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Received - 2022-08-15 12:47:25 PM

Control Number - 52497

ItemNumber - 41

DOCKET NO. 52497

**PETITION OF HC CELINA 414, LLC TO § PUBLIC UTILITY COMMISSION
AMEND MARILEE SPECIAL UTILITY §
DISTRICT'S CERTIFICATE OF § OF
CONVENIENCE AND NECESSITY IN §
COLLIN COUNT BY EXPEDITED RELEASE § TEXAS**

PETITIONER'S NOTICE OF APPEAL OF COMPENSATION AWARD

TO THE PUBLIC UTILITY COMMISSION OF TEXAS:

HC Celina 414, LLC ("Petitioner") files this Appeal of Compensation Award pursuant to 16 Texas Administrative Code Section 22.123. In support, Petitioner respectfully shows the Public Utility Commission (the "Commission") as follows:

I. BACKGROUND

1. On September 1, 2021, the petitioner filed a Petition for Streamlined Expedited Release pursuant to Texas Water Code Section 13.2541 seeking to decertify approximately 295.854 acres of property (the "Property") from Marilee Special Utility District's ("Marilee's") Certificate of Convenience and Necessity ("CCN") No. 10150 in Collin County, Texas.

2. On April 4, 2022, the Commission entered its Order granting the Petition (the "Order"). In the Order, the Commission provided as follows:

The proceeding to determine the amount of compensation to be awarded to the CCN holder, if any, commences on the date of this Order in accordance with the schedule adopted in Order No. 5. Any decision on compensation will be made by separate order.

3. On June 13, 2022, the petitioner and Marilee timely submitted appraisal reports for the Property. On August 10, 2022 the Commission submitted its appraisal report for the Property.

4. One August 11, 2022, the Administrative Law Judge issued a Notice of Approval Making a Determination on Compensation ("Notice"), awarding \$12,995.00 to Marilee in

compensation for the streamlined expedited release, and ordering the petitioner to pay that amount within 90 days of the order.

5. Accordingly, the petitioner now appeals this Notice and Order.

II. APPEAL OF NOTICE OF APPROVAL MAKING A DETERMINATION ON COMPENSATION

6. Appeals are available for any order of the presiding officer that immediately prejudices a substantial or material right of a party, or materially affects the course of the hearing, other than evidentiary rulings. Petitioner is immediately prejudiced by the Order because the Commission appraisal relied upon in the Order does not consider the reasonableness and necessity of attorneys' fees, and includes Marilee's fee paid to its appraiser in this calculation.

7. The Commission's appraisal includes Marilee's appraisal fee as a portion of its attorney's fees. This is specifically impermissible under the statute. Texas Water Code Section 13.2541(i) provides as follows:

If the petitioner and the certificate holder cannot agree on an independent appraiser within 10 calendar days after the date on which the utility commission approves the petition, the petitioner and the certificate holder shall each engage its own appraiser *at its own expense*, and each appraisal shall be submitted to the utility commission within 70 calendar days after the date on which the utility commission approves the petition.

TEX, WATER CODE 13.2541(i) (emphasis added)

8. Clearly, Marilee's appraisal fee of \$ \$4,388.00 should not be included in the compensation order. Moreover, Marilee has not demonstrated the reasonableness or necessity of the remainder of its fees.

III. PRAYER

For the aforementioned reasons, Petitioners prays that the ALJ Grant Petitioner's Appeal of the Notice and Order.

Respectfully submitted,

COATS ROSE, P.C

By: 

Natalie B. Scott
State Bar No. 24027970
Terrace 2
2700 Via Fortuna, Suite 350
Austin, Texas 78746
Telephone: (512) 469-7987
Facsimile: (512) 469-9408
Email: nscott@coatsrose.com

ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this document was served on the following attorney of record on or before August 15th, 2022 in accordance with 16 TEX. ADMIN. CODE §22.74(c).

Attorney for Marilee Special Utility District:

John J. Carlton
The Carlton Law Firm, P.L.L.C.
4301 Westbank Drive, Suite B-130
Austin, Texas 78746
Email: john@carltonlawaustin.com

Attorney for PUC:

Andy Aus
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
Email: Andy.Aus@puc.texas.gov



Natalie B. Scott