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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
PUBLIC UTILITY COMMISSION
OF TEXAS

**PATRICIA MILLER DEASON'S RESPONSE TO PUC STAFF'S
RECOMMENDATION ON FINAL DISPOSITION**

COMES NOW, Patricia Miller Deason (the "Petitioner") files this Response to PUC Staff's Recommendation on Final Disposition pursuant to Order No. 4. In support thereof, Petitioner respectfully shows as follows:

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, Marilee argued that Petitioner applied the wrong legal standard for

purposes of determining whether the Property is receiving service and failed to address a contract between Marilee and Petitioner. In Marilee's conclusion of the Response, it states "Marilee has both committed and used facilities to provide retail water service to 166 acres of the Property that Deason now seeks to decertify."¹

On April 10, 2017, Petitioner timely filed its Supplemental Reply to Marilee's Response ("Supplemental Reply") to address the assertions of application of the wrong legal standard and the terms of the Gunter Special Utility District Service Application and Agreement (the "Contract"). However, on April 10, 2017, the Staff of the PUC filed its Recommendation on Final Disposition ("Recommendation") pursuant to Order No. 4 and recommended that the Property is receiving water service based on billing statements provided by Marilee that referenced active water meters.²

As previously stated by Petitioner, the houses and water meters reflected on the billing statements submitted by Marilee are not included in the area seeking decertification. Furthermore, Petitioner disputes that the Contract that Marilee refers to is for service to 166 acres. Order No. 4 permitted Petitioner to file a response to the Recommendation by April 13, 2017. This response is timely filed.

II. Argument and Authority

Petitioner respectfully urges the Honorable Administrative Law Judge to consider the evidence presented in the Supplemental Reply which demonstrates that the Contract that Marilee refers to does not equate to "service" to 166 acres of the Property. The Contract that Marilee refers to is comprised of four pages. The first page of the Contract is the Application and pages

¹ Marilee Special Utility District's Response to Reply of Patricia Miller Deason, at 5 (April 4, 2017)

² Commission Staff's Recommendation on Final Disposition, at 4 (April 10, 2017)

two through four contain the express terms of the Agreement. *See* Exhibit B to the Response at pages 3-6

Marilee argues that the 166 acres listed on the Application page is proof that Marilee and Petitioner contractually committed to providing service to 166 acres. The Application page consists of general questions that include acreage, number in family, household size, and livestock number for the description of a property requesting service. *See* Exhibit B to the Response at page 3. Under Marilee's argument, if a person filled out an application to rent an apartment there would be no need to fill out the actual lease agreement that provides the terms that govern the lease. If the Application page expresses the intent of the parties, Marilee is also arguing that Ms. Deason may never own more or less than twenty cattle, three horses and a donkey. Additionally, if the Application page were the controlling document, Ms. Deason is contractually obligated for her number in family to remain at one.

Instead, Petitioner believes the Application page provides general background and the intent of the parties is reflected in the express terms of the Agreement that are directly subsequent to the Application page. According to the express terms listed in the Agreement "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." *See* Exhibit B to the Response at page 4. "*Dwelling House*" is defined as "The house or other structure in which a person lives; a residence or abode." *See* BLACK'S LAW DICTIONARY.³

The billing statements that Staff refers to in the Recommendation are bills for water meters connected to houses or dwellings as defined above. As depicted on maps previously submitted by Petitioner, the water meters and dwellings associated with the bills that were

³ *Dwelling House*, BLACK'S LAW DICTIONARY 7th ed. (West Group, 1999)

submitted are not included in the area of the proposed decertification. The Contract is not for service to 166 acres. Instead, the Contract is to provide water to one dwelling that is not included in the area seeking decertification.

Conclusion

Marilee has not committed or used facilities to provide water service to 166 acres of the Property. The dwellings and water meters associated with them are not included in the area seeking decertification. The Property is not receiving service and is eligible for expedited decertification. Petitioner respectfully requests that the Honorable Administrative Law Judge review the terms of the Contract to determine if the Contract is for 166 acres or a dwelling and water meter that are excluded from the area seeking decertification.

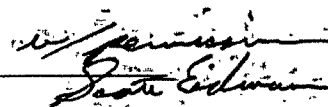
Respectfully submitted,

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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 12, 2017 in accordance with Tex. Admin. Code § 22.74.

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