



Control Number: 49871



Item Number: 79

Addendum StartPage: 0

DOCKET NO. 49871

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

**ROCKETT SPECIAL UTILITY DISTRICT'S
OBJECTIONS AND RESPONSES TO NON-PETITIONER RED OAK INDUSTRIAL
DEVELOPMENT CORPORATION'S MOTION FOR REHEARING**

Rockett Special Utility District ("Rockett") presents the following as its objection and response to Non-Petitioner Red Oak Industrial Development Corporation's (ROIDC) Motion for Rehearing (Motion) filed on March 30, 2021. This Response and Objection is timely filed per 16 Tex. Admin. Code § 22.78(a).

I. ROIDC's reliance on the Cyd Bailey docket (No. 51367) is misplaced.

ROIDC relies on the "precedent" set by Docket No. 51367.¹ There, Cyd Bailey (Bailey) authorized Destiny Development, LLC (Destiny) to file a Petition for Expedited Release, which it did on September 25, 2020. The petition was accompanied by a prior authorization signed by Bailey on September 21, 2020, authorizing Destiny to proceed on her behalf. That is, prior to the petition to decertify, the landowner had already authorized (through a Texas Civil Practice and Remedies Code Rule 132.001 Declaration) someone else to proceed on their behalf.

The petition filed by City of Red Oak Industrial Development Corporation (Petitioner or CROIDC) is different from Destiny's in two ways. First, CROIDC filed its petition in this proceeding on August 19, 2019;² however, Red Oak Industrial Development Corporation (ROIDC) did not file an authorization that CROIDC was acting on ROIDC's behalf until *after*

¹ *Petition of Destiny Development, LLC, on behalf of Cyd Bailey, to Amend West Wise Special Utility District's Certificate of Convenience and Necessity in Wise County by Expedited Release*, Docket No. 51367, Order (Dec. 17, 2020).

² *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* (Aug. 19, 2019).

the petition was filed, and well into the proceeding.³ The earliest affidavit from ROIDC was signed on February 5, 2021 and filed February 8, 2021 with ROIDC's appeal.⁴ There is no other evidence that anything CROIDC did (including the original petition) was authorized by ROIDC. By the time ROIDC's authorization was filed, Judge Burkhalter had already issued his Proposal for Decision.

Second, as Commissioner D'Andrea stated in his memo (and as adopted by Judge Burkhalter), CROIDC did not amend its petition to reflect the sale of tracts 3 and 4 to Compass Datacenters DFW III, LLC ("Compass").⁵ Since that land belonged to Compass at the time the petition was filed, CROIDC should have had authorization from Compass to file on its behalf *before* the petition was filed. There is no evidence that CROIDC was authorized to file on Compass' behalf. CROIDC and ROIDC claim Compass authorized the filing because "Compass was aware of this Petition for decertification and authorized by ROIDC (and CROIDC, by extension), to continue to seek decertification on Compass' behalf."

In their Response to Order No. 10, ROIDC filed an affidavit from Compass representative Jared Day, in which he states that Compass purchased the property knowing about the "ROIDC application" (which did not exist at the time) and "agreed with the ROIDC that Compass would support the application."⁶ However, this is not the same action as an *authorization* that CROIDC file a petition on Compass' behalf. Moreover, this action would be moot, since ROIDC did not authorize CROIDC to proceed until February 5, 2021, after Jared Day's affidavit was filed.

ROIDC's Motion for Rehearing raises numerous issues on which Rockett and ROIDC have already joined argument. Rockett incorporates by reference the arguments contained in prior briefing on those issues, including Rockett's: (1) Response and Objection to CROIDC's Second Motion to Lift Abatement and Rockett's Motion to Dismiss the Petition filed on February 11, 2020; (2) Rockett's Response and Objections to Petitioner's Amendment of Petition and Request to Restyle Docket filed on September 28, 2020; (3) Rockett's Response

³ Non-Petitioner ROIDC's Appeal of Order No. 13 denying the City of Red Oak Industrial Development Corporation's Motion to Amend its Petition and Restyle Docket, at Exhibit A (Feb. 8, 2021).

⁴ *Id.*

⁵ Commissioner Arthur C. D'Andrea's Memorandum at 1 (Feb. 25, 2021).

⁶ Red Oak Industrial Development Corporation's Response to Order No. 10 at Attachment B (Nov. 20, 2020).

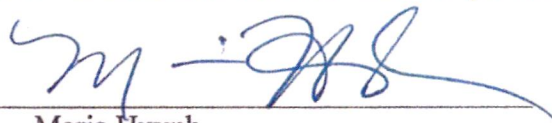
and Objection to ROIDC's Third Motion to Lift Abatement filed on October 12, 2020; and (4) Rockett's Surreply against ROIDC's Request to Restyle Dockett filed on October 14, 2020.

CONCLUSION

For the reasons expressed above, ROIDC's Motion for Rehearing should be denied.

Respectfully submitted,

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**ATTORNEYS FOR ROCKETT SPECIAL
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CERTIFICATE OF SERVICE

I certify that a true and correct copy of this document was served on the following parties of record on April 6, 2021, via e-mail in accordance with the Commission's Order.⁷

via e-mail: creighton.mcmurray@puc.texas.gov

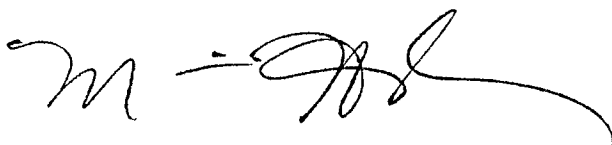
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A handwritten signature in black ink, appearing to be 'M - [illegible]', written over a horizontal line.

Maria Huynh

⁷ *Issues Related to the State of Disaster for Coronavirus Disease 2019*, Docket No. 50664, Second Order Suspending Rules (Jul. 16, 2020).