



## **Filing Receipt**

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**Item Number - 12**

**DOCKET NO. 55021**

<b>PETITION OF MC TRILOGY TEXAS,</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>LLC TO AMEND RCH 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 ROCKWALL</b>	<b>§</b>	
<b>COUNTY BY STREAMLINED</b>	<b>§</b>	
<b>EXPEDITED RELEASE</b>	<b>§</b>	

**ORDER NO. 5**  
**GRANTING STREAMLINED EXPEDITED RELEASE**

This Order addresses the petition by MC Trilogy Texas, LLC for streamlined expedited release of a tract of land in Rockwall County from RCH Water Supply Corporation's service area under certificate of convenience and necessity (CCN) number 10087. For the reasons stated in this Order, the Commission releases the tract of land from RCH WSC's certificated service area. In addition, the Commission amends RCH WSC's CCN number 10087 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 RCH WSC, which will be addressed by separate order.

**L. Findings of Fact**

The Commission makes the following findings of fact.

**Petitioner**

1. MC Trilogy is a Texas limited liability company registered with the Texas secretary of state under filing number 804220500.

**CCN Holder**

2. RCH WSC is a Texas nonprofit corporation registered with the Texas secretary of state under file number 17642701.
3. RCH WSC holds CCN number 10087 that obligates it to provide retail water service in its certificated service area in Rockwall County.

**Petition and Supplemental Materials**

4. On May 18, 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 10087.

5. The petition included the following: an affidavit, dated May 17, 2023, of Phillip Huffines, managing director of MC Trilogy; a special warranty deed, dated December 6, 2021; maps; and digital mapping data.
6. On July 20, 2023, the petitioner filed updated maps and shapefiles.
7. In Order No. 3 filed on August 22, 2023, the administrative law judge (ALJ) found the petition, as supplemented, administratively complete.

#### **Notice**

8. On May 18, 2023, the petitioner sent a copy of the petition to the CCN holder by certified mail.
9. In Order No. 3 filed on August 22, 2023, the ALJ found the notice sufficient.

#### **Response to the Petition**

10. The CCN holder did not file a response to the petition.

#### **The Tract of Land**

11. The petitioner owns two adjacent properties separated by a public road in Rockwall County that are approximately 893 total acres.
12. Property 1 is approximately 650 acres and Property 2 is approximately 243 acres.
13. The tract of land for which petitioner seeks streamlined expedited release is a portion of the petitioner's properties that is approximately 722 total 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 properties by a special warranty deed dated December 6, 2021.

#### **Qualifying County**

16. Rockwall County has a population of more than 47,500 and is adjacent to Dallas County.
17. Rockwall County is adjacent to Dallas County, which has 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 CCN holder has not committed or dedicated any facilities or lines to the tract of land for water service.
20. The CCN holder has no facilities or lines that provide water service to the tract of land.
21. The CCN holder has not performed any acts for or supplied anything to the tract of land.

**Map and Certificate**

22. On October 2, 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 property that is at least 25 acres for which it seeks streamlined expedited release of a portion.
11. Rockwall 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 10087 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 10087 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 Rockwall 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 10087.

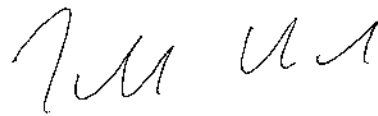
### III. Ordering Paragraphs

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 10087.
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 10087 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 on the 18th day of October 2023.**

**PUBLIC UTILITY COMMISSION OF TEXAS**



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**JEFFREY J. HUHN**  
**ADMINISTRATIVE LAW JUDGE**