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PETITION OF CROOK ROSE, INC. §
TO AMEND LINDALE RURAL §
WATER SUPPLY CORPORATION'S §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY IN SMITH COUNTY §
BE EXPEDITED RELEASE §

BEFORE THE PUBLIC UTILITY
COMMISSION OF TEXAS
FILING CLERK

**LINDALE RURAL WATER SUPPLY CORPORATION'S
EXCEPTIONS TO PROPOSED ORDER**

Lindale Rural Water Supply Corporation (LRWSC or Intervenor) files these exceptions to the Proposed Order that would grant Crook Rose, Inc.'s (Crook Rose) requested streamlined expedited release from LRWSC water CCN No. 10758 in this docket for Crook Rose's property (Property) except for LRWSC's facilities within the Property as distributed by the Honorable Commission Administrative Law Judge (ALJ) to the Parties and Commissioners on January 6, 2021 (Proposed Order).¹ In support, LRWSC shows as follows.

I. EXCEPTIONS

LRWSC has clearly informed the Commission that the Property is receiving water service from LRWSC in various ways, including a line through the Property tract as proposed Finding of Fact No. 20 correctly identifies.² LRWSC has also informed the Commission that it holds federal debt and that its water CCN service area may not be removed under federal law.³ Yet, the Commission ALJ denied LRWSC's Motion to Dismiss and held the Commission cannot consider CCN service area protection due to federal debt under 7 U.S.C § 1926(b) because of TWC § 13.2541(d).⁴ The Proposed Order does not alter that holding and would grant Crook Rose's requested release over LRWSC's objections except for LRWSC's facilities within the Property.

¹ Memorandum from ALJ to Commissioners and Parties with Amended Proposed Order (Jan. 6, 2021).

² See Lindale Rural Water Supply Corporation's Response to Petition (Nov. 5, 2020) (including Motion to Dismiss), Lindale Rural Water Supply Corporation's Supplemental Response to Petition (Dec. 7, 2020), LRWSC's Response to Commission Staff's Amended Recommendation (Dec. 29, 2020).

³ *Id.*

⁴ Order No. 5 Denying Lindale Rural Water Supply Corporation's Motion to Dismiss (Jan. 5, 2021).

Leaving LRWSC's facilities within the tract certificated does not alleviate the effects of the release on LRWSC or the federal government. LRWSC excepts to the Proposed Order in its entirety and incorporates its prior arguments against the release here.

More specifically, LRWSC excepts to proposed Finding of Fact Nos. 19 and 24 through 26 related to LRWSC's "service" to the Property as they are not factually correct and conflict with proposed Finding of Fact No. 20. LRWSC also excepts to proposed Conclusion of Law Nos. 9-10, and 13 because they misapply the law cited in proposed Conclusion of Law No. 9 in support of release; the cited provisions support denial. LRWSC also excepts to the absence of any consideration of 7 U.S.C. § 1926(b) or federal law within the proposed conclusions of law in support of denial. Finally, LRWSC excepts to proposed Ordering Paragraphs 1 and 3 through 8 as they would unlawfully approve the release of the Property from LRWSC's water CCN service area (except for LRWSC's facilities within the Property).

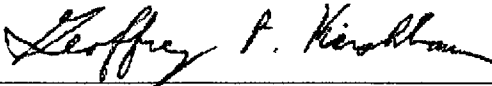
Federal statute at 7 U.S.C. § 1926 prohibits TWC § 13.2541 expedited release when the utility has (1) an outstanding federal loan, (2) adequate facilities to provide service to the area within a reasonable time after a request for service is made, and (3) the legal right to provide service. The Proposed Order correctly acknowledges that LRWSC has (1) an outstanding federal loan (in Finding of Fact No. 12), (2) adequate facilities to provide service to the Property within a reasonable time after a request for service is made (in Findings of Fact Nos. 20-23 under "Water Service"), and (3) the legal right to provide service (in Finding of Fact No. 21 under "The Tract of Land"). LRWSC requests that the Commission comply with governing federal law.

II. CONCLUSION AND PRAYER

Intervenor Lindale Rural Water Supply Corporation respectfully requests that the Commission modify the Proposed Order in line with the exceptions presented herein, find that the Petition does not meet the streamlined expedited release requirements under Texas Water Code

§ 13.2541 or 16 TAC § 24.245(l), cannot be granted because of the CCN service area protections afforded by 7 U.S.C. § 1926(b), and deny the Petition. In the alternative, if the Commission removes the Property from Intervenor's CCN, the Commission must find that Intervenor is entitled to just and adequate compensation in an amount to be determined by the Commission before any other retail public utility may in any way render retail water or sewer service directly or indirectly to the public in the decertified area.

Respectfully submitted,

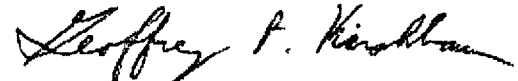
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ATTORNEY FOR LINDALE RURAL WATER SUPPLY
CORPORATION

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 January 15, 2021, in accordance with the Orders Suspending Rules filed in Project No. 50664.



Geoffrey P. Kirshbaum