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**PUC DOCKET NO. 46948
SOAH DOCKET NO. 473-17-5930 WS**

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APPLICATION OF VINEYARD RIDGE, LLC TO OBTAIN A WATER CERTIFICATE OF CONVENIENCE AND NECESSITY IN GILLESPIE COUNTY	§ § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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APPLICANT, VINEYARD RIDGE, LLC'S CONDITIONAL LIST OF ISSUES

COMES NOW, Vineyard Ridge, LLC ("Applicant") in the above referenced PUC Docket No. 46948 and SOAH Docket No. 473-17-5930WS, and conditionally files a List of Issues to be considered in the above referenced PUC and SOAH Dockets and, in support therefore, would show the following:

**I.
INTRODUCTION**

The undersigned Counsel this day has filed a Notice of Appearance in the above referenced PUC Docket No. 46948 and SOAH Docket No. 473-17-5930WS. Following the filing of the Notice of Appearance, Counsel filed on behalf of Applicant a Motion to Reconsider both Order No. 6 and the Order of Referral in this PUC Docket No. 46948 (the "Motion") on jurisdictional grounds based upon the fact that Mr. John McRae, Intervenor, is *not* an "affected person" within the meaning of PUC Rule 24.3(5) and, therefore, lacks standing to intervene in the matter of the Vineyard Ridge LLC's Application for a new Certificate of Convenience and Necessity to provide retail water service within the proposed CCN Area described in the Application.

Subject to, and without waiving the Applicant's aforementioned Motion, Applicant conditionally files this list of issues for possible consideration in the event the upon reconsideration the Administrative Law Judge and/or Commission decides to affirm the decision to grant Mr. McRae intervenor status and his hearing request, and the hearing at SOAH goes forward.

II.
CONDITIONAL PROPOSED LIST OF ISSUES

Subject to a ruling on Applicant's pending Motion for Reconsideration, and without waiving the same, the Applicant has identified the following list of potential issues that could be considered by the Commission in this proceeding:

1. Is John McRae an "affected person" for purposes of the pending CCN Application with the meaning of 16 Texas Administrative Code § 24.3(5) (TAC)?
 - a. Is Mr. McRae a landowner within the area for which the application for a new certificate of public convenience and necessity is filed?
 - b. Is Mr. McRae a retail public utility affected by any action of the regulatory authority?
 - c. Is Mr. McRae a person or corporation whose utility service or rates are affected by any proceeding before the regulatory authority?
 - d. Is Mr. McRae a person or corporation that is a competitor of a retail public utility with respect to any service performed by the retail public utility or that desires to enter into competition; or
 - e. Is Mr. McRae a person who will receive retail water within the proposed service area or be charged rates by the retail water utility?
2. Has Vineyard Ridge satisfied the notice requirements contemplated by Texas Water Code § 13.246 (TWC) and 16 Texas Administrative Code § 24.106 (TAC)?
3. Does Vineyard Ridge's proposed water service area or water service area overlap with the certificated service areas of other entities?
 - a. If so, what specific areas will overlap?

- b. Has Vineyard Ridge received appropriate consent to provide water service within the entities' service boundaries?
4. What modifications, if any, must be made to Vineyard Ridge's proposed water service area to reflect land removed from the proposed water service area or water service area because of a qualified landowner's election to exclude some or all of the landowner's property under TWC § 13.246(h) (TWC) and 16 TAC § 24.102(h)?
 5. Does Vineyard Ridge possess the financial, managerial, and technical capability to provide continuous and adequate water service? TWC § 13.241(a) and 16 TAC § 24.102(a).
 6. Is Vineyard Ridge capable of providing drinking water that meets the requirements of the Texas Commission on Environmental Quality (TCEQ), the TWC, and the Texas Health and Safety Code? TWC § 13.241(b); 16 TAC § 24.102(a)(1).
 7. Would the proposed water service area require construction of a physically separate water system? If so, has Vineyard Ridge proven that regionalization or consolidation with a retail public utility for water service is not economically feasible? TWC § 13.241(d) and 16 TAC § 24.102(b).
 8. Is the requested water certificate of convenience and necessity necessary for the service, accommodation, convenience, or safety of the public? TWC § 13.246(b) and 16 TAC § 24.102(c).
 9. Does the balance of factors under TWC § 13.246(c) and 16 TAC § 24.102(d) weigh in favor of granting the requested water certificate of convenience and necessity?

- a. Is the proposed water service area currently receiving adequate service?
TWC § 13.246(c)(1) and 16 TAC § 24.102(d)(1).
- b. Does the proposed water service area need additional service? TWC
§ 13.246(c)(2) and 16 TAC § 24.102(d)(2).
- c. What is the effect, under TWC § 13.246(c)(3) and 16 TAC § 24.102(d)(3),
of granting the water certificate of convenience of necessity on:
 - i. Applicant, Vineyard Ridge?
 - ii. Landowners in the proposed water service area?
 - iii. Any retail public utility of the same kind as Vineyard Ridge that is
already serving the area proximate to the proposed water service
area and proposed service area?
- d. Does Vineyard Ridge have the ability to provide adequate water service,
including meeting the standards of the TCEQ, taking into consideration
the current and projected density and land use within the proposed service
area? TWC § 13.246(c)(4) and 16 TAC § 24.102(d)(4).
- e. What is the feasibility of obtaining water service from an adjacent retail
public utility? TWC § 13.246(c)(5) and 16 TAC § 24.102(d)(5).
- f. Is Vineyard Ridge financially able to pay for the facilities necessary to
provide continuous and adequate water service? TWC § 13.246(c)(6) and
16 TAC § 24.102(d)(6).
- g. How would environmental integrity be affected, if at all, by granting the
requested water certificate of convenience and necessity? TWC
§ 13.246(c)(7) and 16 TAC § 24.102(d)(7).

- i. Is it probable that water service would be improved or costs to consumers in that service area would be lowered by granting the requested water certificate of convenience and necessity? TWC § 13.246(c)(8) and 16 TAC § 24.102(d)(8).
- j. How would the land in the proposed service area be affected, if at all, by granting the requested water certificate of convenience and necessity? TWC § 13.246(c)(9) and 16 TAC § 24.102(d)(9).

III.
CONCLUSION & PRAYER

WHEREFORE, PREMISES CONSIDERED, the Applicant prays that its Motion to Reconsider Order No. 6 and the Order of Referral be granted and that Mr. McRae's intervention be dismissed and his request for hearing be denied and that the matter be remanded to the Commission for processing as uncontested. In the alternative, and without waiving its pending Motion to Reconsider and/or any other jurisdictional or dispositive motions Applicant may subsequently file and prosecute, Applicant offers the above list of conditionally proposed issues for consideration in the hearing.

Respectfully submitted,

MCCARTHY & MCCARTHY, L.L.P.

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ATTORNEYS FOR VINEYARD RIDGE, LLC

CERTIFICATE OF SERVICE

I hereby certify, by my signature below, that a true and correct copy of the above Conditional List of Issues was electronically filed with the Commission and with the SOAH Clerk, and pursuant to Rule 22.74, forwarded via regular first-class mail and e-mail, where available, on this the 14th day of September 2017, to the Parties or their legal counsel at the locations shown on the attached service list.

/s/ Edmond R. McCarthy, Jr.
Edmond R. McCarthy, Jr.

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