

Control Number: 49871



Item Number: 44

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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 §

BEFORE THE

PUBLIC UTILITY COMMISSION

OF TEXAS



REPLY TO COMMISSION STAFF'S STATUS REPORT AND RESPONSE

The Red Oak Industrial Development Corporation (Red Oak) replies to Commission Staff's Status Report and Response, filed herein on October 15, 2020.

This proceeding has been abated for almost a year because Rockett filed a lawsuit "devoid of merit"¹ in federal court claiming to have federal protections based on a qualifying guaranteed loan.² A lawsuit is not evidence of a guaranteed loan—a loan note guarantee is.³ Rockett has submitted volumes of pages to the Commission, declaring that it has a qualifying federally guaranteed loan. Not a single page in all of its filings, however, is a loan note guarantee.

Commission Staff states "Red Oak had to engage in litigation in order to obtain confirmation that a conditional commitment and a loan guarantee are not interchangeable."⁴ This statement, however, mischaracterizes the order of events and misplaces the onus of the delay. Rockett initially filed suit alleging the PUC proceedings violated its protections afforded under Section 1926(b).⁵ Red Oak did not engage in litigation voluntarily, but rather was brought into

¹ Red Oak Industrial Development Corporation's Third Motion to Lift Abatement, Attachment C at 11 (Oct. 5, 2020) (emphasis added).

² Order No. 4, Abating Proceeding (Nov. 15, 2019).

³ See 7 C.F.R. § 1779.4. Title 7, Part 1779 of the federal regulations was moved and redesignated as part of the consolidated Part 5001 regarding the USDA's guaranteed loan program, effective October 1, 2020. The agency decision Rockett uses to support its claim for federal protection was initiated prior to that date. Because the rules do not have retroactive effect, reference will generally be made to Part 1779.

⁴ Commission Staff's Status Report and Response (Oct. 15, 2020).

⁵ *Rockett Special Utility District v. Botkin, et al., Alamo Mission, LLC, and City of Red Oak Industrial Development Corporation*, Civil Action No. 19-CV-1007, filed Oct. 16, 2019.

litigation and then responded accordingly to Rockett's misrepresentations. This again highlights the issues with abating this matter based solely on the existence of a lawsuit.

Moreover, Rockett has argued to the Commission that the loan it does have is a "such loan" entitled to Section 1926(b) protection.⁶ In fact, documents in the USDA's Administrative Record filed in Red Oak's Suit demonstrate that the loan Rockett has today will *never* be guaranteed.⁷ Rockett's current loan serves as a bridge loan during the construction period for the facilities. It will be paid off and canceled once construction is finalized and a new loan—to be guaranteed by the USDA—is issued (with a fixed rate). The *new* loan, to be guaranteed by the USDA, will provide the proceeds to pay off the bridge loan. It was never anticipated nor intended by anyone, including Rockett and the USDA, that the bridge loan would be guaranteed by the USDA. Not only does Rockett *not* have a loan that is guaranteed by the federal government; *it does not currently have a loan that will ever be guaranteed by the federal government.*

Red Oak petitioned the Commission 14 months ago for *streamlined expedited* release for tracts that were not receiving water service. Red Oak followed the statutes and the Commission's rules; Rockett interjected, first claiming that it had a federal guarantee, then claiming that its current loan effectively constitutes a federal guarantee. Now it is clear that Rockett's current loan will actually *never* be guaranteed. Rockett's repeated misrepresentations have resulted in an unconscionable delay that places economic development in jeopardy, threatening the creation of new jobs and badly-needed tax revenues for the local school district. The Commission should not reward Rockett's misrepresentations by continuing to abate this proceeding.

Rockett's federal suit raising a claim of protection under § 1926(b) is the reason cited by the Commission for abating this docket; that misrepresentation has been exposed and debunked—time and time again. The only basis on which the Commission abated this docket does not exist—

⁶ Rockett's Response and Objection to Petitioner's Motion to Lift Abatement at 1 (Dec. 2, 2019).

⁷ Attachment A, CoBank's Interim Standard Credit Report.

the loan is not federally guaranteed. It will never be guaranteed. Accordingly, Red Oak respectfully requests that the Commission lift the abatement imposed by Order No. 4.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE
& TOWNSEND, P.C.**

816 Congress Avenue, Suite 1900

Austin, Texas 78701

(512) 322-5800

(512) 472-0532 (Fax)

gcrump@lglawfirm.com



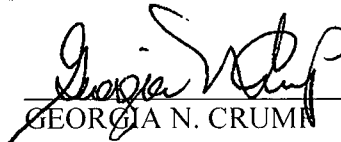
GEORGIA N. CRUMP
State Bar No. 05185500

JAMIE L. MAULDIN
State Bar No. 24065694

ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that on October 20, 2020, a true and correct copy of the foregoing document was served on all parties of record in this proceeding in accordance with 16 Tex. Admin Code § 22.74.



GEORGIA N. CRUMP



Interim Standard Credit Report

ACCOUNT INFORMATION:

Name: Rockett Special Utility District (Rockett or Borrower)	RM: John DeLuca
City/State: Red Oak, TX	Analyst/Officer: Priscilla Hill
Customer Contact: Kay Phillips, GM (972) 617-5324	SIC: 4942 NAICS: 221310

RECOMMENDATIONS:

1. Approve a multiple advance term loan (MATL) with the following terms and conditions:

- a. Amount: [REDACTED]
- b. Purpose: Construction financing for CapEx and related closing costs for the USDA guaranteed project.
- c. Availability/Maturity: Up to 24 months from closing.
- d. Repayment: Monthly interest only during Availability, principal due at maturity; payable by ACH.
- e. Security: Secured by revenues under the current indenture; security documents to be signed at closing. Consent by current lenders for additional debt (if required).
- f. Pricing: Variable monthly LIBOR resetting weekly.
- g. Fees: None.
- h. Conditions Precedent: Conditional Commitment for USDA Guarantee received, Opinion of Counsel, and security documents signed at closing.
- i. Conditions Subsequent: Final Opinion of Counsel and receipt of finalized security documents within 90 days post-closing.
- j. Commitment Provision: This loan will be paid off (and cancelled) with the proceeds from the secured, USDA guaranteed term loan (see Recommendation #2 below).

2. Approve a single advance term loan (SATL) with the following terms and conditions:

- a. Amount: [REDACTED]
- b. Purpose: Provide long-term funding for system CapEx and related closing costs.
- c. Availability: Up to 24 months from closing.
- d. Maturity: Up to 30 years after end of availability.
- e. Repayment: Interest only during availability followed by monthly principal and interest payments beginning on the 20th of the month following end of availability.
- f. Security: Secured by revenues under the current indenture; security documents to be signed at closing. Consent by current lenders for additional debt (if required).
- g. Pricing: Quoted Fixed Rate
- h. Fees: None.
- i. Conditions Precedent to Closing: Conditional Commitment for USDA Guarantee received.
- j. Conditions Subsequent: Final Opinion of Counsel and receipt of finalized security documents within 90 days post-closing.
Reserve: Maintain a Debt Service Reserve of \$55,000 (approximately 6 months of P&I); funded by FYE 12 31 2019.

3. Approve a multiple advance term loan (MATL2) with the following terms and conditions:
- a. Amount: [REDACTED]
 - b. Purpose: Construction financing for CapEx and related closing costs.
 - c. Availability: Up to 24 months from closing
 - d. Maturity: Up to 20 years from end of availability
 - e. Repayment: Monthly interest only during Availability, principal due at maturity, payable by ACII
 - f. Security: Secured by revenues under the current indenture; security documents to be signed at closing. Consent by current lenders for additional debt (if required)
 - g. Pricing: Variable monthly LIBOR resetting weekly Quoted Fixed Rate
 - h. Fees: None
 - i. Conditions Precedent to Closing: Consent by current lenders for additional debt (if required), Opinion of Counsel, and security documents signed at closing.
 - j. Conditions Subsequent: Final Opinion of Counsel and receipt of finalized security documents within 90 days post-closing.
Reserve. Maintain a Debt Service Reserve of \$10,000 (approximately 6 months of P&I), funded by FYF 12 31 2019

LOAN COMMITTEE ACTION SHEET:Approval Date: 7/10/2019

Comments Revisions:

TOTAL COMMITMENT SUMMARY:

Total Exposure:

Existing: \$4,000,000

Changes: (\$280,000)

Total: \$3,720,000

PURPOSE/TRANSACTION SUMMARY:

Located in Red Oak, Texas, Rockett was established in January 1965 as a non-profit and converted to a special utility district in 1989. Rockett was formed for the purpose of furnishing a water supply for general farm use and domestic purposes to individuals residing in its service territory. The authorized service area lies primarily in the northern part of Ellis County, with a portion extending into the southern part of Dallas County.

This action recommends approval for a MATL1 and SATL, both up to \$1.72 million, to allow the Borrower to undertake system improvements. Both facilities will have a 24 month availability period which will run simultaneously, with the MATL1 being cancelled at the time of the funding for the SATL facility. The total project being funded is \$2 million and in the action dated 5/29/2019, we approved both commitments at \$2 million for that purpose. However, USDA will only guarantee \$1.72 million of the project which is driving the reduction in both the MATL1 and SATL. The reason for the reduced amount of the guarantee is the fact that a portion of the project involves non-rural areas as defined by USDA. We should note that the entire project still remains eligible for CoBank purposes as the majority of the project is rural.

The SATL will be supported by a 90% collection guarantee following completion of construction. The collection guarantee ensures payment to CoBank by USDA of the guaranteed principal advanced to the Borrower under the promissory note, and any loss sustained by CoBank on the guaranteed portion. The guarantee constitutes an obligation supported by the full faith and credit of the United States, is incontestable except for fraud or misrepresentation, and thus is viewed by CoBank as a significant credit enhancement.

The MATL1 will serve as interim financing during the construction period and will have a variable interest rate. The SATL will have an interest rate fixed to maturity. USDA will not provide its guarantee until the project is complete and will not allow for weekly variable rate interest on guaranteed loans. Therefore, the MATL1 will serve the construction needs of the Borrower and once construction is finalized and the guarantee is received, the SATL (with a fixed rate) will pay off the MATL1.

This action also seeks approval for a MATL of \$280 thousand (MATL2), which will be used to fund the portion of the above \$2 million project not covered by the USDA guarantee. This note was not included in the action dated 5/29/2019 since we originally anticipated a guarantee on the full amount of the project.

The improvements that are being undertaken as part of this project include the following:

- Replace Sokoll transfer pumps and Kristen high service pump (\$744 thousand)
- Plant 4 rehabilitation and cleanup (\$1.256 million)

The revenues-only collateral for both the MATL1, MATL2 and SATL is an exception to Secured Lending Guidelines; however, this exception is deemed immaterial. We will not be secured by all real and personal property on these two facilities since the Borrower is a municipal entity and the only permitted security is a lien on revenues. Exceptions of this nature have previously been deemed as immaterial.

We assert that the USDA guarantee fully mitigates the risk associated with the lien position of revenues-only. Moreover, overcoming this specific risk is exactly why the USDA guarantee is being sought for the SATL, acknowledging that CoBank might not otherwise commit to providing the financing.

CREDIT RATIONALE:

As noted previously, we approved a full standard report on 5/29/2019. There are no material changes since that action was approved which supports utilizing an interim standard template for this action.

Rockett's financial condition over the past three operating periods has remained acceptable. Operating cash flow leverage as measured by Debt EBITDA improved to 7.65x at FY 2018, due to the combination of an increase in cash flows of 2% and the amortization of debt. The increase in cash flows was predominately due to the increase in water sales, which resulted from the combination of dry summer months and customer growth. Repayment capacity as measured by DSC declined to 1.36x due to the 16.3% increase in debt service obligations out-pacing the increase in cash flows. Equity as measured by Debt/Total Capitalization continued to improve year over year to 61.68%. Overall, Rockett's financial performance through FYE 2018 is deemed acceptable.

We adjusted the Borrower's FYE 2018 financial results to account for the total \$2 million in proposed debt. With revenues and operating expenses held constant, we calculated a Debt EBITDA of 8.04x. Further, we assumed amortization of the proposed debt over 30 years at a 3.87% interest rate (based on the cost of debt found on the WACC) and arrived at an adjusted DSC ratio of 1.32x. Finally, we adjusted total debt to reflect the proposed debt increase, which produced a Debt/Total Capitalization ratio of 62.83%.

As noted previously, no material changes occurred since the full standard report was approved.

COLLATERAL:☐ Strength☒ Acceptable☐ Weakness

☒ No appraisal is necessary. Security has been taken as an abundance of caution.

All revenues of the Borrower are pledged as collateral for the revenue bonds above. The proposed MATLs SATL will be secured by revenues under the current indenture.

The company is valued at \$76.9 million based on the adjusted average cash flows for fiscal years 2016-2018 compared to the NBV of FA's of \$54.1 million. The Total Debt PV of FA is 52% and Total Debt/NBV of FA is 73%. *Please note that the "Life of FA's" years was adjusted to 30 years to reflect the typical useful life of assets for a water system*

In order to estimate a discounted enterprise valuation, we first stressed cash flows for the Borrower to simulate their ability to cover fixed charges (principal, interest, maintenance capex (depreciation)). However, these adjustments resulted in an increased company value, from \$76.9 million to \$99.3 million, rather than a decreased company value. Therefore, we stressed operating cash flows for fiscal years 2016-2018 to a DSC default situation of 1.0x (proposed covenant target). A CVR based on these adjustments decreased the company value from \$76.9 million to \$58.3 million.

When the stressed company value of \$58.3 million is reduced by \$41.3 million in secured long-term debt (including \$0 in unadvanced commitments and the proposed \$2 million in commitments), \$16.9 million remains to cover all unsecured debt. Prorated with other secured lenders, CoBank's expected principal loss on secured debt is 0%.

Insurance:

☒ Insurance coverage has been verified as current. Please see below for detail on insurance coverage

The Borrower carries an insurance policy with TML Intergovernmental Risk Pool, currently rated A (Excellent) by AM Best. The policy is effective through 10/1/2019.

Property Insurance

Coverage for the Borrower's real and personal property (including buildings, vehicles, and office equipment) is \$29.4 million. The recommended coverage amount is determined on a case-by-case basis and should cover, at a minimum, the fair market value of loan collateral. While the property insurance coverage is less than the NBV of FA, we deem this coverage to be acceptable based on the likelihood that FEMA, EPA, or other governmental agency would step in to rebuild the system should an extreme weather event take place in which the Borrower's assets were compromised.

Liability Insurance

In addition, the Borrower holds a general liability insurance policy (including commercial general liability and comprehensive automobile liability) with coverage in the amount of \$1 million. The recommended minimum limits are \$1 million per occurrence and \$2 million in the aggregate per year. We deem this coverage acceptable based on the scope of the Borrower's operations.

Flood Zone Determinations/Flood Zone Insurance

Flood zone determinations are not required at this time as the proposed MATLs/SATL will only be secured by the Borrower's revenues.

CONDITIONS / LOAN TERMS / COMPLIANCE: ☐ Strength ☒ Acceptable ☐ Weakness

☐ Borrower is in full compliance with loan covenants New Borrower

Standard Reporting	<ul style="list-style-type: none"> Annual unqualified audit within 180 days of FYE.
Negative	<ul style="list-style-type: none"> Additional Borrowing Allow for debt under the Indenture
Standard Financial	<ul style="list-style-type: none"> DSC > 1.0x (CoBank Definition). Measured annually at FYE beginning with FYE 2018.

Debt Service Reserve of \$55,000 (SATL) and \$10,000 (MATL2), funded by 12/31/2019. The Debt Service Reserve amounts were calculated to be equal or greater than 6 months of principal and interest payments.

We acknowledge that the financial covenants recommended for the Borrower are not standard, as we typically require a Debt/Total Capitalization covenant; however, we believe the risk this presents is mitigated by the USDA guarantee that will accompany the SATL. We also acknowledge that the proposed DSC of 1.0x is under the standard CoBank DSC covenant of 1.10x or higher; however, we are comfortable with the loan covenant due to the Borrower's bond rating of AA- and an additional debt incurrence test of a projected DSC ratio of 1.25x based on the projected debt service obligations.

PRICING: N/A

CUSTOMER SERVICING/RM COMMENTS:

☒ Acceptable Scope and Eligibility

Date of last Eligibility Determination: Rockett's serves predominately a rural area with a population of less than 20,000.

Detailed Balance Sheet Report

Rounding Factor : Whole Units

Base Model

ROCKETT SPECIAL UTILITY DISTRICT

CIF:-00113362

Statement Date	12/31/2018	12/31/2017	12/31/2016	12/31/2015
Statement Length	12 Months	12 Months	12 Months	12 Months

Statement Type

Audit Method

Cash

ST Investments

Net Accounts Receivable

Accrued Revenues/Unbilled Costs

Operating Inventories

Prepays

Restricted Funds - CP

TOTAL CURRENT ASSETS

Net Fixed Assets

Restricted Funds - LT

Other Non-Current Assets

TOTAL NON-CURRENT ASSETS**TOTAL ASSETS**

Total CPLTD

Total Accounts Payable

Customer Deposits

Interest Payable

Wages-Salaries Payable

TOTAL CURRENT LIABILITIES

LT Debt - Bonds

LT Debt - Other

Total Long Term Debt

Deferred Revenue

TOTAL NON-CURRENT LIABILITIES**TOTAL LIABILITIES**

Capital Assets *

Restricted Assets *

Unrestricted Assets *

TOTAL NET WORTH**TOTAL NET WORTH AND LIABILITIES**

Detailed Income Statement Report

Rounding Factor : Whole Units

Base Model

ROCKETT SPECIAL UTILITY DISTRICT

CIF:-00113362

Statement Date	12/31/2018	12/31/2017	12/31/2016	12/31/2015
Statement Length	12 Months	12 Months	12 Months	12 Months
Statement Type	Annual	Annual	Annual	Annual
Audit Method	Draft	UnQualified	UnQualified	UnQualified

Revenue

TOTAL REVENUE

Water Purchased Expense

TOTAL COST OF GOODS SOLD**GROSS MARGIN**

Personnel Expense

Operations & Maintenance Expense

Depreciation

Other Operating Expense

TOTAL OPERATING EXPENSES**NET OPERATING PROFIT**

Interest Income

Other Income - Cash

Gain/(Loss) on Sale of Fixed Asset

Interest Expense

Other Expense - Non-Cash

Other Expense - Cash

TOTAL OTHER INCOME/EXPENSE**NET INCOME BEFORE TAX****TOTAL TAXES****PROFIT BEFORE EXTRAORDINARY****TOTAL EXTRAORDINARY ITEMS****NET INCOME**

Detailed Ratios

Rounding Factor : Whole Units

Base Model

ROCKETT SPECIAL UTILITY DISTRICT

CIF:-00113362

Statement Date	12/31/2018	12/31/2017	12/31/2016	12/31/2015
Statement Length	12 Months	12 Months	12 Months	12 Months
Statement Type	Annual	Annual	Annual	Annual
Audit Method	Draft	UnQualified	UnQualified	UnQualified

LEVERAGE

Total Debt

ST Debt

Total Debt NOP EBITDA

Lease-Adjusted Total Debt EBITDAR

Market Adjusted Total Debt Capital %

Total Debt Total Capitalization %

Net Worth Assets %

Comm Net Leverage Ratio

Debt Rate Base %

Debt Net Plant %

ProjFin Net Leverage Ratio

Implied Equity Enterprise Value %

COVERAGE

Debt Service Coverage

Debt Service Coverage (RUS)

Times Interest Earned (TIER)

Times Interest Earned (RUS)

NOP EBITDA / Interest

W&S Fixed Charge Coverage Ratio

PEU FCCR

Comm Normalized FCCR

ProjFin Debt Service Coverage

ProjFin Fixed Charge Coverage Ratio

Adjusted ProjFin Debt Service Coverage Rat

NOP EBITDA / Cash Paid Interest

LIQUIDITY

Total Revolver Commitments \$

Outstanding Revolving Balances \$

L/C Issuances \$

Days Cash on Hand

Days Liquidity on Hand

Current Ratio

Working Capital

PROFITABILITY

NOP EBITDA

Operating Cash Flow

Revenue Growth %

NOP EBITDA Growth %

Outstanding Commercial Paper \$

NOP EBITDA_Margin %

OCF Growth %

Return on Equity %

INVESTING/FINANCING ACTIVITY

Actual CAPEX \$

- Retirement of Patronage Capital

- Common Preferred Dividends

Cash Dividend \$

VALUATION

Rate Base \$

Market Value of Equity \$

Enterprise Value \$

PROJECT FINANCE DEFINITION

Mandatory Amortization \$

Excess Cash Flow Sweeps \$

Cash Paid Interest \$

Production Tax Credit Revenue \$

Cash Reserves \$

OTHER FACTORS

Lease Rent Cap Factor

Amortization Factor

DEFINITIONS

Comm Normalized Fixed Charges

W&S Fixed Charges