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PETITION OF THE CITY OF RED OAK §
INDUSTRIAL DEVELOPMENT §
CORPORATION TO AMEND ROCKETT §
SPECIAL UTILITY DISTRICT'S WATER §
CERTIFICATE OF CONVENIENCE AND §
NECESSITY IN DALLAS AND ELLIS §
COUNTIES BY EXPEDITED RELEASE §

PUBLIC UTILITY COMMISSION
OF TEXAS



COMMISSION STAFF'S REPORT CONCERNING STATUS OF LITIGATION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this report. In support thereof, Staff would show the following:

I. BACKGROUND

On August 16, 2019, the City of Red Oak Industrial Development Corporation filed a petition for streamlined expedited release of approximately 384 acres from Rockett Special Utility District's water certificate of convenience and necessity No. 10099, in Ellis County, under Texas Water Code § 13.254 and 16 Texas Administrative Code (TAC) § 24.245(I).

On November 15, 2019, Order No. 4 was issued, abating the proceeding due to the pendency of federal litigation. In that order, Staff was required to file a report regarding the status of the litigation by May 15, 2020. This pleading, therefore, is timely filed.

II. STATUS REPORT

The federal appellate case regarding the issue of federal preemption is ongoing.¹ Reviewing the docket, Staff observes that en banc oral argument has been scheduled for the week of May 18, 2020. Briefing and supplemental briefing have occurred recently and by all appearances, the case and the issues therein remain contested. As these issues remain contested, Staff recommends that the present matter continue to be abated.

III. CONCLUSION

Staff respectfully requests an order consistent with the foregoing.

¹ *Green Valley Special Util. Dist. v. City of Schertz*, No. 18-51092 (5th Cir. filed Dec. 31, 2018).

Dated: May 15, 2020

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on May 15, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Creighton R. McMurray

Creighton R. McMurray