



Control Number: 53594



Item Number: 19

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DOCKET NO. 53594

2023 MAR 23 PM 1:39

PETITION OF MONTGOMERY COUNTY LAND INVESTMENTS, INC. TO AMEND T&W WATER SERVICE COMPANY'S CERTIFICATE OF CONVENIENCE AND NECESSITY IN MONTGOMERY COUNTY BY STREAMLINED EXPEDITED RELEASE § § § § § § §

PUBLIC UTILITY COMMISSION OF TEXAS FILING CLERK

ORDER

This Order addresses the petition of Montgomery County Land Investments, Inc. for streamlined expedited release of a portion of a tract of land in Montgomery County from T&W Water Service Company's service area under certificate of convenience and necessity (CCN) number 12892. For the reasons stated in this Order, the Commission releases the portion of the tract of land from T&W's certificated service area. In addition, the Commission amends T&W's CCN number 12892 to reflect the removal of the portion 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 T&W, which will be addressed by separate order.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

- 1. Montgomery County Land Investments, Inc. is a Texas corporation registered with the Texas secretary of state under filing number 128533000.

CCN Holder

- 2. T&W is a Texas corporation registered with the Texas secretary of state under filing number 46041000.
- 3. T&W holds CCN number 12892 that obligates it to provide retail water service in its certificated service area in Montgomery County.

Petition and Supplemental Materials

4. On May 11, 2022, the petitioner filed a petition for streamlined expedited release of a portion of a tract of land from the CCN holder's service area under CCN number 12892.
5. The petition includes an affidavit, dated May 2, 2022, of Daniel K. Signorelli, president of petitioner; a special warranty deed dated March 16, 2022; maps showing the location of the property; a special warranty deed dated December 31, 2021; digital data; and a certificate of service that a copy of the petition was sent to the CCN holder by certified mail on May 11, 2022.
6. On July 12 and August 22, 2022, Montgomery County Land Investments filed supplemental information.
7. In Order No. 5 filed on October 17, 2022, the administrative law judge (ALJ) found the petition, as supplemented, administratively complete.

Notice

8. On May 11, 2022, the petitioner sent a copy of the petition by certified mail to the CCN holder.
9. On August 22, 2022, the petitioner sent a copy of the amended petition by email to the CCN holder.
10. In Order No. 5 filed on October 17, 2022, the ALJ found the notice sufficient.

Intervention and Response to the Petition

11. On July 18, 2022, the CCN holder filed a response opposing the petition and motion to intervene. The CCN holder's response included an affidavit dated July 18, 2022, of Ron Payne, the general manager of CCN holder.
12. In Order No. 3 filed on July 27, 2022, the ALJ granted the CCN holder's motion to intervene.

The Tract of Land

13. The petitioner owns a tract of land in Montgomery County that is approximately 154.8 acres.

14. The portion of the tract of land for which the petitioner seeks streamlined expedited release is approximately 22.5 acres and is located within the CCN holder's certificated service area.

Ownership of the Tract of Land

15. The petitioner acquired the tract of land through two special warranty deeds dated December 31, 2021 and March 16, 2022.

Qualifying County

16. Montgomery County is adjacent to Harris County and has a population of more than 47,500.
17. Harris County has a population of at least one million.

Water Service

18. The tract of land is not receiving actual water service from the CCN holder.
19. The petitioner has not requested that the CCN holder provide water service to the tract of land.
20. The petitioner has not paid any fees or charges to initiate or maintain water service to the tract of land.
21. There are no billing records or other documents that indicate that the petitioner has an existing account for the tract of land with the CCN holder.
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 November 22, 2022, Commission Staff filed its final recommendation that included a certificate and a map on which it identified the tract of land and the portion of the tract of land for which the petitioner seeks streamlined expedited release 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 this 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)(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 petitioner owns the tract of land that is at least 25 acres, and the petitioner seeks streamlined expedited release of a portion of the tract of land through the petition.
9. The petitioner's tract of land in Montgomery County that is approximately 154.8 acres constitutes a single tract of land under TWC § 13.2541 because it has common ownership and is contiguous.
10. A landowner is not required to seek the streamlined expedited release of all of its tract of land.

11. The petitioner's request for streamlined expedited release of approximately 22.5 acres within the CCN holder's certificated service area satisfies the TWC 25-acre minimum requirement for expedited release of an area from a CCN because it is part of a tract of land that is at least 25 acres.
12. Montgomery County is a qualifying county under TWC § 13.2541(b) and 16 TAC § 24.245(h)(2).
13. 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.
14. 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).
15. The petitioner is entitled under TWC § 13.2541(b) to the release of the portion of the tract of land from the CCN holder's certificated service area.
16. After the date of this Order, the CCN holder has no obligation under TWC § 13.254(h) to provide retail water service to the released portion of the petitioner's tract of land.
17. 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).
18. The Commission processed the petition in accordance with the TWC and Commission rules.
19. 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 Montgomery County no later than the 31st day after the date the CCN holder receives this Order.

20. A retail public utility may not, under TWC §§ 13.254(d), provide retail water service to the public within the released portion of 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 portion of the tract of land identified in the petition from the CCN holder's certificated service area under CCN number 12892.
2. The Commission does not decertify any of the CCN holder's equipment or facilities that may lay on or under the portion of the tract of land.
3. The Commission amends CCN number 12892 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. 5. 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 23rd day of March 2023.

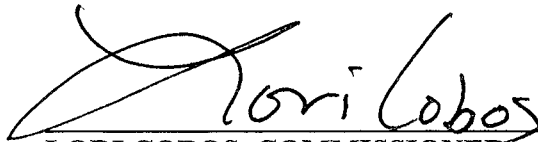
PUBLIC UTILITY COMMISSION OF TEXAS



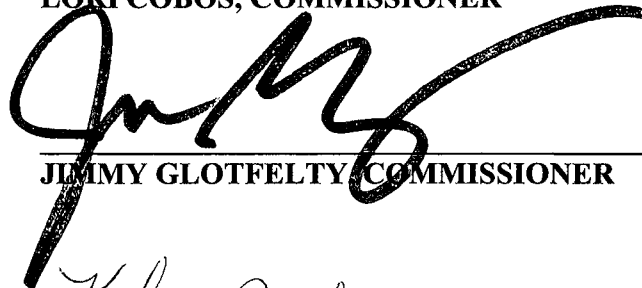
PETER M. LAKE, CHAIRMAN



WILL MCADAMS, COMMISSIONER



LORI COBOS, COMMISSIONER



JIMMY GLOTFELTY, COMMISSIONER



KATHLEEN JACKSON, COMMISSIONER



Public Utility Commission of Texas

By These Presents Be It Known To All That

T & W Water Service Company

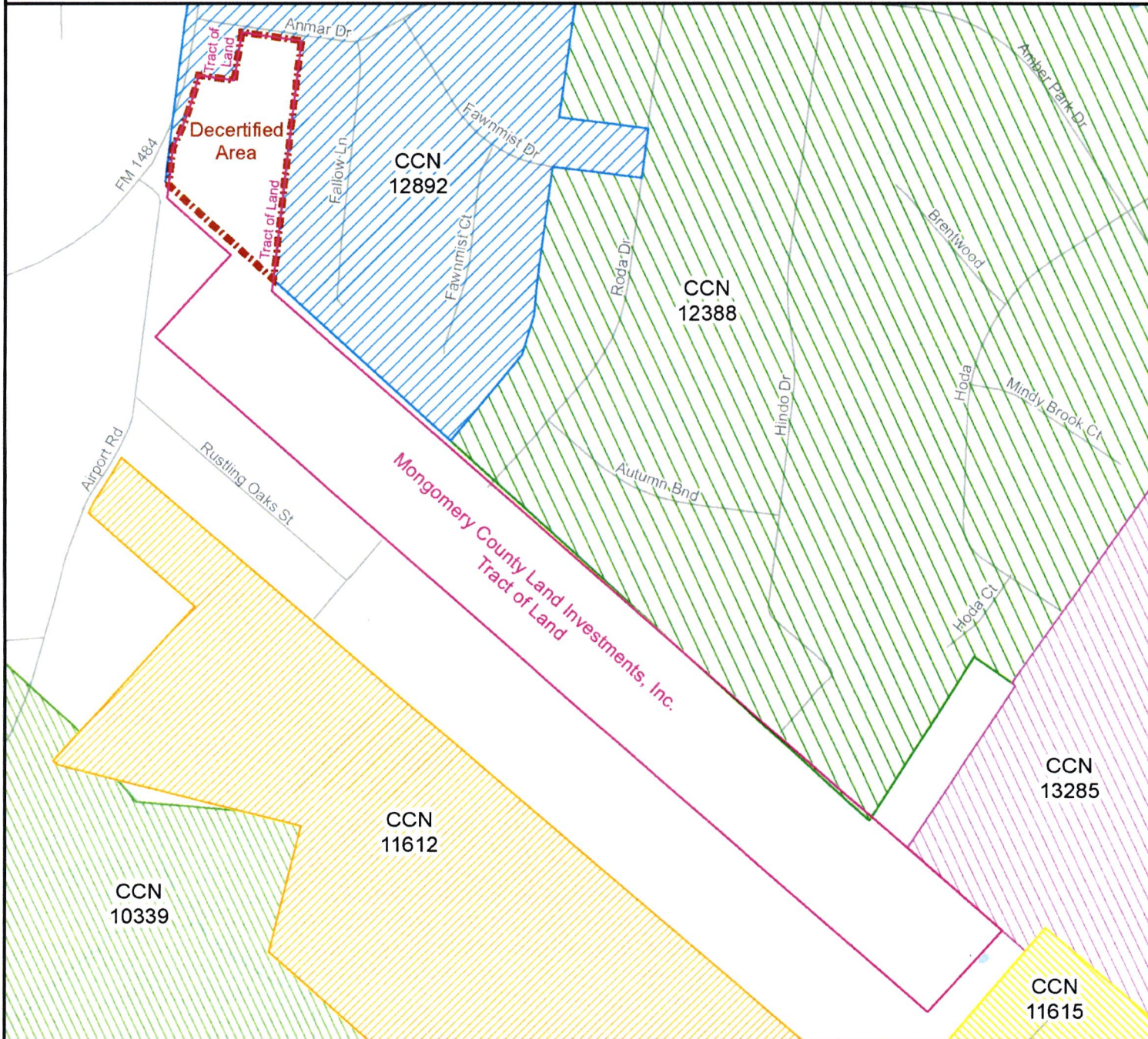
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, T & W Water Service Company is entitled to this

Certificate of Convenience and Necessity No. 12892

to provide continuous and adequate water utility service to that service area or those service areas in Harris, Jefferson, Liberty, and Montgomery counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 53594 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 T & W Water Service Company 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.



T & W Water Service Company
 Portion of Water CCN No. 12892
 PUC Docket No. 53594

Petition by Montgomery County Land Investments, Inc. to Amend
 T & W Water Service Company's CCN by Streamlined Expedited Release in Montgomery County



Water CCN

-  12892 - T & W Water Service Company
-  12388 - Woodland Hills Water LLC
-  11612 - Quadvest LP
-  13285 - Deer Trails Water District LLC
-  10339 - City of Conroe
-  11615 - Town of Cut and Shoot

-  Decertified Area
-  Tract of Land

