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Addendum StartPage: 0

DOCKET NO. 51044

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PETITION OF FCS LANCASTER, LTD
TO AMEND ROCKETT SPECIAL
UTILITY DISTRICT'S CERTIFICATE
OF CONVENIENCE & NECESSITY IN
DALLAS COUNTY BY EXPEDITED
RELEASE

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BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

**FCS LANCASTER, LTD'S REPLY TO ROCKETT SPECIAL UTILITY DISTRICT'S
OBJECTION AND RESPONSE TO THE SUBMISSION OF AN APPRAISAL REPORT**

Now comes FCS Lancaster, Ltd. (FCS Lancaster) and timely files this Reply to Rockett Special Utility District's (Rockett SUD) Objection and Response to the Submission of an Appraisal Report filed in this docket on April 9, 2021.¹

On July 13, 2020, FCS Lancaster filed a petition to amend Rockett SUD's water certificate of convenience and necessity (CCN) number 10099 in Dallas County by streamlined expedited release. On November 19, 2020, the administrative law judge (ALJ) issued Order No. 6, finding the petition administratively complete, notice sufficient, and establishing a procedural schedule, including deadlines for both FCS Lancaster and Rockett SUD to file appraiser's reports in the event expedited release was granted.² On January 29, 2021, the ALJ issued an Order granting FCS Lancaster's petition for streamlined expedited release and ordering that "[t]he proceeding to determine the amount of compensation to be awarded to the CCN holder, if any, commences with the filing of this Order in accordance with the schedule adopted in Order No. 6."³

Pursuant to the procedural schedule established in Order No. 6, FCS Lancaster and Rockett SUD were required to file their appraiser's reports by April 9, 2021.⁴ FCS Lancaster timely filed

¹ Under 16 Texas Administrative Code § 22.78(a) (TAC), a responsive pleading shall be filed by a party within five working days after receipt of the pleading to which the response is made. Rockett SUD filed its Objection and Response to the Submission of an Appraisal Report on April 9, 2021. Five working days after April 9, 2021 is April 16, 2021. Therefore, this reply is timely filed.

² Order No. 6 Finding Petition Administratively Complete and Notice Sufficient; and Establishing Procedural Schedule (Nov. 19, 2020).

³ Order, Ordering Paragraph No. 7 (Jan. 29, 2021).

⁴ FCS Lancaster and Rockett SUD were unable to select an agreed-upon appraiser. Order No. 6 therefore required reports from the petitioner's appraiser and from Rockett SUD's appraiser to be filed "[w]ithin 70 days after

101

its appraiser's report,⁵ but Rockett SUD instead filed an Objection and Response to the Submission of an Appraisal Report, stating that it would not submit an appraisal report due to pending Federal litigation.⁶

Under Texas Water Code (TWC) § 13.2541, the granting of streamlined expedited release initiates an appraisal process to determine the amount of monetary compensation that may be owed by the landowner to the certificate holder for the tract of land that was released. Under TWC § 13.2541(i) and promulgated by 16 Texas Administrative Code (TAC) § 24.245(i), if the former CCN holder and landowner have not agreed on an independent appraiser, as is the case here, the former CCN holder and landowner must each engage its own appraiser at its own expense, and each appraiser must file its appraisal within 70 calendar days after the Commission grants streamlined expedited release.⁷ As discussed above, Rockett SUD failed to comply with statutory requirements and the Commission's rules by failing to engage an appraiser, or file an appraisal in accordance with the statutory timelines.⁸

Further, Rockett SUD does not request a good cause exception or motion for extension of time to file, and has indicated that it has no intent to ever engage an appraiser or file an appraiser's report as required under the statute or Commission's rules. Therefore, because Rockett SUD has purposely violated the relevant statutory requirements and the Commission's rules regarding the process for determination of compensation, the Commission should deem the amount of compensation owed to Rockett SUD to be zero, pursuant to 16 TAC 24.245(i)(2)(4).⁹

the Commission approves expedited release." The Commission approved expedited release on January 29, 2021. 70 days after January 29, 2021 is April 9, 2021.

⁵ FCS Lancaster's Appraisal Report (Apr. 9, 2021).

⁶ Rockett SUD's Objection and Response to the Submission of an Appraisal Report (Apr. 9, 2021).

⁷ TWC § 13.2541(i); 16 TAC § 24.245(i).

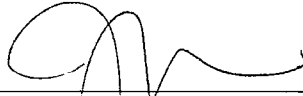
⁸ 16 TAC § 24.245(i)(2)(4).

⁹ Under 16 TAC § 24.245(i)(4), if the former CCN holder fails to engage an appraiser or file an appraisal within the timeframes required, the amount of compensation to be paid will be deemed to be zero.

Respectfully submitted,

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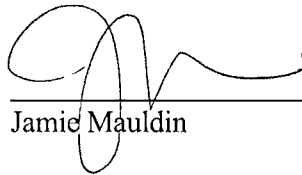
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ATTORNEYS FOR FCS LANCASTER, LTD.

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 April 16, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.



Jamie Mauldin