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**PETITION OF CCD-COIT LAND, 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 CLARIFICATION

COMES NOW, MARILEE SPECIAL UTILITY DISTRICT (“Marilee”) and files this Motion for Clarification of Orders No. 1 and 3 issued by the Public Utility Commission of Texas (“Commission”) in this proceeding. In support of this motion, Marilee respectfully shows as follows:

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I.

BACKGROUND

1. On September 3, 2021, Petitioner CCD-Coit Land, LLC (“Petitioner”) filed a Petition for Expedited Release Pursuant to Texas Water Code § 13.2541 and 16 TAC § 24.245(h) (“Petition”) seeking to extract approximately 118.9044 acres of Property (the “Property”) from the water utility service area Marilee serves under Certificate of Convenience and Necessity (“CCN”) No. 10150 in Collin County, Texas.¹

2. On September 13, 2021, the Honorable Administrative Law Judge Burkhalter (“ALJ”) entered Order No. 1,² which, among other things, requested Commission Staff’s comments on the administrative completeness of the Petition by October 4, 2021 and provided a date of October 11, 2021, for Marilee, as CCN holder, to file a verified response to the Petition.

3. On September 16, 2021, Marilee filed a Motion to Intervene, which was granted.³

¹ Petition at 2 (Sep. 3, 2021).

² Order No. 1 – Requiring Comments on Administrative Completeness, Notice, and Other Matters, and Establishing Procedural Schedule (Sept. 13, 2021).

³ Order No. 2 – Granting Intervention (Sept. 24, 2021).

4. On October 4, 2021, Commission Staff filed its Recommendation on Administrative Completeness of the Petition and Notice, in which Commission Staff identified deficiencies in the Petition, recommended that the Petition be found administratively incomplete and that Petitioner be ordered to cure the deficiencies by November 3, 2021, and recommending that Staff be given a deadline of December 3, 2021 to file a supplemental recommendation on the administrative completeness of the petition.⁴

5. On October 5, 2021, the ALJ entered Order No. 3, finding the Petition administratively incomplete and ordering Petitioner to cure the deficiencies by November 3, 2021; for Commission Staff to file a supplemental recommendation on administrative completeness and notice by December 3, 2021; and for Marilee, as CCN holder, to file a response by December 10, 2021.⁵ Order No. 3 did not address the deadline for Marilee’s verified response that was set in Order No. 1 for October 11, 2021.

II.

REQUEST FOR CLARIFICATION

6. Marilee seeks clarification of the date that its verified response to the Petition is due in this proceeding. Currently, Order No. 1 provides, “by October 11, 2021, Marilee SUD may submit a response, verified by notarized affidavit, to the petition.”⁶ However, the Order also states, “Additional deadlines will be established if the petition is deemed administratively complete.”⁷ Similarly, Order No. 3 provides a deadline of December 10, 2021, for Marilee to provide a response to the Petition, and also states, “Additional deadlines will be established if the petition is deemed administratively complete.”⁸

7. Marilee wholly supports Commission Staff’s recommendation that the Petition is administratively incomplete and the ALJ’s deadlines for cure, supplemental recommendation, and verified response set by Order No. 3. Marilee seeks clarification of whether the finding of

⁴ Commission Staff’s Recommendation on Administrative Completeness of the Petition and Notice at 1 (Oct. 4, 2021).

⁵ Order No. 3 – Requiring Comments on Administrative Completeness, Notice, and Other Matters, and Establishing Procedural Schedule (Oct. 5, 2021).

⁶ Order No. 1 at 2.

⁷ *Id.*

⁸ Order No. 3 at 1.

administrative incompleteness and opportunity to cure also affects the date that Marilee's verified response is due.

8. For the sake of judicial efficiency cost, accuracy, and creating a clear record, Marilee wishes to avoid filing cumulative or duplicative responses to the Petition, and therefore seeks clarification from the ALJ. As the orders currently exist, Marilee would be required to file its verified response to an administratively incomplete petition on October 11, 2021, and then would need to file another verified response on December 10, 2021. Marilee respectfully requests clarification as to whether the ALJ intends for Marilee to file its verified response to the Petition on October 11, 2021, as stated in Order No. 1, or whether Marilee should alternatively consider that deadline implicitly overruled or extended by Order No. 3's new deadlines.

III. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Marilee respectfully requests that the Commission grant its Motion for Clarification and enter an order clarifying whether the October 11, 2021, deadline for Marilee to file its Verified Response to the Petition has been implicitly overruled or extended by Order No. 3's deadline of December 10, 2021.

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 5th day of October 2021.

