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DOCKET NO. 52518

PETITION OF VPTM CROSS CREEK	§	PUBLIC UTILITY COMMISSION
LB, LLC TO AMEND MARILEE	§	
SPECIAL UTILITY DISTRICT'S	§	OF TEXAS
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY IN COLLIN	§	
COUNTY BY EXPEDITED RELEASE	§	

COMMISSION STAFF'S SUBMISSION OF APPRAISAL REPORT

The Staff (Staff) of the Public Utility Commission of Texas (Commission) respectfully submits the attached appraisal report of the Commission-appointed appraiser, pursuant to Texas Water Code § 13.2541(i) and 16 Texas Administrative Code (TAC) § 25.245(i)(2)(B). Order No. 6 in this proceeding provided that this appraisal report was due to be filed within 100 days after the Commission approved the streamlined expedited release. The Commission approved the streamlined expedited release on June 16, 2022. Therefore, this pleading is timely filed.¹

¹ 100 days after June 16, 2022 is September 24, 2022, which is a Saturday. Therefore, the deadline moves to the next day the Commission is open for business, in accordance with 16 TAC § 22.4(a).

Dated: September 26, 2022

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Keith Rogas
Division Director

Sneha Patel
Managing Attorney

/s/ Scott Miles
Scott Miles
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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 September 26, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Scott Miles
Scott Miles

B & D ENVIRONMENTAL, INC.
200 HARBOR CIRCLE
GEORGETOWN, TEXAS 78633
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September 23, 2022

Mr. Scott Miles
Attorney, Legal Division
Public Utility Commission of Texas
1701 N. Congress
P.O. Box 13326
Austin, Texas 78711-3326

Re: PUC 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

Dear Mr. Miles:

Per your request B & D Environmental, Inc. is please to submit this report for the third-party engineering appraisal to determine a compensation value for the expediated release of a portion of Certificate of Convenience Necessity (CCN) No. 10150 per the Order in Public Utility Commission (PUC) Docket No. 52518.

BACKGROUND

VPTM Cross Creek LB, LLC (VPTM) requested and was granted per Commission Order in Docket No. 52518 a streamlined expedited release from the certificated service area of Marilee Special Utility District (Marilee SUD) for a tract of land located in Collin County. This third-party appraisal is to determine the total amount of just and adequate compensation to be paid to Marilee SUD for the loss of decertification of the tract of land in question from its CCN service area. This third-party appraisal was prepared per Texas Water Code §13.254 and 30 Tex. Admin. Code §24.245. This engineering appraisal is based on the requirements of Texas Water Code §13.254(g-1). The total value of compensation will be determined using the factors in Texas Water Code §13.254(g) and only those factors. No compensation was given to any recoverable cost requested that is outside of those listed in the determination of value based on these factors. This engineering appraisal was conduct only for the purpose of determining the value for the decertification of this tract of land from Marilee SUD's service areas and does not represent an appraisal of determined value for the sale of real property.

DOCUMENTS REVIEWED

Documents reviewed for the preparation of this valuation include, but are not limited to:

1. Dan V. Jackson, Vice President, Willdan Financial Services, Compensation Determination for Area Subject to 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 (PUC Docket No. 52518), Dated August 23, 2022
2. Chris Ekrut, Chief Financial Officer and Zak Wright, ASA, NewGen Strategies & Solutions, Compensation for Decertification of a Portion of Marilee Special Utility District's Certificate of Convenience and Necessity, Dated August 22, 2022
3. Filings with the Public Utility Commission of Texas in Docket No. 52518
4. Section 13.254 and 13.2541 of the Texas Water Code
5. 16 Texas Administrative Code §24.245

VALUATION DETERMINATION

This valuation to determine the just and adequate compensation to Marilee SUD for the decertification of the tract of land in question from its certified service area. This valuation was based on the factors provided in Texas Water Code §13.254(g) and 30 Tex. Admin. Code §24.245(j) and only those factors. Based on 30 Tex. Admin. Code §24.245(g)(4)(B) this determination cannot be less than the lower appraisal nor higher than the highest appraisal of the appraisers engaged by the former CCN holder and the petitioner. Both parties submitted appraisals for their calculation of just and adequate compensation. The value established for each factor in this determination is based on the values provided by each parties' appraisal.

Factor 1: The value of real property per the standards set forth in chapter 21 of the Texas Property Code:

The compensation appraisal for the petitioner stated that no real property was being transferred nor rendered useless or permanently under-utilized as a result of this expedited release and assigned no value for this factor. The compensation appraisal of Marilee SUD agreed that no real property was changing hands as results of this decertification. Thus, no value should be applied for this factor.

The value for this Factor: \$0.

Factor 2: The amount of retail public utility's debt allocable for service in the area in question:

The compensation appraisal for VPTM determined no compensation should be granted for this factor. It based this determination of the particulars that Marilee SUD has no facilities and/or customers within the decertified area in question. Nor has Marilee SUD performed acts or supplied any service in the area. It did agree that Marilee SUD may have outstanding debt. This analysis does not take in to account that the area in question might have been included in consideration for the servicing of debt of facilities previous planned for service to the decertified area. Marilee SUD in its compensation appraisal did state that had decertification was not to occur then a portion its debt service would be recoverable from future connections in the area in question. The tract in question had been included in consideration of debt funding for

planning, design and construction of nearby existing facilities to serve if necessary the area in which the decertified tract is located. Marilee SUD should receive justifiable and adequate compensation for this factor but basing that compensation on future projected growth patterns is not reasonable.

A revised determination for this compensation factor has been calculated based on current factors not projected growth patterns. This determination is based on the current debt service (2022) of the district to provide service to its certificated area which includes the tract being decertified. In 2022, the district required \$227,570 in debt servicing to its certificated service area in which the decertified tract is located as determined in Calculation No. 1.¹

Calculation No. 1: Existing Debt Service

$$\begin{aligned} 2022 \text{ Note Payable - GTUA} + 2022 \text{ Revenue Note - Series 2013} &= \text{Total Existing Debt Service} \\ \$53,859 + \$173,711 &= \$227,570 \end{aligned}$$

The facilities near the decertified area can currently serve 620 connections. The annual number of connections that could be built in the decertified area was presumed to be 53.² Therefore, the percentage of potential connections in the decertified area that could currently support the district's debt servicing is 0.085 or 8.5%. See Calculation No. 2.

Calculation No. 2: Debt Service Connection Ratio

$$\begin{aligned} \text{Assumed Annual Connections in Decertified Area} \div \text{Connections in Facilities in Nearby Decertified Area} \\ = \text{Potential Connection Ratio} \\ 53 \text{ Connections} \div 620 \text{ Connection} &= 0.085 \text{ or } 8.5\% \end{aligned}$$

A reasonable amount of debt coverage that could currently be expected from the connections in the decertified tract as determined in Calculation No. 3 is \$19,343

Calculation No. 3: Debt Coverage - Decertified Area

$$\begin{aligned} \text{Total Existing Debt Service} \times \text{Potential Connection Ratio} &= \text{Debt Service - Decertified Area} \\ \$227,570 \times 0.085 &= \$19,343 \end{aligned}$$

Projection estimates of customer growth are necessary and reasonable in the projection of future needed service facilities. But given the current economic conditions, using projecting customer growth to determine compensation is too inaccurate and would require to many assumptions of customer growth patterns and capital debt funding to be reasonable. It is justifiable that Marilee SUD be compensated for the current existing amount of utility debt allocable to the decertified area. Based on this analysis the currently compensation for this factor should be \$19,343.

The value for this Factor: \$19,343.

Factor 3: The value of service facilities of the retail public utility located within the area in question:

The compensation appraisal of Marilee SUD stated it does not operate any service facilities located within the decertified area and thus assigned no value for this factor. The compensation appraisal for VPTM concurred with these findings and agreed that no value should be assigned for this compensation factor. Thus, no value should be allowed for this factor.

¹ Table 2: Existing Debt Service, Chris Ekrut, Chief Financial Officer and Zak Wright, ASA, NewGen Strategies & Solutions, Compensation for Decertification of a Portion of Marilee Special Utility District's Certificate of Convenience and Necessity, Dated August 22, 2022, Page 17.

²Table 1: Assumptions, Chris Ekrut, Chief Financial Officer and Zak Wright, ASA, NewGen Strategies & Solutions, Compensation for Decertification of a Portion of Marilee Special Utility District's Certificate of Convenience and Necessity, Dated August 22, 2022, Page 16.

The value for this Factor: \$0.

Factor 4: The amount of any expenditure for planning, design, or construction of service facilities that are allocable to service to the area in question:

Both the petitioner's compensation appraisal and the appraisal for Marilee SUD did not identify any expenses related to this factor. Since both compensation appraisals agreed that no value be assigned to this factor, no value was allocated for this factor.

The value for this Factor: \$0.

Factor 5: The amount of the retail public utility's contractual obligations allocable to the area in question:

Although Marilee SUD has a couple of contractual obligations which could affect customers in the area in question. However, the district does not any existing customer receiving service in the affected tract being decertified. Therefore, did not have any evidence of increase cost from the loss of this service area to its remaining customers. Celina's appraisal compensation analysis also agreed that Marilee SUD did serve any current customers in the area in question. The appraisal compensation for VPTM argued it would be unreasonable to allocate any existing contractual obligations to the decertified tract in question given that the district had no existing customers in the area in question. Based on these two recommendations, no value should be allocated for this factor.

The value for this Factor: \$0.

Factor 6: Any demonstrated impairment of service or increased of cost to consumers of the retail public utility remaining after the decertification:

Marilee SUD did not find any circumstances that would cause infrastructure to be impaired or permanently underutilized from the decertification of the area in question. The district also agreed that there would be no impairment of service nor potential increase cost to its remaining customers for this compensation factor. VPTM 's appraisal compensation also found no evidence of impairment of service and/or increase to Marilee SUD's remaining customers from the release of the area in question. Based on the agreed conclusions of both party's appraisals, no value should be assigned for this factor.

The value for this Factor: \$0.

Factor 7: The impact on future revenues lost from existing customers:

Both the compensation appraisal for the petitioner and the CCN holder agree that the tract in question contend no existing customer and no loss of future revenues would be experienced. Therefore, no value should be assigned for this factor.

The value for this Factor: \$0.

Factor 8: Necessary and reasonable legal expenses and professional fees

The compensation appraisal for the petitioner agreed that Marilee SUD was entitled to recover any necessary and reasonable legal and professional fees related to this expedited release of a portion of its service area. VPTM filed notice of its intent to an expedited release of this tract of land from the CCN service area of Marilee SUD. Marilee SUD did not initiate the decertification request and certainly should be compensated for its legal expense and professional fees associated with this decertification. Marilee SUD in its compensation appraisal stated that it had incurred \$9,880 of legal expense in connection with this decertification request. Therefore, the compensation attributed to this factor should be \$9,880.

The value for this Factor: \$9,880.

Factor 9: Other relevant factors:

Marilee SUD was also unaware of any other relevant factors in its appraisal compensation. VPTM’s compensation appraisal also did not find any other relevant factor for compensation. Therefore, no value should be allocated for this factor.

The value for this Factor: \$0.

CONCLUSION

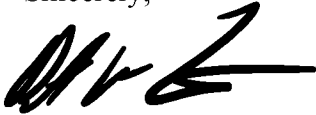
Per 30 Tex. Admin. Code §24.245(g) (4)(B), this third-party appraisal determination cannot be less than the lower appraisal nor higher than the highest appraisal of the appraisers engaged by the former CCN holder and the petitioner for expedited release of the tract in question. Based on the value for each factor determined in this third-party engineering appraisal, the recommended just and adequate compensation Marilee SUD should receive for the decertification of this tract from its CCN service area should be \$29,223 as summarized in Table 1.

Table 1: Value per Determining Factor

Factor 1:	\$	0
Factor 2:		19,343
Factor 3:		0
Factor 4:		0
Factor 5:		0
Factor 6:		0
Factor 7:		0
Factor 8:		9,880
Factor 9:	\$	<u>0</u>
Total Value:	\$	29,223

Should you have any further questions concerning this evaluation, please do not hesitate to contact us at (512) 917-7541.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bret W. Fenner', with a stylized flourish at the end.

Bret W. Fenner, P.E.
B & D Environmental, Inc.