



## Filing Receipt

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**DOCKET NO. 52101**

**PETITION OF CCD-NORTH SKY, LLC § PUBLIC UTILITY COMMISSION  
TO AMEND MARILEE SPECIAL §  
UTILITY DISTRICT’S CERTIFICATE § OF TEXAS  
OF CONVENIENCE AND NECESSITY §  
IN COLLIN COUNTY BY EXPEDITED §  
RELEASE §**

**MARILEE SPECIAL UTILITY DISTRICT’S  
MOTION FOR REHEARING**

**TO THE HONORABLE PUBLIC UTILITY COMMISSION:**

COMES NOW, Marilee Utility District (the “District”), and files this Motion for Rehearing (“Motion”) of the Public Utility Commission of Texas’s (the “Commission”) Order (“Order”) amending the District’s Certificate of Convenience and Necessity (“CCN”) No. 10150 to release 219.67 acres of property (“Tract of Land”) in Collin County, Texas.<sup>1</sup> A party must file a motion for rehearing “not later than the 25<sup>th</sup> day after the date the decision or order that is the subject of motion is signed.”<sup>2</sup> The 25<sup>th</sup> day after March 14, 2022, is April 8, 2022, and this Motion is timely filed.<sup>3</sup> In support thereof, the District respectfully shows as follows:

**I. INTRODUCTION**

This proceeding for streamlined expedited release was initiated on May 10, 2021, with the filing of a petition by CCD-North Sky, LLC (“Petitioner”), pursuant to Section 13.2541 of the Texas Water Code (“TWC”) and 16 Texas Administrative Code (“TAC”) § 24.245(h).<sup>4</sup> The petition alleged that the property was greater than 25 acres, not receiving water or sewer service,

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<sup>1</sup> Order (Mar. 14, 2022).

<sup>2</sup> Tex. Gov’t Code § 2001.146.

<sup>3</sup> The District files this Motion, in relevant part, to preserve its rights and remedies on appeal. *See, e.g., Suburban Util. Corp. v. Pub. Util. Com.*, 652 S.W.2d 358, 364 (Tex. 1983) (“[A] motion for rehearing is prerequisite to an appeal.”) (internal quotation marks omitted).

<sup>4</sup> Petition of CCD-North Sky, LLC to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release, at 2 (May 10, 2021) (seeking to decertify 219.976 acres of property).

and is entirely within Collin County.<sup>5</sup>

On May 24, 2021, the District filed a motion to intervene, which the Honorable Administrative Law Judge (“ALJ”) Marx granted on June 9, 2021.<sup>6</sup>

On June 11, 2021, the ALJ held that the petition was administratively incomplete.<sup>7</sup> On June 16, 2021, the District filed a response to and motion to dismiss the petition, arguing that because the District provides the property with water service<sup>8</sup> and Petitioner failed to show facts to prove that the property was not receiving water service from the District,<sup>9</sup> that the petition’s defects could not be cured, and that the Petition should be dismissed. Commission Staff and Petitioner opposed the District’s motion. The District’s motion to dismiss the petition was denied on September 14, 2021.<sup>10</sup>

On July 6, 2021, the Petitioner filed a First Amended Petition (the “Petition”), seeking to remove 219.67 acres of property (the “Tract of Land”) from the 220 total acres owned by Petitioner.<sup>11</sup> On July 20, 2022, the ALJ issued Order No. 6, requiring the Petitioner to file new maps and for the Commission Staff to file a supplemental recommendation on the sufficiency of the Amended Petition. On September 15, 2021, the ALJ held that the Amended Petition was administratively complete.<sup>12</sup>

On October 7, 2021, the District filed its Verified Response to the Petition, supported by the affidavits of the District’s General Manager and engineer. Both provided affirmative evidence that the District provides active water service to the Tract of Land, or the portion of Petitioner’s

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<sup>5</sup> *Id.*

<sup>6</sup> Motion to Intervene (May 24, 2021); Order No. 2 – Granting Intervention (June 9, 2021).

<sup>7</sup> Order No. 3 – Finding Petition Administratively Incomplete and Establishing Opportunity to Cure (Jun. 11, 2021).

<sup>8</sup> Marilee Special Utility District’s Response to and Motion to Dismiss Petition (Jun. 16, 2021).

<sup>9</sup> *See id.* at 6 (describing the District’s facilities located on the Tract of Land).

<sup>10</sup> Order No. 9 – Denying Motion to Dismiss (Sept. 24, 2021).

<sup>11</sup> First Amended Petition of CCD-North Sky, LLC to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release, at 2 (July 6, 2021)

<sup>12</sup> Order No. 10 – Finding Petition Administratively Complete and Notice Sufficient, and Establishing Procedural Schedule (Sept. 15, 2021).

property carved out from the Tract of Land, through a 2” waterline and District Meter No. 241.<sup>13</sup>

On October 15, 2021, Petitioner filed an objection to the District’s federal indebtedness and a motion for the ALJ to force the District to withdraw its federal-loan application, which had been filed before the petition was filed on May 10, 2021. The District opposed the motion. On October 25, 2021, the ALJ denied Petitioner’s motion, holding that the authorities upon which Petitioner relied “do not clearly vest the Commission with the authority or duty to enforce Texas Water Code (TWC) § 13.2541(e) and 16 Texas Administrative Code (TAC) § 24.245(h)(8) against a CCN holder.”<sup>14</sup>

Despite the District’s affirmative evidence that the Tract of Land is receiving water service, the ALJ entered a proposed order decertifying the Property on November 1, 2021.<sup>15</sup> The District filed Exceptions and Corrections to the proposed order, which were rejected the next day.<sup>16</sup> More than two months later, the ALJ entered a revised Proposed Order, which made non-substantive changes related to the use of the terms “property” and “tract of land.”<sup>17</sup>

On February 15, 2022, the Commission requested additional information from Petitioner, noting that there was evidence that the District maintained a meter, Meter No. 241, on the Tract of Land.<sup>18</sup> Petitioner filed a clarification letter on February 18, 2022. The Commission adopted the revised proposed order without comment in an open meeting on March 10, 2022. The Commission entered the Order decertifying the Tract of Land from the District’s CCN on March 14, 2022.<sup>19</sup>

The Commission’s decision to grant the Petition was an error. The Commission’s Order

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<sup>13</sup> See Marilee Special Utility District’s Verified Response to the First Amended Petition for Expedited Release, at ¶¶ 23-26; Exhibit A (Affidavit of Donna Loiselle) at ¶¶ 5-9; Exhibit B (Affidavit of Jacob Dupuis), at ¶¶ 5-6 (Oct. 7, 2021).

<sup>14</sup> Order No. 11 – Denying Petition Request for an Order Requiring Marilee Special Utility District to Withdraw Its Federal Loan Application, at 1 (Oct. 25, 2021).

<sup>15</sup> Proposed Order and Memorandum (Nov. 1, 2021).

<sup>16</sup> Marilee Special Utility District’s Exceptions and Corrections to the Proposed Order (Nov. 15, 2021); Proposed Order Memorandum (Nov. 16, 2021).

<sup>17</sup> Revised Proposed Order and Memorandum (Jan. 20, 2022).

<sup>18</sup> See Requiring Additional Information (Feb. 15, 2022) (noting with approval the practice of the Commission to allow petitioner for streamlined expedited release to “carve” out the District’s meters and facilities from the Tract of Land in order to obtain streamlined release, and requiring Petitioner to file additional documentation to evidence that the District’s active meter serving the property had been carved out of the Tract of Land).

<sup>19</sup> Order (Mar. 14, 2022).

contains factual, procedural, and legal errors that require correction in order to prevent the unlawful and inequitable decertification of the Tract of Land from the District and to prevent the District from being materially prejudiced, as described herein. Accordingly, the District respectfully requests that the Commission grant the District's Motion, reverse the Order, and enter a final order denying the Petition because the Tract of Land is receiving service from the District and is thus ineligible for expedited release under TWC § 13.2541 and 16 TAC § 24.245(h), and because the District's federal indebtedness entitles the District, under 7 U.S.C. § 19267(b), to protection from curtailment or limitation of its service area.

## **II. POINTS OF ERROR**

### **A. Point of Error No. 1—The Commission Erred in Holding that the Tract of Land Is Not Receiving Water Service from the District (FOF Nos. 27-36 and COL Nos. 8, 12, and 13 and Ordering Paragraph 1).**

The TWC authorizes decertification or expedited release only for property “that is not receiving water or sewer service.”<sup>20</sup> The TWC broadly defines “service” as:

any act performed, anything furnished or supplied, and any facilities or lines committed or used by a retail public utility in the performance of its duties...to its patrons, employees, other retail public utilities, and the public, as well as the interchange of facilities between two or more retail public utilities.<sup>21</sup>

Whether or not a retail public utility has performed “any act,” “supplied or furnished” anything, or “committed or used” “any facilities or lines” in in the “performance of its duties” is a fact question. According to the plain text of the definition of “service” and how both the Commission and Texas courts have interpreted it, the question of whether or not a tract is receiving “service” is not dependent upon whether water or sewer is being used or has been requested on the tract sought to be decertified. Instead, a tract is “receiving” water or sewer service if either of the following conditions are met:

- Any facilities or lines are committed or used in the performance of the CCN holder's duties as a retail public utility providing service to the property; or
- Any lines are committed or used in the performance of the CCN holder's duties as

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<sup>20</sup> TWC § 13.2541(b).

<sup>21</sup> TWC § 13.002(21); *see also* 16 TAC § 24.3(33) (same definition).

a retail public utility.<sup>22</sup>

As defined by TWC § 13.002(9), “facilities” includes “all the plant and equipment of a retail public utility, including all tangible and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with the business of any retail public utility.” *Crystal Clear* held that facilities or lines “used” or “committed” to providing such service can cause a property to “receive service.”<sup>23</sup>

The Commission’s Order errs in its analysis of whether the Tract of Land receives water service. The Order fails to explain why it concludes that the Tract of Land is “not receiving water service under TWC § 13.002(21) and 13.2541(b) and 16 TAC § 24.245(h), as interpreted [*Crystal Clear*]”<sup>24</sup> when the Order itself states that the following facts are present:

- “The CCN holder owns and operates a two-inch waterline running through the extreme eastern edge of the release property.”<sup>25</sup>
- “The two-inch waterline is connected to a water meter on the petitioner’s tract of land, but the meter is not located within the release property and does not provide water service to the release property.”<sup>26</sup>
- “The CCN holder provides water service to a small lot within the petitioner’s tract of land, but this lot does not lie within the release property.”<sup>27</sup>

Here, the District has served and is capable of serving the “petitioner’s tract of land,” as Findings of Fact 31-33 demonstrate. The Tract of Land is thus receiving “service” as interpreted by *Crystal Clear*. There are District facilities currently serving the property on which the Tract of Land is located that are in use to irrigate the Tract of Land. The Commission seems to deliberately overlook the fact that the District provides water service to Petitioner’s land, including the Tract

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<sup>22</sup> See *id.*; see also *Tex. Gen. Land Office v. Crystal Clear Water Supply Corp.*, 449 S.W.3d 130, 137 (Tex. App.—Austin 2014, pet. denied).

<sup>23</sup> *Crystal Clear*, 449 S.W.3d at 140.

<sup>24</sup> Order, at COL 12.

<sup>25</sup> *Id.* at FOF 31.

<sup>26</sup> *Id.* at FOF 32.

<sup>27</sup> *Id.* at FOF 33.

of Land. The Commission's indifference to these facts has now led to the District being damaged by the Commission taking acreage that the District is serving and which the District relies upon for paying its debts. Such an outcome was not intended by the legislature when the streamlined expedited release process was created.<sup>28</sup>

If the Commission permits Petitioners to decertify property that the CCN holder can service and is servicing, then the Commission is not taking into account the important public policy of preserving a CCN holder's service area and is subjecting CCN holders to abusive tactics of landowners that were not intended by the legislators when they created the mechanism for streamlined expedited release.<sup>29</sup> For this reason, the District respectfully urges the Commission to grant the District's Motion and issue an order denying the Petition.

**B. Point of Error 2 - The Commission Erred by Failing to Hold Petitioner to Its Burden of Proof Under TWC § 13.2541 and 16 TAC § 24.245(h) (FOF Nos. 5, 6, 7, 9, 21, 22, 27, 30, 31, 32, 33 and COL Nos. 5, 6, 7, 13, and Ordering Paragraph 1.).**

In order to carry their burden of establishing that the Tract of Land is not receiving water service, the petitioner in a proceeding brought under TWC § 13.2541 and 16 TAC § 24.245(h) has the burden to prove that the area requested to be decertified is not receiving service. It is arbitrary and capricious for the Commission to decertify property from a CCN when a petitioner fails to set forth facts to establish that the property is not receiving service, as here, where Petitioner set forth only an affidavit that provided no facts regarding water service, but merely unsupported claims.

Under *Crystal Clear*, the Commission must review the present facts and circumstances, including the service application and agreements (including transfer agreements) that cover all the

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<sup>28</sup> See, e.g., House Comm. Bill Analysis at 4-5, C.S.H.B. 2876, 79th Leg., R.S. (May 11, 2005) (noting in support that the bill would “would protect private property rights by unwanted imposition of a CCN on a landowner” and “address problems where residents of MUDs with *substandard service are unable to receive improvements*” due to the CCN holder's exclusive right to provide service in its area) (emphasis added).

<sup>29</sup> See, e.g., House Comm. Bill Analysis at 4-5, C.S.H.B. 2876, 79th Leg., R.S. (May 11, 2005) at 4-5 (stating that TWC § 13.254 was designed to prevent “abuses of CCN authority” where “a landowner looking to develop his or her land might find that although the land was in a CCN, that utility was unable or unwilling to extend service to his or her property.” Section 13.254 was not meant to arbitrarily deprive CCN holders of property they are actively servicing.). Streamlined expedited release was created in 2019 to be a simplified offshoot of expedited release that better codified the way CCN holders should be compensated for property decertified from their CCN service area. See, e.g., Acts 2019, 86th Leg., R.S., Ch. 688, General and Special Laws of Texas (enrolled bill to be codified at TWC § 13.2541). The policies considered by the legislature regarding the substance of both TWC §§ 13.254 and 13.2541 are best reflected by the legislative history for TWC § 13.254, which was enacted in 2005 in House Bill 2876.

acres of the tract at issue. In *Crystal Clear*, the Austin Court of Appeals held that facilities or lines “used” or “committed” to providing such service might cause a property to “receive service” under the statutory and regulatory definition.<sup>30</sup> But where water lines are actually present within a tract and “committed” to the property in that manner, the tract is unquestionably “receiving service.”

The proper analysis of a Petitioner’s burden is reflected in *Johnson County Special Utility District v. Public Utility Comm’n of Texas*.<sup>31</sup> The petitioner in that case provided a detailed affidavit by a land broker on the grounds of the property to be decertified, in which the broker stated that he searched the property, which was inhabited, for several hours and found no district water meters or facilities, only “two shuttered ground well heads” and a “small, elevated water storage tank . . . implying that any dwelling on the [p]roperty required that water pressure be generated locally and not from a retail water utility service provider.”<sup>32</sup> The Commission, based on these facts, properly decertified the property as having not water service from at least 2005.<sup>33</sup>

Here, Petitioner has not met its burden of proof to decertify the Tract of Land under TWC § 13.2541. The Order improperly permits Petitioner to decertify Tract of Land that the District is providing service to, as evidenced by the District’s existing meters, waterlines, facilities, and billing and membership records. The Commission’s approval of Petitioner’s “carving out” portions of the Tract of Land from the existing meters, waterlines, and facilities, and acceptance of Petitioner’s insufficient affidavit eviscerates Petitioner’s burden of proof, and improperly puts all the burden on the District to prove that the Tract of Land is receiving, has received, and is capable of receiving water service under TWC § 13.2541 and *Crystal Clear*.

**C. Point of Error 3—The Commission Erred When It Failed to Meet the 60-Day Statutory Deadline to Either Grant or Deny Expedited Release (FOF 8, 20, and COL Nos. 1, 13, 16 and Ordering Paragraphs 1.).**

The Commission erred in granting the Petition because it did so in clear violation of TWC § 13.2541(c), which provides, “The utility commission shall grant the petition not later than the 60<sup>th</sup> day after the date the landowner files the petition.” Further, the Order violates the

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<sup>30</sup> *Crystal Clear*, 449 S.W.3d at 140.

<sup>31</sup> No. 03-17-00160-CV, 2018 WL 2170259 (Tex. App—Austin May 11, 2018, pet. denied) (mem. op.).

<sup>32</sup> *Id.* at \*\*6-7.

<sup>33</sup> *Id.* at \*\*9-10 (citing Commission’s Finding of Fact No. 24).



Commission’s substantive rules, which require the Commission to “issue a decision on a petition” for streamlined expedited release “no later than 60 calendar days after the presiding officer determines that the petition is administratively complete.”<sup>34</sup>

The original petition was filed on May 10, 2021 and, after being amended, the Petition was found administratively complete on September 15, 2021.<sup>35</sup> Sixty calendar days after September 15, 2021, is November 14, 2021, the date by which the Commission was required to issue a decision either granting or denying the Petition. In violation of TWC § 13.2541(c) and 16 TAC § 24.245(h)(7), the Commission failed to enter a decision on the Petition until March 14, 2022. As a result of the Commission’s errors, the District has been required to proceed through more than four months of additional litigation.

The Commission’s error materially prejudiced the District. For example, another Commission rule states that the District should not apply for any federal loan “after the date the petition is filed until the utility commission issues a decision on the petition.”<sup>36</sup> It is prejudicial but for the District to be prevented from seeking financing for needed improvements solely because the Commission failed to follow its mandatory statutory and rule requirements.

Because of the Commission’s error in its treatment of the Petition, the District has been materially prejudiced by, among other things, legal costs, delays to needed financing, and improper limitation and curtailment of its service area.

**D. The Commission Erred by Curtailing and Limiting the Service Area of a Federally Indebted Entity Protected by 7 U.S.C. § 1926(b) (FOF Nos. 18 and COL Nos. 13, 14, and Ordering Paragraph 1.).**

Pursuant to the Consolidated Farm and Rural Development Act of 1961 and 7 U.S. Code § 1926, the United States Department of Agriculture (“USDA”) may make or insure loans to associations and public and quasi-public agencies. To protect a USDA debtor’s ability to service its debt, it is prohibited by federal law to “curtail or limit” the service area of a USDA debtor. The

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<sup>34</sup> 16 TAC § 24.245(h)(7).

<sup>35</sup> See Order No. 10 – Finding Petition Administratively Complete and Notice Sufficient, and Establishing Procedural Schedule (Sept. 15, 2021).

<sup>36</sup> TWC § 13.2541(e); 16 TAC § 24.245(h)(8). However, the Commission does not have authority to enforce these against the District. See Order No. 11 – Denying Petition Request for an Order Requiring Marilee Special Utility District to Withdraw Its Federal Loan Application, at 1 (Oct. 25, 2021).

statute provides:

The service provided or made available through any such association shall not be curtailed or limited by inclusion of the area served by such association within the boundaries of any municipal corporation or other public body, or by the granting of any private franchise for similar service within such area during the term of such loan; nor shall the happening of any such event be the basis of requiring such association to secure any franchise, license, or permit as a condition to continuing to serve the area served by the association at the time of the occurrence of such event.<sup>37</sup>

To be eligible for protection under § 1926(b), the District must show, in addition to federal indebtedness, that it satisfies the “physical abilities” test, as adopted by the U.S. Court of Appeals for the Fifth Circuit, sitting en banc in *Green Valley Special Utility District v. City of Schertz*.<sup>38</sup> Judge Smith, writing for the majority, characterized the “physical abilities” test broadly:

To make the test easy to apply to both water and sewer service, we hold that a utility must show that it has (1) adequate facilities to provide service to the area within a reasonable time after a request for service is made and (2) the legal right to provide service. A utility cannot satisfy that test if it has no nearby infrastructure. But ‘pipes in the ground’ is a colloquial shorthand, not a strict requirement.<sup>39</sup>

The en banc court in *Green Valley* cited with approval precedent from the U.S. Court of Appeals for the Sixth Circuit stating that, to satisfy the “physical abilities” test, the utility must have “something in place to merit § 1926(b)’s protection.”<sup>40</sup> The Court further explained the broad interpretation, “[s]ervice may be ‘available’ even if it cannot be immediately used. No water or sewer utility can make service immediately available to rural, undeveloped land; providing such service involves building or installing facilities, which necessarily takes time to accomplish.”<sup>41</sup> Based on the District’s meters and waterlines located inside the boundaries of the Tract of Land, as reflected in Exhibit B-1, the District is unquestionably providing actual service to the Tract of

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<sup>37</sup> 7 U.S.C § 1926(b).

<sup>38</sup> 969 F.3d 460 (5th Cir. 2020) (en banc).

<sup>39</sup> *Green Valley*, 969 F.3d at 477.

<sup>40</sup> *Id.* at 477 & n.36 (quoting *Lexington—S. Elkhorn Water Dist. v. City of Wilmore*, 93 F.3d 230, 238 (6th Cir. 1996)).

<sup>41</sup> *Id.* at n.38.

Land and, accordingly, more than satisfies the “physical abilities” test.

The District is now consolidated with Mustang Special Utility District (“Mustang SUD”) (together with the District, the “Consolidated District”), in accordance with TWC Chapter 65, Subchapter H.<sup>42</sup> Voters within the two districts passed measures consolidating the districts on November 2, 2021 and the elections have been canvassed.<sup>43</sup>

Prior to consolidation with the District, Mustang SUD was already indebted to the United States of America Department of Agriculture, Rural Utilities Service, which purchased bonds from Mustang SUD in 2016, in the amount of \$14,142,000 and 2018, in the amount of \$1,000,000 (collectively, the “Bonds”).<sup>44</sup> The District assumed Mustang SUD’s federal indebtedness when the District and Mustang SUD were consolidated.<sup>45</sup> The District will be required to make payments on the Bonds until 2055 (2016 Bonds) and 2058 (2018 Bonds).<sup>46</sup>

On July 12, 2021, the District received approval from the USDA for a Water and Wastewater Guaranteed loan of \$1,553,000.<sup>47</sup> The District has not closed on the USDA loan but is working diligently to do so.

Under *Green Valley*, a federally indebted CCN holder has an equitable cause of action for prospective injunctive relief, preventing ongoing or future limitation or curtailment of its service area by the Commissioners.<sup>48</sup> As the Consolidated District is federally indebted, and with the

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<sup>42</sup> See TWC § 65.723 (“Two or more districts governed by this chapter may consolidate into one district as provided by this subchapter.”); see also, e.g., *Petition of Sater L.P. to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Streamlined Expedited Release*, Docket No. 52739 (pending) Marilee Special Utility District’s Verified Response, at Exhibit A (Affidavit of Michael Garrison) at ¶¶ 8-9 & accompanying exhibits (affirming that the District has been consolidated with Mustang SUD) and Exhibit C (Affidavit of Chris Boyd) ¶¶ 3-4 & accompanying exhibits (affirming that Mustang SUD has been consolidated with the District) (Mar. 3, 2022).

<sup>43</sup> See TWC § 65.724 (describing procedure).

<sup>44</sup> See Docket 52739, Marilee Special Utility District’s Verified Response, at Exhibit C (Affidavit of Chris Boyd), at ¶ 5.

<sup>45</sup> See TWC § 65.726

<sup>46</sup> See Docket 52739, Marilee Special Utility District’s Verified Response, at Exhibit C (Affidavit of Chris Boyd), at ¶ 5.

<sup>47</sup> See Docket 52739, Marilee Special Utility District’s Verified Response, at Exhibit A (Affidavit of Michael Garrison), at ¶¶ 5-7 & accompanying exhibits.

<sup>48</sup> See *id.* at 475 (“Because . . . Green Valley has satisfied *Young*’s requirements, its suit for injunctive relief against the PUC Officials may go forward.”) (citing *Ex parte Young*, 209 U.S. 123 (1908)).

scheduled closing of the USDA loan approaching, the District has a federal equitable cause of action against the Commissioners should the Commissioners take action to limit or curtail of its service area.

**E. Point of Error 5—The Commission Erred by Omitting Relevant Facts and Law from the Order, Thereby Creating an Unclear Record.**


The Order omits significant procedural events that occurred during this proceeding from its Findings of Fact. In order to have a clear record on appeal, the District respectfully requests that the Order be revised to include new Conclusions of Law substantially similar to the following:

- **Proposed COL 2A.** Under TWC § 13.2541(c) and 16 TAC § 24.245(h)(7), the Commission must issue a decision on a petition for streamlined expedited release no later than 60 calendar days after the presiding officer determines that the petition is administratively complete.
- **Proposed COL 6A.** A petitioner seeking streamlined expedited release must file with the Commission a petition and supporting documentation verified by a notarized affidavit and containing (A) a statement that the petition is being submitted under TWC §13.2541 and 16 TAC § 24.245(h); (B) proof that the tract of land is at least 25 acres in size; (C) proof that at least part of the tract of land is located in the current CCN holder’s certificated service area and at least some of that part is located in a qualifying county; (D) a statement of facts that demonstrates that the tract of land is not currently receiving service; (E) copies of deeds demonstrating ownership of the tract of land by the landowner; (F) proof that a copy of the petition was mailed to the current CCN holder via certified mail on the day that the landowner filed the petition with the commission; and (G) the mapping information described in 16 TAC § 24.245(k).

**III. CONCLUSION**

WHEREFORE, PREMISES CONSIDERED, the District respectfully requests that the Commission grant its Motion for Rehearing, deny the Petition, all as set forth above, in all respects and grant the District such additional and further relief to which it may be entitled.

Respectfully submitted,

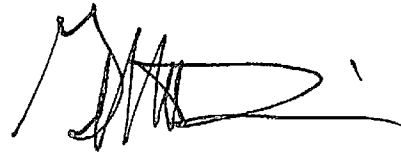
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ATTORNEYS FOR MARILEE SPECIAL  
UTILITY DISTRICT

**CERTIFICATE OF SERVICE**

I hereby certify that I have served or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or Certified Mail Return Receipt Requested to all parties on this 8<sup>th</sup> day of April 2022.



\_\_\_\_\_  
Grayson E. McDaniel