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PETITION OF PATRICIA MILLER
DEASON TO AMEND MARILEE
SPECIAL UTILITY DISTRICT'S
CERTIFICATE OF CONVENIENCE
AND NECESSITY IN COLLIN
COUNTY BY EXPEDITED RELEASE

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PUBLIC UTILITY COMMISSION
OF TEXAS

**PATRICIA MILLER DEASON'S SUPPLEMENTAL REPLY TO MARILEE SPECIAL
UTILITY DISTRICT'S RESPONSE TO PETITION FOR EXPEDITED
DECERTIFICATION**

Patricia Miller Deason (the "Petitioner") files this Supplemental Reply to Marilee Special Utility District's Response to Petition for Expedited Decertification in response to Marilee Special Utility District's ("Marilee's") "Response to Reply of Patricia Miller Deason" filed April 4, 2017. This filing is timely made.

I. Background

On February 17, 2017, Patricia Miller Deason ("Petitioner") filed a petition pursuant to Texas Water Code section 13.254(a-5) (TWC) and 16 Texas Administrative Code section 24.113(r) (TAC), for expedited release of a 257.86-acre tract of land (the "Property") owned by Petitioner and located within Marilee Special Utility District's water service area in Collin County.

Marilee Special Utility District ("Marilee") filed its response on March 15, 2017, asserting that the property is not eligible for expedited decertification under TWC section 13.254(a-5) because Marilee provides "service" to the Property, as defined under TWC section 13.002(21). The Public Utility Commission of Texas (the "PUC") issued Order No. 3 on March 22, 2017, setting forth a schedule for responses to the PUC staff's determination of administrative completeness.

Petitioner filed its Reply to Marilee's Response to the Petition ("Reply") on March 31, 2017 and Marilee filed its Response to Reply of Patricia Miller Deason ("Response") on April 4, 2017. In its Response it argues that that Petitioner "applied the wrong legal standard for determining whether the property is receiving service for purposes of expedited decertification, and ignores the facts that establish the Property is receiving service from Marilee."¹ This is not the case.

II. Arguments and Authority

Petitioner's expedited decertification request meets the requirements of TWC section 13.254(a-5) and TAC section 24.113(r). Petitioner offers the following to supplement its prior arguments in support of the proper application.

A. Legal Standard for Determining Service

In Marilee's Response, it asserts that "solely" is the improper legal standard for purposes of determining whether the Property is receiving service.² Marilee's argument on applying the wrong legal standard presents nothing new for the PUC to review. Marilee made the same assertion that the petitioner and the PUC applied the wrong legal standard of "solely" in *The Parks at Wilson Creek, Ltd. to Amend Marilee Special Utility District's Certificate of Convenience and Necessity by Expedited Release in Collin County*, Docket No. 45184, Response to Petitioner and Staff's Responses at 1 (November 10, 2015). However, in *The Parks at Wilson Creek*, the PUC determined that the correct legal standard was applied with regard to whether the property was receiving service.³

¹ Marilee Special Utility District's Response to Reply of Patricia Miller Deason, at 2 (April 4, 2017)

² *Id.*

³ *Petition of Parks at Wilson Creek to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release*, Docket No. 45184, Order at 5 (December 4, 2015)

B. Contract for Service to a Dwelling

Marilee's also asserts that "(i) Marilee and Deason are parties to a contract pursuant to which Marilee contractually committed to provide retail water service to 166 acres of the Property that Deason now seeks to decertify; and (ii) Marilee currently provides active water service to such 166 acres in accordance with the parties' contract."⁴

Petitioner disputes that the parties contracted for service to 166 acres and that Marilee provides active water service to 166 acres. *See* Exhibit B to the Response at page 4. The water meter associated with the contract is connected to a house and listed as (Account #1528). The maps previously submitted by Petitioner show the house and the water meter associated with (Account #1528) are not in the Property seeking decertification.

Furthermore, the contract states the contract is not for 166 acres. *See* Exhibit B to the Response. Specifically, the language in the contract states "The meter and/or wastewater connection is for the sole use of the customer and is to provide service to only one (1) dwelling or one (1) business."⁵ The water meter associated with (Account #1528) is to a house or a dwelling. "*Dwelling house*" is defined as "The house or other structure in which a person lives; a residence or abode."⁶ *See* BLACK'S LAW DICTIONARY. Petitioner maintains that Marilee ignores the expressed terms in their contract that states the meter connection is for one dwelling. Pursuant to the legal definition of dwelling stated above, the contract was for the house and not 166 acres as Marilee asserts. The house would be considered the one dwelling under the terms of the contract, and that one dwelling with the water meter for (Account #1528) are not included in the Property seeking decertification.

⁴ Marilee Special Utility District's Response to Reply of Patricia Miller Deason, at 4 (April 4, 2017)

⁵ Marilee Special Utility District's Response to Petition for Expedited Decertification, Exhibit B at 4 (March 14, 2017)

⁶ *Dwelling House*, *Black's Law Dictionary* 7th ed. (West Group, 1999)

Conclusion

Marilee's assertion that "solely" equates to the application of the wrong legal standard for purposes of determining if the property is receiving service is without merit just as it was in *The Parks at Wilson Creek*. Marilee has not committed or used facilities to provide water service to 166 acres of the Property. The one dwelling and one water meter for (Account #1528) are not included in the Property seeking decertification. The Property is not receiving service and is eligible for expedited decertification.

Respectfully submitted,

COATS ROSE, P.C.

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on or before April 10, 2017 in accordance with Tex. Admin. Code § 22.74.

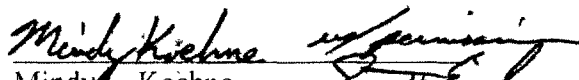
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