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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**

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**PUBLIC UTILITY COMMISSION

OF TEXAS**

**ORDER NO. 7
DENYING MOTION TO DISMISS**

This Order addresses Marilee Special Utility District's motion to dismiss, filed on December 1, 2021. The petition in this matter was first submitted to the Commission on September 3, 2021, by Clifton Van McKnight and Bryan Jeffrey McKnight. Two days later, on September 5, 2021, ownership of the tract of land at issue in this proceeding was transferred, via a special warranty deed, to VPTM Cross Creek LB LLC. On October 6, 2021, counsel for VPTM (who had also been counsel for the McKnights) submitted a first amended petition in this proceeding. Explaining that ownership of the property had been transferred and that "the new owners still want to move forward with the decertification process," counsel stated that the first amended petition was submitted "on behalf of the new owner, VPTM Cross Creek LB LLC." Counsel then asked the Commission to "modify the case style in this docket to reflect the correct owner." The first amended petition includes a case style that identifies VPTM as the petitioner. In Order No. 4 filed on November 29, 2021, the administrative law judge (ALJ) restyled the case to reflect the reality that the petitioner is now VPTM.

In its motion to dismiss, Marilee contends that it was improper for the ALJ to have restyled the case and that the McKnights are still the petitioners in this case. Therefore, argues Marilee, because the McKnights no longer own the tract of land, the petition fails to state a claim for which relief may be granted, and it should be dismissed under Texas Administrative Code (TAC) § 22.181(d)(8). Marilee contends that the present docket must be dismissed, and VPTM must be required to file a new petition in a new docket.

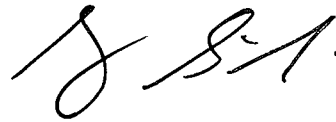
As a matter of law, no petition was filed with the Commission until December 29, 2021, the date on which the ALJ deemed the petition administratively complete. Pursuant to 16 TAC § 24.8(d), applications under subchapter H of chapter 24 of the Commission's rules are not

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 original petition submitted by the McKnights was never found administratively complete, it was never considered filed. Substitution of information on an application that has not yet been filed is permitted. The ALJ further considers that Marilee's recommendation that this docket to be dismissed and VPTM refile a petition in a new docket would be a waste of resources.

Marilee's motion to dismiss is denied.

Signed at Austin, Texas the 2nd day of March 2022.

PUBLIC UTILITY COMMISSION OF TEXAS



GREGORY R. SIEMANKOWSKI
ADMINISTRATIVE LAW JUDGE