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| PETITION OF CELINA PARTNERS, | § | PUBLIC UTILITY COMMISSION |
| LTD. TO AMEND MARILEE SPECIAL | § | |
| UTILITY DISTRICT'S CERTIFICATE | § | |
| OF CONVENIENCE AND NECESSITY | § | |
| IN COLLIN COUNTY BY EXPEDITED | § | OF TEXAS |
| RELEASE | § | |

**MARILEE SPECIAL UTILITY DISTRICT'S
RESPONSE TO APPEAL OF COMPENSATION AWARD**

TO THE HONORABLE COMMISSION:

COMES NOW, MARILEE SPECIAL UTILITY DISTRICT ("District") and files this Response ("Response") to Celina Partners, Ltd.'s ("Petitioner") Appeal of Marilee's Appraisal ("Appeal"), filed in this docket, and respectfully shows as follows:

I. BACKGROUND

1. On April 4, 2022 the Commission issued a Final Order granting the expedited release requested by the Petitioner. Petitioner's and District's deadline to file their appraisals was 70 days after the Final Order was granted.

2. On June 13, 2022, both Petitioner and District filed their appraisals. Petitioner's appraisal report concluded that District was entitled to zero compensation for the release.¹ District's appraisal report concluded that District was entitled to \$144,712 for the release.²

3. Commission Staff filed its appraisal report, which established a compensation value of \$89,733, on July 13, 2022.³

4. The Commission's Administrative Law Judge Siemankowski issued a Notice of Approval on July 18, 2022.⁴

¹ Petitioner's Submission of Appraisal Report (Jun. 13, 2022).

² Marilee Special Utility District's Submission of Appraisal Report (Jun. 13, 2022).

³ Commission Staff's Submission of Appraisal Report (Jul. 13, 2022).

⁴ Notice of Approval Making a Determination on Compensation (Jul. 18, 2022).

5. On July 28, 2022 Petitioner filed its Notice of Appeal of Compensation Award.⁵

II. RESPONSE

6. Petitioner raised two issues in its appeal of the Notice of Approval. However, Petitioner ignores 16 Texas Administrative Code (“TAC”) § 24.245(i)(3), which the Notice of Approval correctly cites in Conclusion of Law No. 6. The rules states:

The determination of compensation by the agreed-upon appraiser under paragraph (2)(A) or the commission-appointed appraiser under paragraph (2)(B) of this subsection is binding on the commission, former CCN holder, and landowner.⁶

When Petitioner and District failed to agree upon an appraiser, both parties assumed the risk that the Commission’s third appraiser appointed under 16 TAC § 24.245(i)(2)(B) would reach a different conclusion from their own appraisers. In this case, the Commission’s third appraiser in fact reached a conclusion on compensation that was different from Petitioner’s and District’s appraisers. But the Commission’s third appraiser issued his report as required by Rule § 24.245(i)(2)(B). That report is now binding on all parties under the Commission Rules.

7. Petitioner complains that the Commission’s third appraiser did not properly calculate the amount of compensation for two reasons. First, Petitioner complains that “Marilee’s Debt service calculation is hypothetical.”⁷ Second, Petitioner complains that “Attorney’s fees are not reasonable and necessary and improperly include appraisal fees.”⁸ Petitioner’s complaints are without merit.

8. The standards for appraisal in proceedings like this case are found in 16 TAC 24.245(j). Petitioner fails to reference or cite any of the provisions in this section and fails to raise any arguments as to why the Commission’s third appraiser’s report does not comply with these requirements. If Petitioner had referred to the appropriate rule, Petitioner would have been forced to recognize that the rule includes a provision that:

⁵ Petitioner’s Notice of Appeal of Compensation Award (Jul. 28, 2022).

⁶ 16 TAC § 24.245(i)(3)

⁷ Petitioner’s Notice of Appeal at 2.

⁸ *Id.*

(2) The value of personal property must be determined according to this paragraph. The following factors must be used in valuing personal property:


...
(H) any other relevant factors as determined by the commission.⁹

The Commission's third appraiser concluded that Marilee's debt service and expenses were appropriate to include in the compensation to Marilee.¹⁰ That report is now binding on all parties, including the Commission, under the Commission Rules.¹¹

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, the District respectfully requests that the Petitioner's Appeal be denied. The District also seeks all other and further relief to which it may be justly entitled at law or in equity.

Respectfully submitted,

By: 

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ATTORNEY FOR MARILEE SPECIAL
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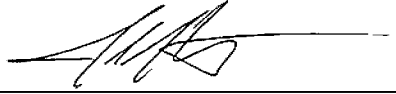
⁹ 16 TAC 24.245(j)(2)

¹⁰ Commission Staff's Submission of Appraisal Report (July 13, 2022), *see* discussion of Factor 2 and Factor 8.

¹¹ 16 TAC § 24.245(i)(3)

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 the 4th day of August 2022.

A handwritten signature in black ink, appearing to read 'JJC', is written over a horizontal line.

John J. Carlton