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PETITION OF COMPASS	§	BEFORE THE
DATACENTERS DFW III, LLC TO	§	
AMEND ROCKETT SPECIAL	§	PUBLIC UTILITY COMMISSION
UTILITY DISTRICT'S CERTIFICATE	§	
OF CONVENIENCE AND	§	
NECESSITY IN ELLIS COUNTY BY	§	OF TEXAS
EXPEDITED RELEASE	§	

**COMPASS DATACENTERS DFW III, LLC'S
REPLY TO ROCKETT SPECIAL UTILITY DISTRICT'S
RESPONSE AND OBJECTION TO PROPOSED ORDER**

Compass Datacenters DFW III, LLC (Compass or Petitioner) timely replies to Rockett Special Utility District's (Rockett SUD) Response and Objection to the Proposed Order filed herein on August 16, 2021.¹

I. INTRODUCTION AND BACKGROUND

On November 20, 2020, Compass filed its Original Petition for Streamlined Expedited Release from Rockett SUD's water certificate of convenience and necessity (CCN) number 10099.² On May 6, 2021, Compass filed an Amended Petition.³ On August 2, 2021, the Administrative Law Judge (ALJ) issued a Proposed Order, including findings of fact and conclusions of law in support of approving the petition for release of the property from Rockett SUD's CCN.⁴ The Proposed Order required parties to file corrections or exceptions to the Proposed Order by August 16, 2021.⁵ In response to the Proposed Order, Compass filed its Corrections to the Proposed Order, including minor changes to findings of fact and ordering

¹ Under 16 Texas Administrative Code § 22.78(a) (TAC), a responsive pleading, if made, 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 Response and Objection to the Proposed Order on August 16, 2021. Five working days after August 16, 2021 is August 23, 2021. Therefore, this Reply is timely filed.

² Petition of Compass Datacenters DFW III, LLC to Amend Rockett Special Utility District's Certificate of Convenience and Necessity in Ellis County by Expedited Release (Nov. 20, 2020) (Original Petition).

³ Amended Petition by Compass Datacenters DFW III, LLC for Streamlined Expedited Release from Rockett Special Utility District's CCN No. 10099 (May 6, 2021) (Amended Petition).

⁴ Proposed Order with Memo (Aug. 2, 2021).

⁵ *Id.*

paragraphs for accuracy, clarity, consistency, and completeness.⁶ The Staff of the Public Utility Commission of Texas (Commission Staff) filed its Notice of No Corrections or Exceptions to the Proposed Order, stating that it supported the corrections identified by Compass and has not identified any additional issues.⁷ In response, the ALJ issued a Revised Proposed Order, agreeing with some, but not all, of Compass's recommendations, and revising the Proposed Order accordingly.⁸

Rockett SUD also responded to the Proposed Order, alleging that there were a number of corrections and changes needed.⁹ Rockett SUD contends that its proposed changes are necessary because the release property is receiving water service based on (1) Rockett SUD's provision of service through its 12" waterline and 8" domestic water meter to Compass's internal 12" waterline, located on Phase 1 (and not within the release property); (2) Rockett SUD's improvements to Plant No. 4 and Robert W. Sokoll Water Treatment Plant; (3) Rockett SUD's agreement to provide water service to the release property; (4) Rockett SUD's evaluation and coordination with Compass to prepare for service to the release property; and (5) Compass's granting of easements to Rockett SUD. In its Response and Objection to Proposed Order, Rockett SUD cites to identical evidence and arguments submitted in its previous motions to dismiss, all of which were denied by the ALJ.

The only permissible reason for not granting streamlined expedited release of the release property is if the landowner failed to satisfy statutory or regulatory requirements.¹⁰ As set out in both the Proposed Order and Revised Proposed Order, Compass has demonstrated that each of the elements required for streamlined expedited release under Texas Water Code (TWC) § 13.2541, has been satisfied. Thus, the Revised Proposed Order must be approved and the release property released from Rockett SUD's CCN.

⁶ Compass Datacenters DFW III, LLC's Corrections to the Proposed Order (Aug. 13, 2021).

⁷ Commission Staff's Notice of No Corrections or Exceptions to the Proposed Order (Aug. 16, 2021).

⁸ Revised Proposed Order with Memo (Aug. 16, 2021).

⁹ Rockett SUD's Response and Objection to Proposed Order (Aug. 16, 2021).

¹⁰ 16 TAC § 24.245(h)(10).

II. ARGUMENTS AND AUTHORITIES

A. The portion of Compass's property that Rockett SUD has identified as receiving service is not included in the area for which Compass is requesting release (the release property).

Rockett SUD asserts in its Response and Objection to the Proposed Order that Compass's petition must be dismissed because the property in question is receiving water service as defined by the TWC §§ 13.002(21) and 13.2541(b) and 16 TAC § 24.245(h), as interpreted by Texas courts. Rockett SUD's arguments on this point again largely mirror identical arguments it asserted in its First, Second, and Third Motions to Dismiss, all of which were denied by the ALJ. Each of the arguments that Rockett SUD proffers to support its request for corrections to the Proposed Order were fully briefed before and considered by the ALJ, and were ultimately denied.

Rockett SUD again argues that it has water facilities or lines committed to serving the release property or used to provide water to the release property. However, all of the infrastructure Rockett SUD references—its 12" waterline and 8" domestic water meter, which connect to Compass's internal 12" waterline, located on Phase 1 (and not within the release property)—is designed and used to serve property (Phase 1) that is not the subject of this petition. Rockett SUD's own evidence establishes that it is providing water service to Phase 1, and as established, Compass is not seeking the release of Phase 1 from Rockett SUD's CCN in this petition. Therefore, that Compass is taking and paying for water from Rockett SUD through the construction/fire hydrant meter located on Phase 1, and that Rockett SUD's 12" waterline and 8" domestic water meter provide water to Compass's internal 12" waterline located on in Phase 1, are immaterial. These facts establish what all parties agree—that Rockett SUD is providing water service to Phase 1 of Compass's property. However, Phase 1 is not part of the relevant property which Compass requests be released from Rockett SUD's CCN. Rockett SUD asserted that Compass's internal 12" waterline located on Phase 1 connect to the internal 12" waterlines on Phases 2- 4. However, Rockett SUD is incorrect. Rockett SUD's infrastructure is not connected to any permanent water infrastructure outside of Phase 1 (i.e., Rockett SUD infrastructure does not connect to or provide service in way to the waterlines installed in Phases 2-4). Compass has installed its own internal waterlines in Phases 2-4, but has taps to connect to other, non-Rockett SUD water infrastructure. Compass's waterlines in Phases 2-4 (the release property) are not connected to Rockett SUD water infrastructure.

Rockett SUD also again asserted that Compass moved its temporary office building from a location on Phase 1 to another phase of the project, which remains irrelevant. As stated above, Rockett SUD's infrastructure does not connect to or provide service in way to the waterlines installed in Phases 2-4 on the release property. Further, in its Response and Objection to the Proposed Order, Rockett SUD stated that Compass did not "provide a reply verified by a notarized affidavit of any similar statement."¹¹ Rockett SUD then cites to 16 TAC § 24.245(f) (requiring responses to be verified by a notarized affidavit).¹² The provision Rockett SUD cited is applicable to petitions for expedited release, and therefore inapplicable to the petition in this proceeding, as Compass's petition seeks *streamlined* expedited release. The applicable provision in this proceeding is 16 TAC § 24.245(h), related to petitions for *streamlined* expedited release. The only relevant portion in 16 TAC § 24.245(h) requiring "responses to be verified by a notarized affidavit" applies not to Compass, but in fact applies to Rockett SUD. 16 TAC § 24.245(h)(6) applies to the current CCN holder's ability to file a response to the petition—i.e., Rockett SUD's ability to file a response to Compass's petition, which must be verified by a notarized affidavit.¹³ Therefore, Rockett SUD's argument is erroneous and should be ignored.

As before, Rockett SUD has provided no evidence that the property Compass requests be released from Rockett SUD's CCN is receiving water service under Texas law. Commission Staff found that "[b]ased on the information provided by the parties, Staff has concluded that the portion of Compass's property that Rockett SUD has identified as receiving service is not included in the area for which release is requested."¹⁴ Further, the ALJ found in both the Proposed Order and Revised Proposed Order that "[t]he release property is not receiving actual water service from the CCN holder," and "Rockett SUD provides water service to an approximately 20.752-acre area within the petitioner's tract of land referred to as Phase One, but that area is not within the release property."¹⁵ Therefore, Rockett SUD's Response and Objection to Proposed Order fails for lack of factual and legal support, and its corrections should not be adopted.

¹¹ Rockett SUD's Response and Objection to Proposed Order at 3 (Aug. 16, 2021).

¹² *Id.*

¹³ 16 TAC § 24.245(h)(6).

¹⁴ Commission Staff's Recommendation on Final Disposition at 2 (Jul. 8, 2021).

¹⁵ Revised Proposed Order with Memo, Findings of Fact Nos. 37, 40 (Aug. 16, 2021).

B. Receipt of Compass’s application for water service is not an indication that the release property is receiving water service from Rocket SUD.

Rockett SUD asserts in its Response and Objection to the Proposed Order that Rockett SUD has proven that it has committed and used its facilities and waterlines to provide water service to the release property by Rockett SUD’s agreement to provide water service to the release property.¹⁶ Rockett SUD continues to argue that because Compass previously requested water service from Rockett SUD for Phases 1-4 of the project, that Compass is receiving water service from Rockett SUD to the release property. However, as established before, while this fact may help prove that Rockett SUD is serving a portion of Compass’s property—a portion cut out of the release property—it does not move the needle in proving that Rockett SUD is providing service to the release property. The submission of an application for water service is not an indication that the property at issue is receiving service. A customer does not submit an application for non-standard service to a water provider when it is already receiving water service. Rockett SUD itself admits that “whether or not the Property is receiving water ‘service’ is not dependent on that Service Contract or Petitioner’s request—or lack of request—for water service from Rockett for the Property (the remaining Phases 2-4 of the project).”¹⁷ Compass continues to agree, and is unsure why Rockett SUD continually references the requests for service and Non-Standard Service Contract executed by Rockett SUD and Compass for service to Phase 1, outside of the release property. Neither is an indicator that service is already being provided. The ALJ agreed and proposed several findings of fact supporting Compass’s position, including:

41. On December 20, 2019, the petitioner submitted to Rockett SUD an application for nonstandard water utility service, to explore the feasibility of the CCN holder providing water service to Phase One, which is located outside the release property, and to Phases Two, Three, and Four, which lie, in whole or in part, within the release property.
42. When it applied for non-standard water utility service, the petitioner used the CCN holder’s application form, which states that the application does not obligate the CCN holder to provide service “until the application has

¹⁶ Rockett SUD’s Response and Objection to Proposed Order at 4 (Aug. 16, 2021).

¹⁷ Rockett SUD’s Response to Order No. 6 and Third Motion to Dismiss at 13 (Jun. 24, 2021).

been evaluated and a final Non-Standard Contract has been executed by all necessary parties.”

43. Effective March 17, 2020, the petitioner and the CCN holder executed a final Non-Standard Contract which obligated the CCN holder to provide water service to Phase One.
44. A final Non-Standard Contract has not been executed by the petitioner and the CCN holder in relation to Phases Two, Three, and Four.¹⁸

Similarly, Rockett SUD argued that it has proven that it has committed and used its facilities and waterlines to provide water service to the release property by Rockett SUD’s evaluation and coordination with Compass to prepare for service to the release property.¹⁹ It is immaterial that the parties evaluated the possibility of Rockett SUD providing water service to Compass’s release property, that Compass provided the projected water usage to Rockett SUD for the release property, or that information about the release property was “part of the Service Contract.”²⁰ Receiving this information from Compass does not constitute Rockett SUD performing an act, furnishing or supplying anything, or committing or using any facilities or lines to the release property.

Rockett SUD asserts additional arguments in its Response and Objection to the Proposed Order that are similarly irrelevant, such that it is providing water service to the release property because it has made improvements to Plant No. 4 and the Robert W. Sokoll Water Treatment Plant, which furnish water to the release property and surrounding areas, and because Compass granted easements to Rockett SUD.²¹ If Rockett SUD made improvements to Plant No. 4 or the Robert W. Sokoll Water Treatment Plant, that is immaterial to the Petition in this proceeding, as Rockett SUD’s infrastructure does not connect to or provide service in way to the waterlines installed on the release property, nor has Rockett SUD provided evidence that it made these improvements in order to serve any property beyond Phase 1. Therefore, any improvements to Plant No. 4 or the Robert W. Sokoll Water Treatment Plant were not committed or dedicated to serving Phases 2 through 4 and are unrelated to the release property. Further, the easements to which Rockett SUD

¹⁸ Revised Proposed Order with Memo at 5, Findings of Fact Nos. 41-44 (Aug. 16, 2021).

¹⁹ Rockett SUD’s Response and Objection to Proposed Order at 4 (Aug. 16, 2021).

²⁰ Rockett SUD’s Response to Order No. 6 and Third Motion to Dismiss at 13 (Jun. 24, 2021).

²¹ Rockett SUD’s Response and Objection to Proposed Order at 4 (Aug. 16, 2021).

refers for the installation of a 12” waterline across Tract B of the property are not proof of the provision of service to the release property. The easements were executed to serve the area excepted from Compass’s Petition, and therefore were not done in furtherance of the provision of service to the release property.

III. CONCLUSION

Compass respectfully requests that none of Rockett SUD’s proposed corrections be adopted. Accordingly, Compass respectfully requests that the Commission consider and approve the Revised Proposed Order at its September 2, 2021 open meeting.²²

Respectfully submitted,



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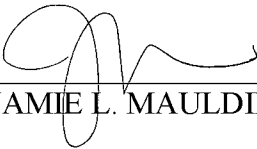
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**ATTORNEYS FOR COMPASS
DATACENTERS DFW III, LLC**

²² TWC § 13.2541(c) states that the Commission “shall grant the petition not later than the 60th day after the date the landowner files the petition.” 16 TAC § 24.8(d) states that “[a]pplications under subchapter H of chapter 24 are not considered filed until the [C]ommission makes a determination that the application is administratively complete.” Further, 16 TAC § 24.245(h)(7), which governs this proceeding, provides that “[t]he [C]ommission will issue a decision on a petition filed under this subsection no later than 60 calendar days after the presiding officer by order determines that the petition is administratively complete.” The ALJ found Compass’s petition to be administratively complete in Order No. 6 issued on June 4, 2021. Sixty days from June 4, 2021 was August 3, 2021. Therefore, Compass requests that the Commission issue an order in this proceeding as soon as possible, and place this docket on the next regularly scheduled open meeting agenda, which is currently scheduled for September 2, 2021.

CERTIFICATE OF SERVICE

I certify that notice of the filing of this document was provided to all parties of record via electronic mail on August 23, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.



JAMIE L. MAULDIN