

## CCN UPDATE

Art Rodriguez  
Russell & Rodriguez, LLP

### CCN Overview

---

- Certificate of Convenience and Necessity
- Water or Sewer
- Retail vs. Wholesale
- Service Area
- Not Required
- Changes since 2005

## CCNs

- Protect Service Area
- Limit Other Providers
- Obligation to Provide Continuous and Adequate Service

## Municipal CCNs (Smaller Cities)

- Under 500,000 population
- Area Outside a City's ETJ Decertification
  - City does not provide service in five years
  - Hearing held to determine if service provided
  - Decertification does not apply to:
    - Transfer approved by TCEQ; and
    - City expended public funds
- Landowner "Opt Out"

## Municipal CCNs (Large Cities)

- 500,000 or More
- Consent Required for CCN in ETJ by Utility
- Without Consent, CCN may be granted if:
  - No ability to provide service; or
  - Failed to make “good faith” effort to provide service
  - RPU can begin construction within 1 year and be substantially completed in 2 years
- Landowner “Opt Out” not applicable
- Not Applicable for Expedited Release Process
- Condemnation of Substandard Utility

## New or Amended CCNs

- Additional Notice (25 acres or more)
- Additional Factors to Consider
  - Effect of the CCN on the landowners in the area
  - Ability to provide service considering current and projected density and land uses
  - Financial ability of applicant to fund facilities
  - Effect on the land
- Landowner “Opt Out”

## Decertification

- Old way with new twist
  - has never provided service
  - is no longer providing service
  - is incapable of providing service
  - failed to provide service

## Can You Trust This Guy?



## Expedited Decertification

---

- Property Owner
  - With at least 50 acres
  - Not in platted subdivision actually receiving service

## Expedited Release Process

---

- Request service from incumbent provider including:
  - Timeframe for service
  - Level and manner of service needed
  - Any additional information certificate holder needs

## Expedited Release Process (cont.)

- Certificate holder must:
  - Respond to request in 90 days
  - Refuse to provide service
  - Not capable of providing service
  - Conditions service on payment of costs not allocable to service
- Alternate provider can provide service

## Expedited Release Process (cont.)

- Commission has 90 days to grant the petition
- Must provide specific findings regarding failure of petition for decertification
- APA not applicable to proceeding
- If decertification granted, determine compensation
- Compensation binding on Commission

## Expedited Release Process (cont.)

**Expedited Release Petitions**

