's certificated service area.

Ownership of the Tract of Land

17. The petitioner acquired its property by a special warranty deed dated December 17, 2021.

Qualifying County

18. Collin County is adjacent to Dallas County and has a population of more than 47,500.
19. Dallas County has a population of at least one million.

Water Service

20. The tract of land is not receiving actual water service from the CCN holder.
21. There are four active water meters maintained by the CCN holder carved out of the southern border of the tract of land.
22. There are 10 additional water meters maintained by the CCN holder located near the southern border of the tract of land.
23. There is one six-inch water line maintained by the CCN holder running within and along the southern border of the tract of land.
24. There is one eight-inch water line maintained by the CCN holder that connects to the six-inch water line within and along the southern border of the tract of land.
25. The CCN holder has not committed or dedicated any facilities or lines to the tract of land for water service.

26. The CCN holder has no facilities or lines that provide water 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 June 30, 2022, Commission Staff filed its revised 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 certificate 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 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)(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 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. Collin 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 Collin 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 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 10150.
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 10150 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

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Public Utility Commission of Texas

By These Presents Be It Known To All That

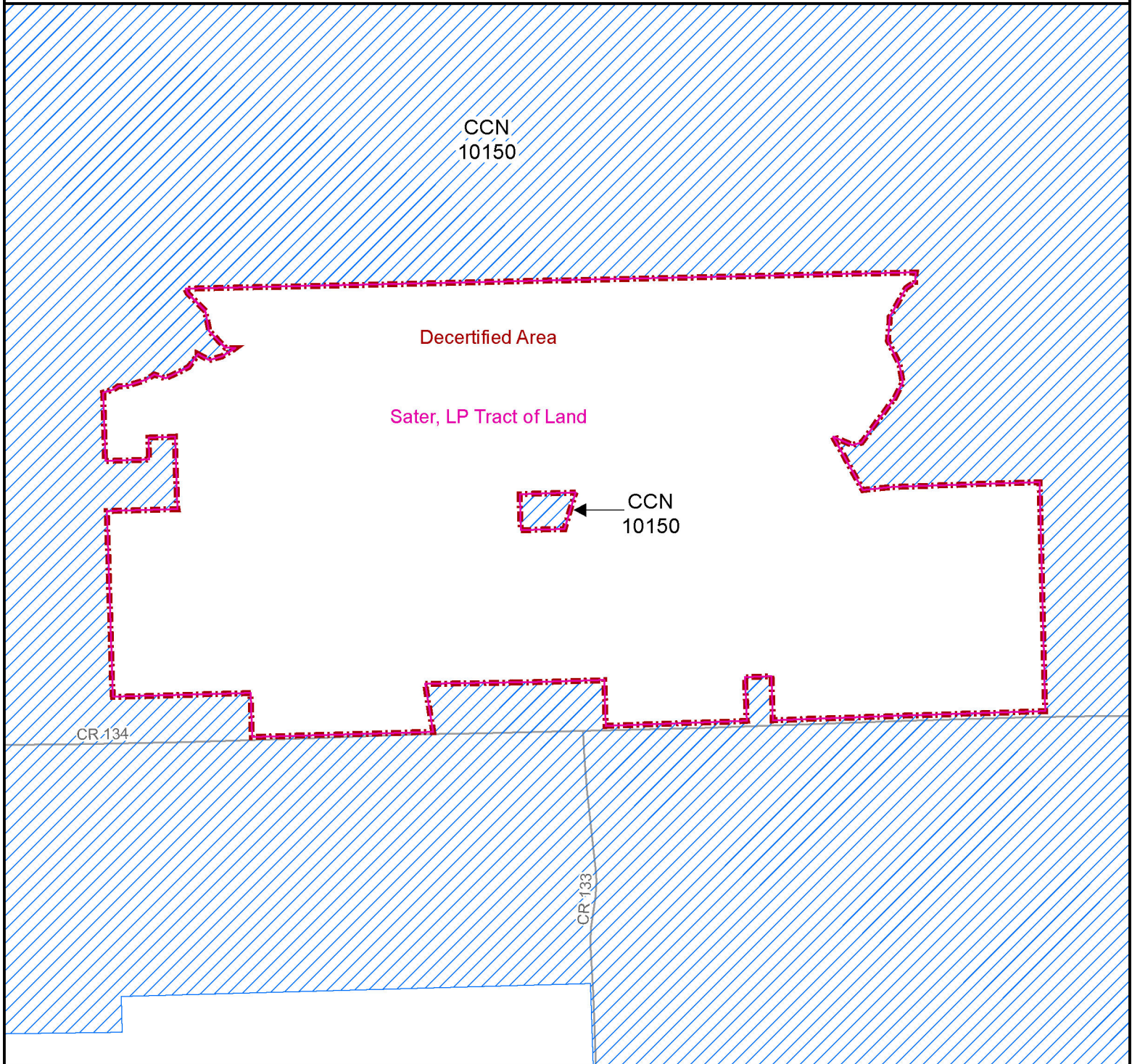
Marilee Special Utility District

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, Marilee Special Utility District is entitled to this


Certificate of Convenience and Necessity No. 10150

to provide continuous and adequate water utility service to that service area or those service areas in Collin and Grayson counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 53514 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 Marilee Special Utility District 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.

Marilee Special Utility District
Portion of Water CCN No. 10150
PUC Docket No. 53514
Petition by Sater, LP to Amend
Marilee Special Utility District's CCN by Streamlined Expedited Release in Collin County

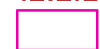


Water CCN

 10150 - Marilee SUD



Decertified Area



Tract of Land

0 400 800
Feet

