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# BLURRED LINES: CCNs, SERVICE TERRITORY & OPERATIONAL RISK, & THE FINANCIAL STAKES FOR MUNICIPAL UTILITIES



# INTRODUCTIONS

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- Providing consulting services since 2004, focusing on pricing services, developing rates and fees for utility systems, and regulatory support
- Recognized expert witness known for his expertise in cost of service and rate design
- Serves on NARUC Rate School faculty
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- Consulting services focus on appraisals, depreciation studies, rate of return analysis, financial analyses, and cost of service and rate design
- Certifications:
  - Accredited Senior Appraiser (ASA), Machinery and Technical Specialties by the American Society of Appraisers
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  - Certified Rate of Return Analyst by SURFA

WHAT IS A CCN?

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## WHAT IS A CCN?

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- Gives a retail public utility the exclusive right to provide retail water or sewer utility service to an identified geographic area
- Texas Water Code and PUCT rules refer to this as the “certified service area”
- CCN holder is required to provide continuous and adequate service to the area within its CCN boundary
- Note: Investor-owned utilities, Water Supply Corporations, and affected counties are required to have a CCN

# INSIDE VS. OUTSIDE CITY LIMITS

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## Inside

- Inside city limits, municipality has authority to provide utility service *without* a PUCT certification – No CCN needed



## Outside

- A CCN is required to provide retail water or sewer service outside of a city's limits



# WHEN IS A CCN NECESSARY?

- A CCN becomes necessary when a city wants to serve, or reserve the right to serve, territory in its extraterritorial jurisdiction (ETJ)
- Cities may also want a CCN to:
  - Protect their growth corridor from competing utilities
  - Control future service territory



THE REAL QUESTION FOR ANY CITY  
HOLDING A CCN:



WHY DO YOU HAVE IT, AND IS IT STILL  
WORKING FOR YOU?

# ADVANTAGES

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- **Exclusive Service Territory**
  - No competing provider can legally serve your CCN area without consent
- **Growth Corridor Control**
  - Locks in ETJ service rights
  - Gives leverage in development and annexation negotiations
- **Future Revenue Certainty**
  - Projected connections support rate base and long-term system investment planning
- **Impact Fee Authority**
  - Cities can charge new development for infrastructure capacity within the service area
- **Strategic Planning Tool**
  - CCN defines where and how a utility plans for long-term growth

# DISADVANTAGES

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- **Obligation to Serve**
  - CCN holder must provide continuous, adequate service to entire CCN area— whether or not it is financially practical
- **Financial Assurance Burden**
  - Obtaining/expanding a CCN requires demonstrating financial, managerial, and technical capability to the PUCT
- **Vulnerability to Legislative Erosion**
  - Landowners in qualifying counties can now petition to leave, and the city cannot stop them
- **Planning Without Control**
  - Once ETJ opt-out is available, a city must plan for infrastructure it may never be paid for
- **Cost-Shifting Risk**
  - If impact fee authority is lost but the service obligation remains, existing ratepayers bear the burden

## OBTAINING A CCN

- Must demonstrate financial, managerial, and technical capability to provide continuous and adequate service
- PUCT will only grant or amend a CCN after finding it is necessary for the service, accommodation, convenience, or safety of the public
- For water CCNs:
  - Applicant must have TCEQ-approved public water system and access to an adequate supply
- For sewer CCNS:
  - Applicant must have TCEQ-approved system and access to treatment capacity

## RETAINING A CCN

- The grant of a CCN creates an ongoing obligation
- Holders must maintain continuous and adequate service to the entire certified area or face potential PUCT enforcement (§24.247)
- PUCT may decertify an area on its own motion if a municipality has not provided service within 5 years of a CCN grant for areas outside its ETJ
- **Bottom Line:** Getting a CCN is only the beginning; retaining it requires ongoing performance

# WHEN IS FINANCIAL ASSURANCE REQUIRED

- PUCT will require financial assurance when granting a new CCN or CCN amendment, which is also a continuing obligations
- Required to ensure the utility can provide continuous and adequate service to the requested area
- PUCT sets the amount; the form must comply with §24.11
- The obligation **does not** relieve the applicant of any financial assurance requirements from other state agencies

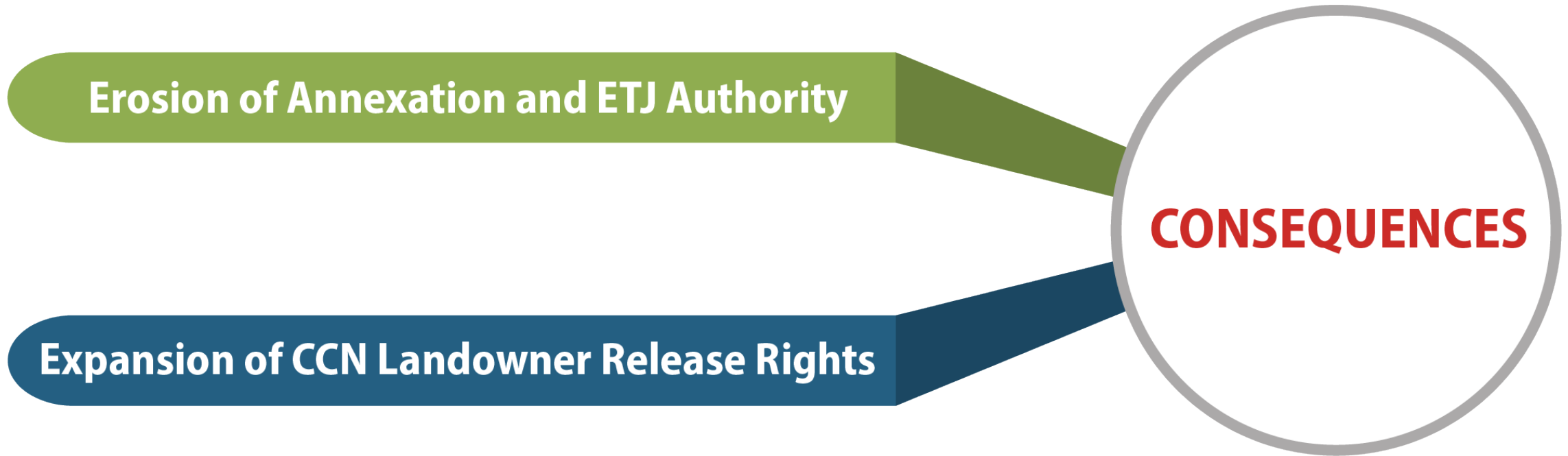


# HOW THE LEGISLATURE CHANGED THE RULES

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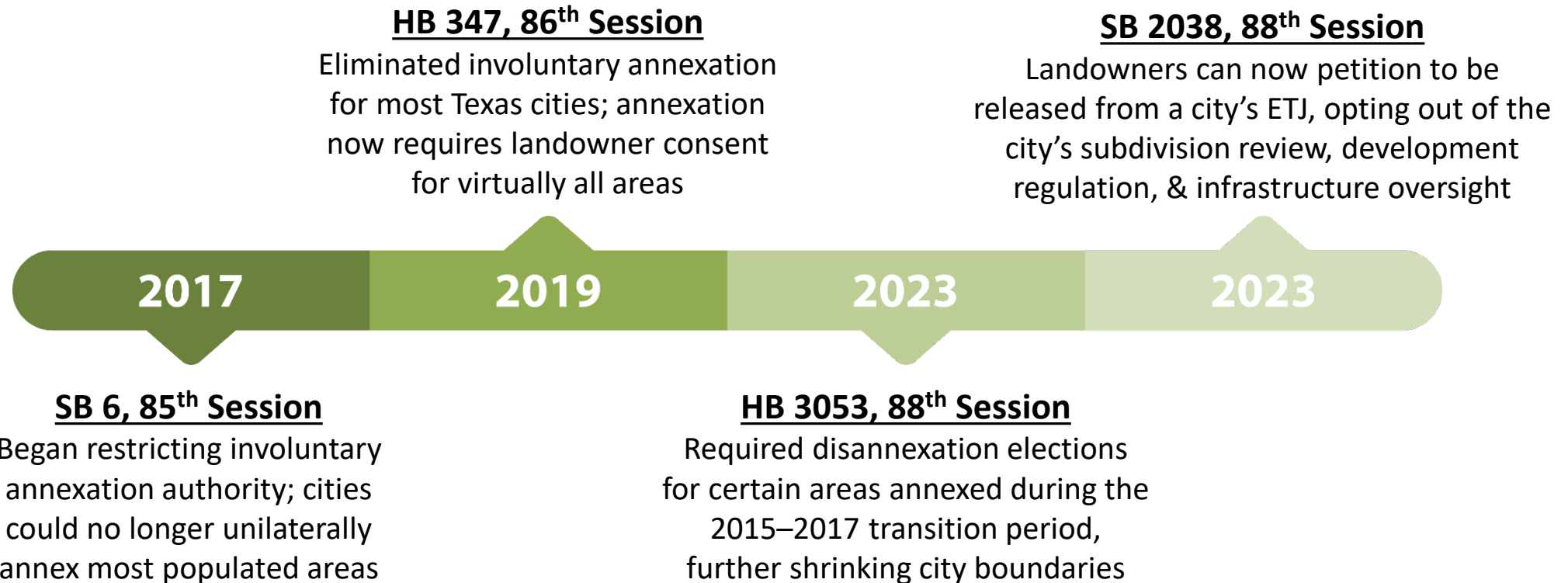
# TWO CONTRIBUTING TRACKS

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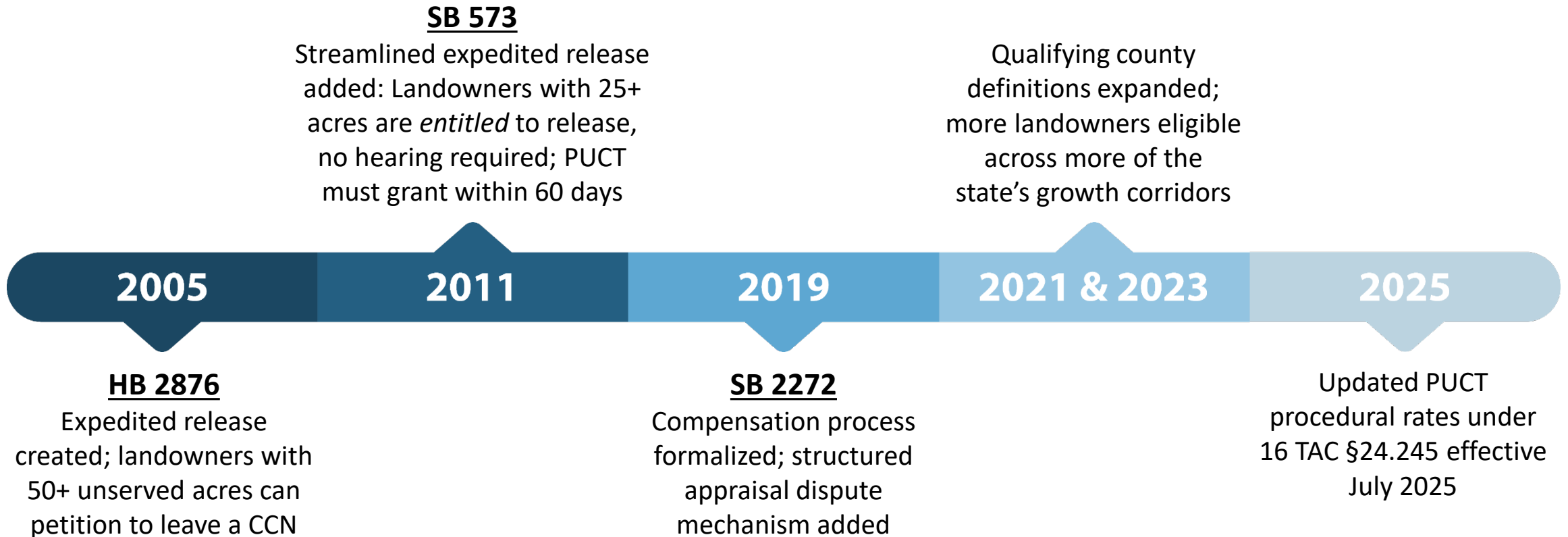
# TRACK 1: EROSION OF ANNEXATION & ETJ AUTHORITY

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# TRACK 2: EXPANSION OF CCN LANDOWNER RELEASE RIGHTS

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# CONSEQUENCES

- Combined effect of the tracks:
  - A city's CCN area may now contain land where the city:
    - Must provide water and sewer service
    - Cannot annex the property without landowner consent
    - Cannot regulate subdivision development
    - Cannot charge impact fees
  - The obligation to serve remains
  - Every other tool once available to the city is gone



# CASE STUDY: CITY OF MCKINNEY

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## **The Trap of Legislative Change**

# A CITY THAT DID EVERYTHING RIGHT... THEN GOT TRAPPED

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- McKinney built out water CCN No. 10194 and sewer CCN No. 20071 responsibly
  - Planning for growth, investing in infrastructure, protecting its service territory in the early 2000s
- In January 2025, City Applied to voluntarily decertify ~16,855 acres from water CCN and ~25,493 from sewer CCN
- Decertification wasn't because the city had made mistakes, but because the rules changed after the CCNs were established

# A CITY THAT DID EVERYTHING RIGHT... THEN GOT TRAPPED

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- The ETJ opt-out and CCN release provisions left McKinney unable to plan for, regulate, or fund service in large portions of its certified area
- Since 2018, at least 6 streamlined expedited release petitions have been filed against McKinney's CCNs
  - The erosion is ongoing and incremental
- McKinney is not an outlier; it is a preview of what any rapidly growing Texas city holding a large ETJ CCN in a qualifying county may face

***“This is akin to a party entering into a contract under one set of terms but then being required to deliver under that contract after the terms of the contract have changed without its consent.”***

*—Chris Ekrot, Prefiled Testimony, Docket 55656*

# WHEN LANDOWNERS LEAVE THE ETJ, EXISTING RATEPAYERS PAY THE PRICE



- Impact fees under Texas Local Government Code Chapter 395 can only be charged within the city's corporate limits or ETJ
- When a landowner removes property from the ETJ under SB 2038, the city loses legal authority to charge that landowner impact fees for future developments
- If the CCN service obligation remains but impact fee authority is lost, existing ratepayers must fund new infrastructure through rates or new debt

# MCKINNEY'S SPECIFIC EXPOSURE

- ~77,000 existing connections would potentially subsidize infrastructure costs for new development that opted out of contributing
- In either scenario (cash funded through rates or debt-funded), existing McKinney customers bear a portion of the cost of serving the requested area
- The CCN obligation becomes a mechanism for transferring costs from new development to existing customers
  - This is the opposite of sound utility planning and the direct financial stake you face



HOW DOES SOMEONE ACTUALLY GET OUT—  
AND WHAT DOES THE CITY GET?

# HOW DECERTIFICATION WORKS

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## **The Three Pathways**

# NOT ALL DECERTIFICATION WORKS THE SAME

	<b>Decertification Amendment</b>	<b>Expedited Release</b>	<b>Streamlined Expedited Release</b>
Who Files	Any Party	Landowner (50+ acres, unserved)	Landowner (25+ acres, unserved, qualifying county)
Key Statute	TWC §13.254	TWC §13.254	TWC §13.254
Hearing	Yes – SOAH	Potentially	No
PUCT Deadline	Varies	Varies	60 days Mandatory grant
<b>Can the City Stop It?</b>	<b>Potentially</b>	<b>Difficult</b>	<b>No</b>
Compensation	Per §13.254(g)	Per §13.254(g)	Per §13.254(g)

# COMPENSATION

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## **What the Law Requires**

# MANDATORY COMPENSATION ≠ A BLANK CHECK

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- TWC §13.254(g) requires compensation when land is decertified, but only for documented, demonstrable harm
- The standard:
  - Hold the utility harmless so remaining ratepayers do not bear a greater cost burden as a result of decertification
- Compensation is determined by a qualified independent appraiser
  - Not by the utility
  - Not by the city
- Cost of the appraiser is borne by the petitioner (i.e., the landowner or municipality seeking release)
- The PUCT decertification order itself does not transfer property; compensation is a separate determination
- **Key Message:**
  - The amount is tied strictly to the facts on the ground, and those facts often yield far less than utilities expect



# NINE STATUTORY FACTORS

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What the  
Appraiser Must  
Analyze

1. Value of real property owned and used for utility facilities
2. Allocable debt obligations
3. Value of service facilities within the decertified area
4. Planning, design, or construction expenditures allocable to the area
5. Contractual obligations allocable to the area
6. Demonstrated impairment or cost increase to remaining customers
7. Impact on future revenues lost from existing customers
8. Necessary and reasonable legal expenses and professional fees
9. Other relevant factors

# WHAT ACTUALLY DRIVES THE NUMBER

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## Drives Value Up

- Physical infrastructure within or adjacent to the decertified area (e.g., lines, lift stations, tanks)
- Existing customers being removed from the utility's rate base
- Outstanding debt directly allocable to the area
- Documented planning and engineering expenditures specific to the area
- Demonstrated cost increase or impairment to remaining system customers

## Likely Yields Zero

- Undeveloped land with no infrastructure in or near the area
- No existing customers being removed
- No debt allocable to the area
- No documented planning expenditures specific to the area
- Speculative future revenue with no existing customer base

## THE BOTTOM LINE

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- An undeveloped, unserved parcel with no infrastructure and no allocable debt will typically yield compensation of \$0 or professional fees only
- **Documentation is everything**



# COMPENSATION IN PRACTICE

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**What the Data Actually Shows**

# COMPENSATION VARIES WILDLY

(AND IS OFTEN LOWER THAN EXPECTED)

Dataset: 31 third-party PUCT compensation determinations, 2021–2025

	All Cases	Excluding Professional-Fees-Only Cases
Total Compensation Range	~\$650-146,200	~\$7,760-146,200
Median Compensation	~\$29,200	~\$36,600
Average Compensation	~\$41,200	~\$48,600
Per-Connection Range	~\$10-790	~\$85–790
Per-Acre Range	~\$10-1,400	~\$75–1,400


**Key Takeaway:** Even substantive awards are in the 10s of thousands, not 100s of thousands

# KEY TAKEAWAYS

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# WHAT THIS MEANS FOR YOUR UTILITY

- **You don't need a CCN to service inside your city limits**
  - But if you hold one for your ETJ, you need to understand what you're holding and what it now costs you
- **A CCN used to be a growth asset; now it might be a liability**
  - The obligation to serve remains even as the Legislature has stripped away the tools cities had to plan for and fund that service
- **McKinney's situation is a preview, not an outlier**
  - Any city with a large ETJ CCN in a qualifying county potentially faces the same structural exposure
- **Compensation exists, but it is not a windfall**
  - Value is tied to documented harm; For undeveloped, unserved areas compensation is often zero



Any Questions?

**THANK YOU!**

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