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**DOCKET NO. 49871**

**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 19, 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(l).<sup>1</sup>

On May 26, 2020, Order No. 7 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 July 15, 2020. This pleading, therefore, is timely filed.

**II. STATUS REPORT**

The federal appellate case regarding the issue of federal preemption is ongoing.<sup>2</sup> Reviewing the docket, Staff observes that there has been no procedural change in the docket since May 19, 2020 when parties submitted additional information at the request of the oral argument panel. As these issues remain unresolved, Staff recommends that the present matter continue to be abated.

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<sup>1</sup> Effective July 2, 2020, the former 16 TAC § 24.245(l) is now § 24.245(h).

<sup>2</sup> *Green Valley Special Util Dist v. City of Schertz*, No. 18-51092 (5th Cir. filed Dec. 31, 2018).

### **III. CONCLUSION**

Staff respectfully requests an order consistent with the foregoing.

Dated: July 14, 2020

Respectfully Submitted,

#### **PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION**

Rachelle Nicolette Robles  
Division Director

Eleanor D'Ambrosio  
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/s/ Creighton R. McMurray

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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 July 14, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Creighton R. McMurray

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Creighton R. McMurray