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DOCKET NO. 52518

PETITION OF VPTM CROSS CREEK LB, LLC TO AMEND MARILEE SPECIAL UTILITY DISTRICT'S CERTIFICATE OF CONVENIENCE AND NECESSITY IN COLLIN COUNTY BY EXPEDITED RELEASE	§ § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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**COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION ON
ADMINISTRATIVE COMPLETENESS AND NOTICE AND RESPONSE TO MOTION
FOR DISMISSAL**

On September 3, 2021, Clifton Van McKnight and Bryan Jeffery McKnight (Petitioners) filed a petition for streamlined expedited release from Marilee Special Utility District's (Marilee SUD) water Certificate of Convenience and Necessity (CCN) number 10150 under Texas Water Code (TWC) § 13.2541 and 16 Texas Administrative Code (TAC) § 24.245(h). The Petitioners assert that the land to be released is at least 25 contiguous acres, is not receiving water service, and is located in Collin County, which is a qualifying county. Since filing the petition, the property at issue was sold to VPTM Cross Creek LB, LLC (VPTM). As such, on October 6, 2021, VPTM filed an amended petition. On November 4, 2021, VPTM filed supplemental information.

On November 29, 2021, the administrative law judge (ALJ) filed Order No. 4, establishing a deadline of December 8, 2021 for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a supplemental recommendation regarding the administrative completeness of the petition and notice and to propose a procedural schedule. Therefore, this pleading is timely filed.

I. ADMINISTRATIVE COMPLETENESS AND NOTICE SUFFICIENCY

Staff has reviewed the amended petition and recommends that it is administratively incomplete. Specifically, under 16 TAC § 24.245(h)(3)(f), a landowner seeking streamlined expedited release must provide 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. VPTM included a certificate of service in the amended petition, certifying that it sent a copy of the amended petition to the CCN holder, Marilee SUD, by electronic service on the day the petition was filed with the Commission. The amended petition, however, did not include any proof that a

copy was also mailed to Marilee SUD via certified mail on the same day. Accordingly, Staff recommends that the notice and the amended petition be found administratively incomplete. Staff further recommends that VPTM be ordered to cure this notice deficiency by December 16, 2021 and that Staff be given a deadline of December 23, 2021 to file a supplemental recommendation on the administrative completeness of the petition and notice and to propose a procedural schedule.

II. PROCEDURAL SCHEDULE

In accordance with Staff's deficiency recommendation, Staff does not propose a procedural schedule for further processing of the docket at this time. Staff intends to propose a procedural schedule alongside a subsequent recommendation that the petition be found administratively complete.

III. RESPONSE TO MOTION FOR DISMISSAL

Pursuant to 16 TAC § 24.8(d), applications under subchapter H of chapter 24 of the Commission's substantive rules applicable to water and sewer service providers are not considered filed until the Commission makes a determination that the application is administratively complete. Petitions for streamlined expedited release under 16 TAC § 24.245(h) fall under subchapter H of chapter 24. As such, since the amended petition by VPTM has not yet been found administratively complete, it is not yet filed for purposes of Marilee SUD's motion for dismissal. Further, Staff recommends that Marilee SUD's recommendation for this docket to be dismissed and for VPTM to refile the amended petition in a new docket would be a waste of judicial resources. Therefore, Staff recommends that Marilee SUD's motion for dismissal be denied.

IV. CONCLUSION

For the reasons detailed above, Staff recommends that the notice and amended petition be found administratively incomplete, that VPTM be ordered to the notice deficiency by December 16, 2021, that Staff be given a deadline of December 23, 2021 to file a supplemental recommendation on the administrative completeness of the petition and notice and to propose a procedural schedule, and that Marilee SUD's motion for dismissal be denied. Staff respectfully requests the entry of an order consistent with these recommendations.

Dated: December 8, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record on December 8, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Scott Miles
Scott Miles