



Control Number: 54646



Item Number: 19

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PUBLIC UTILITY COMMISSION
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Public Utility Commission of Texas

TO: All Parties of Record

FROM: Office of Policy & Docket Management

DATE: September 6, 2023

RE: Docket No. 54646, *Petition of DEBLOCK, Ltd. to Amend Aqua Texas, Inc.'s Certificate of Convenience and Necessity in Denton County by Streamlined Expedited Release.*

The order filed in this docket on August 3, 2023 omitted the map and certificate referenced in ordering paragraphs 4 and 5, respectively. The attached order includes the omitted map and certificate and replaces the order filed on August 3, 2023.

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DOCKET NO. 54646

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PUBLIC UTILITY COMMISSION
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PETITION OF DEBLOCK, LTD. TO §
AMEND AQUA TEXAS, INC.'S §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY IN DENTON COUNTY §
BY STREAMLINED EXPEDITED §
RELEASE §

ORDER

This Order addresses the petition of DEBLOCK, Ltd. for streamlined expedited release of a tract of land in Denton County from Aqua Texas, Inc.'s service area under certificate of convenience and necessity (CCN) number 13201. For the reasons stated in this Order, the Commission releases the tract of land from Aqua Texas's certificated service area. In addition, the Commission amends Aqua Texas's certified area under CCN number 13201 to reflect 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 Aqua Texas, which will be addressed by separate order.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

1. DEBLOCK, Ltd. is a Texas limited partnership registered with the Texas secretary of state under filing number 800351188.

CCN Holder

2. Aqua Texas is a Texas corporation registered with the Texas secretary of state under filing number 800304878.
3. Aqua Texas holds CCN number 13201 that obligates it to provide retail water service in its certificated service area in Denton County.

Petition

4. On February 13, 2023, the petitioner filed a petition for streamlined expedited release of a tract of land from the CCN holder's service area under CCN number 13201.
5. The petition included the February 9, 2023 affidavit of Morreta Ann Weatherford, an officer of the petitioner, maps, a special warranty deed dated November 10, 2014, and digital mapping data.
6. On March 31, 2023, the petitioner supplemented the petition with updated maps and digital mapping data.
7. In Order No. 3 filed on May 16, 2023, the administrative law judge (ALJ) found the petition, as supplemented, administratively complete.

Notice

8. On February 13, 2023, the petitioner sent a copy of the petition to the CCN holder by certified mail, return receipt requested.
9. In Order No. 3 filed on May 16, 2023, the ALJ found the notice sufficient.

Intervention and Response to Petition

10. On June 5, 2023, the CCN holder filed a motion to intervene and response to the petition which included an affidavit, dated June 1, 2023, of Darryl Waldock, the CCN holder's North Texas Area manager; and a map.
11. In Order No. 4 filed on June 12, 2023, the ALJ granted the motion to intervene.

The Tract of Land

12. The petitioner owns property in Denton County that is approximately 63 acres.
13. The tract of land for which the petitioner seeks streamlined expedited release is a portion of the petitioner's property that is 59.2 acres.
14. The tract of land is located within the CCN holder's certificated service area.

Ownership of the Tract of Land

15. The petitioner acquired the property by a special warranty deed dated November 10, 2014.

Qualifying County

16. Denton County has a population of more than 47,500 and is adjacent to Dallas and Tarrant counties.
17. Dallas County and Tarrant County each have a population of at least one million.

Water Service to the Tract of Land

18. The tract of land is not receiving actual water service from the CCN holder or any other water service provider.
19. The petitioner has not requested water service from the CCN holder for the tract of land or paid any fees or charges to initiate or maintain such service.
20. There are no billing records or other documents evidencing an existing account with the CCN holder for the provision of water service to the tract of land.
21. The CCN holder has a water plant located outside of the southern boundary of the tract of land, and a 4-inch water line running near, but outside of, the western boundary of the tract of land. These facilities do not provide water service to the tract of land.
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 June 26, 2023, 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 this 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 the petitioner's petition.
4. This petition for streamlined expedited release filed under TWC §§ 13.254 and 13.2541 and 16 TAC § 24.245(h) is not a contested case.
5. The petitioner, under TWC §§ 13.254, 13.2541 and 16 TAC § 24.245(h), is 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 in this proceeding is based on the information submitted by the petitioner, the CCN holder, and Commission Staff.
7. To obtain streamlined expedited release under TWC § 13.2541(b), the petitioner must demonstrate that it 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 this petition was filed is the only relevant time period to consider when evaluating whether the tract of land is receiving water service under TWC § 13.2541(b). Whether the tract of land might have previously received water service is irrelevant.
9. The petitioner is not required to seek the streamlined expedited release of all of its property.
10. The petitioner owns the tract of land for which it seeks streamlined expedited release and the tract of land is at least 25 acres.
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. Under TWC §§ 13.254(h) and 13.2541(a), after the date of this Order, the CCN holder has no obligation to provide retail water service to the tract of land.

15. The Commission may release only the petitioner's tract of land from CCN number 13201 under TWC § 13.2541(b). The Commission has no authority to decertify any facilities or equipment owned and operated by the holder of CCN number 13201 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), 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 holder of CCN number 13201.

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 13201.
2. The Commission does not decertify any of the CCN holder's equipment or facilities that may lay on or under the released portion of the tract of land.
3. The Commission amends CCN number 13201 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. 3. 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 30th day of August 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

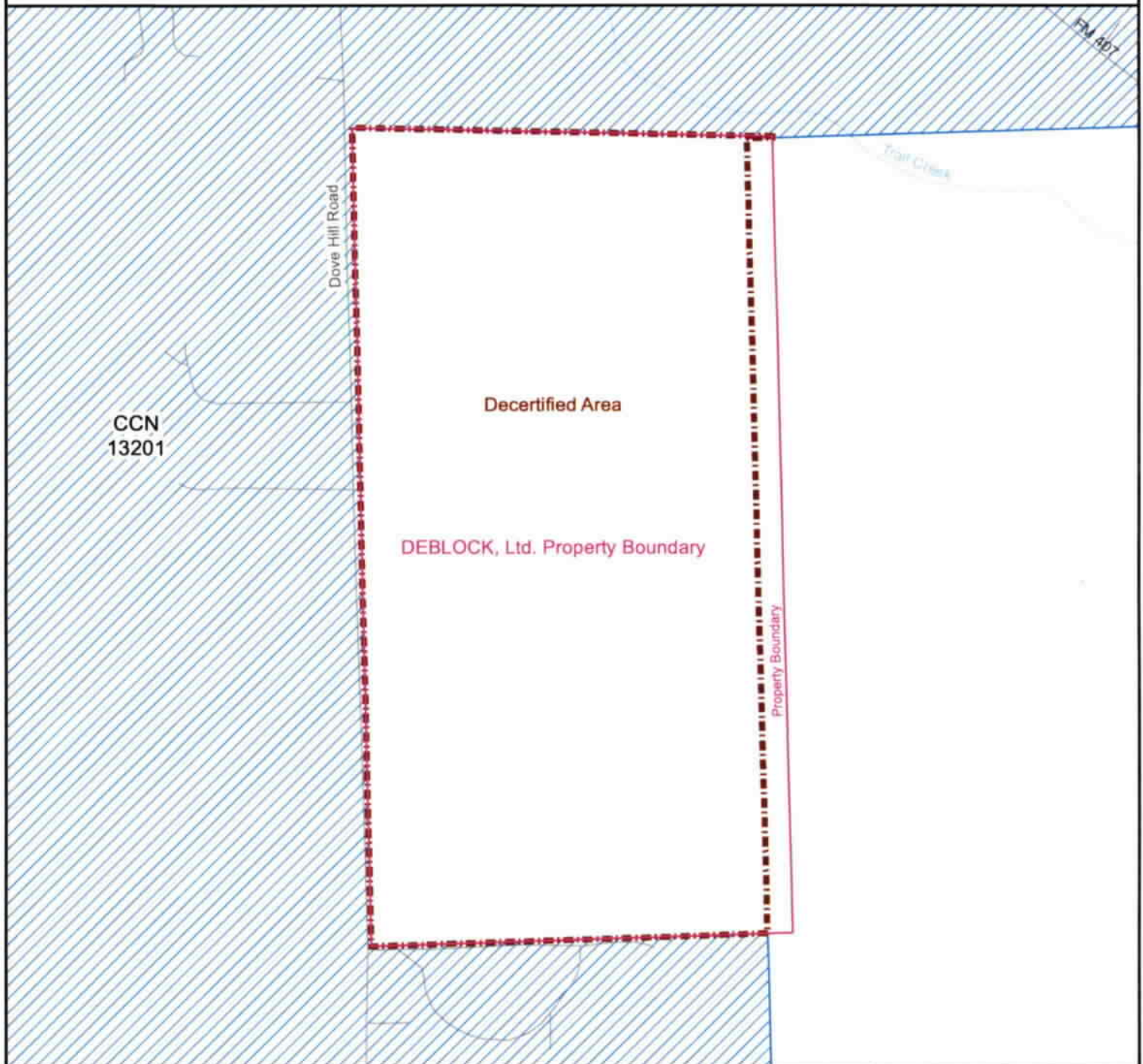

KATHLEEN JACKSON, INTERIM CHAIR


WILL MCADAMS, COMMISSIONER


LORI COBOS, COMMISSIONER


EMMY GLOTFELTY, COMMISSIONER

Aqua Texas, Inc.
Portion of Water CCN No. 13201
PUC Docket No. 54646
Petition by DEBLOCK, Ltd. to Amend
Aqua Texas, Inc.'s CCN by Streamlined Expedited Release in Denton County



Water CCN



13201 - Aqua Texas Inc



Decertified Area



Tract of Land

0 200 400
Feet





Public Utility Commission of Texas

By These Presents Be It Known To All That

Aqua Texas, Inc.

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, Aqua Texas, Inc. is entitled to this

Certificate of Convenience and Necessity No. 13201

to provide continuous and adequate water utility service to that service area or those service areas in Anderson, Bosque, Camp, Cherokee, Collin, Cooke, Denton, Erath, Grayson, Gregg, Henderson, Hood, Hunt, Johnson, Kaufman, McLennan, Marion, Parker, Smith, Somervell, Tarrant, Wise, and Wood counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 54646 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 Aqua Texas, Inc. 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.