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PUC DOCKET NO. 52090

PETITION BY REDBIRD	§	BEFORE THE
DEVELOPMENT, LLC FOR	§	
EXPEDITED RELEASE	§	
FROM WATER CCN NO. 11052	§	PUBLIC UTILITY COMMISSION
HELD BY DOBBIN PLANTERSVILLE	§	
WATER SUPPLY CORPORATION	§	OF TEXAS

**REDBIRD DEVELOPMENT, LLC’S MOTION TO MAKE DETERMINATION ON
COMPENSATION AND ISSUE NOTICE OF APPROVAL**

TO THE PUBLIC UTILITY COMMISSION OF TEXAS:

COMES NOW, Redbird Development, LLC (“Redbird”) and files this, its Motion to Make Determination on Compensation and Issue Notice of Approval.

On January 14, 2022, the Public Utility Commission of Texas (Commission) issued its Order on Rehearing approving Redbird’s petition for expedited decertification thereby releasing Redbird’s property from Dobbin Plantersville Water Supply Corporation’s (Dobbin Plantersville) certificate of convenience and necessity number 11052. The Order commenced the proceeding to determine the amount of compensation to be awarded to Dobbin Plantersville in accordance with the schedule adopted in Order No. 3.

On January 24 2022, Redbird filed its Notice of Non-Agreement on Appraiser. On January 28, 2022, Dobbin Plantersville filed its Notice of Non-Agreement on Appraiser and Objection to Compensation Phase and Motion to Abate. In its motion, Dobbin Plantersville informed that Commission that it will not participate in the compensation phase of the proceeding. On March 25, 2022, as required by Order Nos. 3 and 11, Redbird filed its appraiser’s report. Dobbin Plantersville did not file an appraiser’s report.

Under PUC rule 16 Texas Administrative Code (TAC) § 24.245(i)(4), “[i]f the former CCN holder fails to engage an appraiser or file an appraisal within the timeframes required by

[subsection (i) of Section 24.245], the amount of the compensation to be paid will be deemed to be zero.” Because Dobbin Plantersville failed to submit an appraisal within the timeframe provided by state law and the PUC’s rules, the Commission should deem the amount of compensation owed to Dobbin Plantersville by Redbird to be zero, pursuant to 16 TAC § 24.245(i)(4).

Redbird respectfully requests that the Commission deem the amount of compensation owed to Dobbin Plantersville by Redbird to be zero and issue a Notice of Approval Making a Determination on Compensation. A form Notice of Approval is attached hereto as Exhibit 1.

Respectfully submitted,

Emily W. Rogers
State Bar No. 24002863
erogers@bickerstaff.com

Joshua D. Katz
State Bar No. 24044985
jkatz@bickerstaff.com

Kimberly G. Kelley
State Bar No. 24086651
kkelley@bickerstaff.com

Bickerstaff Heath Delgado Acosta LLP
3711 S. MoPac Expressway
Building One, Suite 300
Austin, TX 78746
Telephone: (512) 472-8021
Facsimile: (512) 320-5638

BY: 

Emily W. Rogers

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record via email on April 11, 2022, in accordance with the requirements of 16 Tex. Admin. Code § 22.74 and PUC Order No. 2 in Docket No. 50664.

Emily W. Rogers

Emily W. Rogers

Exhibit 1

PUC DOCKET NO. 52090

PETITION BY REDBIRD	§	BEFORE THE
DEVELOPMENT, LLC FOR	§	
EXPEDITED RELEASE	§	
FROM WATER CCN NO. 11052	§	PUBLIC UTILITY COMMISSION
HELD BY DOBBIN PLANTERSVILLE	§	
WATER SUPPLY CORPORATION	§	OF TEXAS

**NOTICE OF APPROVAL
MAKING A DETERMINATION ON COMPENSATION**

In this Notice of Approval, the Commission determines that, for the streamlined expedited release granted in this docket, Redbird Development, LLC (Redbird) owes no compensation to Dobbin Plantersville Water Supply Corporation (Dobbin Plantersville) under Texas Water Code (TWC) § 13.2541. The Commission granted Redbird’s petition for streamlined expedited release and removed Redbird’s land from Dobbin Plantersville’s service area under water certificate of convenience and necessity (CCN) number 11052. The Commission’s determination on compensation is based on the fact that Dobbin Plantersville failed to file an appraiser’s report.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

1. Redbird Development, LLC (Redbird) is a Texas limited liability company registered with the Texas secretary of state under filing number 804010621.
2. Redbird owns land in Montgomery County, Texas.

CCN Holder

3. Dobbin Plantersville Water Supply Corporation is a Texas non-profit corporation registered with the Texas secretary of state under filing number 37131501.

4. Dobbin Plantersville holds water CCN number 11052 that obligates it to provide retail water service in its certificated service area in Montgomery and Grimes Counties.

Petition

5. On May 6, 2021, the petitioner filed a petition for streamlined expedited release of its land from the CCN holder's water service area under CCN number 11052.
6. In an Order filed on October 12, 2021, the Commission granted the petition and released the petitioner's land from the CCN holder's certificated service area.
7. On November 5, 2021, the CCN holder filed a motion for rehearing.
8. On January 13, 2022, the Commission granted the motion for hearing, and in an Order on Rehearing filed on January 14, 2022, the Commission granted the petition and released the petitioner's land from the CCN holder's certificated service area.
9. Order No. 11 clarified that the compensation phase commenced with the issuance of the Order on Rehearing and stated that the proceeding to determine compensation would follow the procedural schedule that was adopted in Order No. 3 filed on June 24, 2021.

Appraisers and Appraisals

10. The petitioner and the CCN holder did not agree on the compensation to be paid to the CCN holder for the streamlined expedited release.
11. The petitioner and the CCN holder did not agree to an independent appraiser.
12. On January 24, 2022, the petitioner filed a notice of non-agreement on appraiser.
13. On January 28, 2022, the CCN holder filed a notice of non-agreement on appraiser and objection to compensation phase and motion to abate whereby the CCN holder informed the Commission that it would not participate in the compensation phase of the proceeding.

14. The petitioner filed an appraiser's report on March 25, 2022, which is within 70 days after Commission granted the release.
15. The CCN holder did not file an appraiser's report within 70 days after the Commission granted the release.

Compensation

16. Because the CCN holder did not file an appraiser's report within 70 days after the Commission granted the release, no compensation is owed for the release.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority to determine the amount of compensation to be awarded after granting streamlined expedited release petitions under TWC §§ 13.254 and 13.2541.
2. No notice is required to determine the amount of compensation.
3. No opportunity for a hearing to determine compensation for streamlined expedited release is provided under TWC § 13.2541 or 16 Texas Administrative Code (TAC) § 24.245(h)(7).
4. The determination of compensation under TWC § 13.2541 and 16 TAC § 24.245(i) is not a contested case.
5. Under 16 TAC § 24.245(i)(2)(B), if the petitioner and CCN holder cannot agree on the amount of compensation and cannot agree on an independent appraiser, they must each file their own appraiser's report within 70 days after the Commission grants the streamlined expedited release petition.
6. Under 16 TAC § 24.245(i)(4), if the CCN holder fails to file an appraisal report within 70 days after the Commission granted the streamlined expedited release petition, the amount of compensation due to the CCN holder is deemed to be zero.

7. No compensation is owed by the petitioner to the CCN holder for the release under TWC § 13.2541.
8. The Commission processed the petition in accordance with the TWC and Commission rules.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. No compensation is owned by the petitioner to the CCN holder for the streamlined expedited release.
2. The Commission denies all other motions and any other requests for general or specific reliefs that have not been expressly granted.

Signed at Austin, Texas on _____ day of _____, 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE