



## Filing Receipt

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**Control Number - 53514**  
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**DOCKET NO. 53514**

<b>PETITION OF SATER, LP TO AMEND</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>MARILEE SPECIAL UTILITY</b>	<b>§</b>	
<b>DISTRICT'S CERTIFICATE OF</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CONVENIENCE AND NECESSITY IN</b>	<b>§</b>	
<b>COLLIN COUNTY BY EXPEDITED</b>	<b>§</b>	
<b>RELEASE</b>	<b>§</b>	

**COMMISSION STAFF'S SUBMISSION OF THIRD-PARTY APPRAISAL REPORT**

The Staff (Staff) of the Public Utility Commission of Texas (Commission) submits the third-party appraisal report in this matter attached to this filing.

Dated: February 14, 2023

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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Division Director

Sneha Patel  
Managing Attorney

/s/ Forrest Smith  
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**DOCKET NO. 53514**

**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 via electronic mail on February 14, 2023, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Forrest Smith  
Forrest Smith

**REPORT OF COMPENSATION FOR  
DECERTIFICATION OF PROPERTY  
WITHIN CCN 10150  
(MARILEE SPECIAL UTILITY DISTRICT)  
TEXAS PUC DOCKET 53514**

PREPARED FOR  
MR. FORREST SMITH  
ATTORNEY, LEGAL DIVISION  
PUBLIC UTILITY COMMISSION OF TEXAS





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Joseph E. Batis, MAI, AI-GRS, R/W-AC

February 13, 2023

Mr. Forrest Smith  
Attorney, Legal Division  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
Austin, Texas 78711-3326

Re: ***Compensation Report for Expedited Release  
Decertification of Part of CCN 10150  
Texas PUC Docket 53514***

Dear Mr. Smith:

Attached is the compensation report prepared by Utility Valuation Experts, Inc., regarding the decertification of part of CCN 10150 (PUC Docket 53514). Please feel free to contact the undersigned should you have any questions regarding the assignment.

Sincerely,

UTILITY VALUATION EXPERTS, INC.

A handwritten signature in black ink, appearing to read "J. E. Batis", written over a horizontal line.

Joseph E. Batis, MAI, AI-GRS, R/W-AC

State Certification in  
Illinois | Missouri | Tennessee | Virginia | Texas  
Arizona | Maryland | New Hampshire | Pennsylvania

## **Table of Contents**

Case Background.....	2
Purpose of the Assignment .....	3
Intended Use and Intended User .....	3
UVE Scope of Work Details .....	4
Compliance with the Uniform Standards of Professional Appraisal Practice.....	4
Relevant Assignment Dates .....	4
Determination of Compensation .....	5
Summary of Compensation Opinions.....	9
Statement of Certification – Joseph E. Batis, MAI, AI-GRS, R/W-AC .....	10

## **ADDENDA**

Qualifications of the Appraiser

### ***Case Background***

Sater, LP, (“Petitioner”) filed a petition on April 21, 2022 with the Public Utility Commission of Texas (“PUC”) for an expedited release from the Marilee Special Utility District (“MSUD”), Certificate of Convenience and Necessity (“CCN”) No. 10150. The petition (Control Number 53514-1) was in accordance with Texas Water Code Section 13.2541 and 16 Texas Administrative Code Section 24.245.

Pursuant to the rules of the applicable Section of the Texas Water Code, the two parties, the Petitioner and MSUD, submitted to the PUC their valuation experts’ opinion reports with their respective opinions of appropriate compensation for the expedited release and decertification of a portion of CCN 10150 per the Petitioner’s application.

The Petitioner retained Willdan Financial Services (“Willdan”), who in turn prepared an opinion report (“Willdan report”) dated December 13, 2022. The Willdan report is addressed to the law firm of COATS ROSE, P.C. (Austin, Texas).<sup>1</sup>

MSUD retained NewGen Strategies & Solutions (“NewGen”), who in turn prepared an opinion report (“NewGen report”) dated December 8, 2022. The NewGen report is addressed to Mustang Special Utility District (Celina, Texas).<sup>2</sup>

The Willdan report and NewGen report include a summary explanation of the respective opinions of their authors that result in the final conclusions noted below:

<i>Opinion of Compensation developed for Petitioner by Willdan:</i>	<u>\$ -0-<sup>3</sup></u>
<i>Opinion of Compensation developed for MSUD by NewGen:</i>	<u>\$32,259</u>

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<sup>1</sup> See Public Utility Commission of Texas, Control Number 53514, Item Number 23.

<sup>2</sup> See Public Utility Commission of Texas, Control Number 53514, Item Number 24.

<sup>3</sup> The Willdan opinion reserves the right for MSUD to recover necessary and reasonable legal and professional fees as approved by the Commission.

Both opinion reports arrive at their conclusions by considering the following factors for just compensation as set forth in Section 13.254(g) of the Texas Water Code:

- *The value of real property owned and utilized by the retail public utility for its facilities (as determined according to the standards set forth in Chapter 21, Property Code, governing actions in eminent domain);*
- *The amount of the retail public utility's debt allocable for service to the area in question;*
- *The value of the service facilities of the retail public utility located within the area in question;*
- *The amount of any expenditures for planning, design, or construction of service facilities that are allocable to service to the area in question;*
- *The amount of the retail public utility's contractual obligations allocable to the area in question;*
- *Any demonstrated impairment of service or increase of cost to consumers of the retail public utility remaining after the decertification;*
- *The impact on future revenues lost from existing customers;*
- *Necessary and reasonable legal expenses and professional fees; and,*
- *Other relevant factors.*

### ***Purpose of the Assignment***

The purpose of this assignment is to develop an opinion of compensation for the expedited release of property from the MSUD CCN 10150.

### ***Intended Use and Intended User***

The intended users of this report include the Petitioner, MSUD, and the Public Utility Commission of Texas. The intended use of this report is to assist the parties in resolving the issue of just compensation resulting from the subject petition for decertification.



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***UVE Scope of Work Details***

Pursuant to Section 13.2541(i) of the Texas Water Code, the PUC Staff appointed Utility Valuation Experts, Inc. ("UVE") to prepare this report. Per the rules of the Texas Water Code, the determination of compensation by UVE may not be less than the lower appraisal (\$0 opined by Willdan) or more than the higher appraisal (\$32,259 opined by NewGen).

In developing its opinion, UVE has reviewed the Willdan Report and the NewGen report, reviewed the files contained in the subject PUC case docket (53514), and reviewed the applicable rules and codes pursuant to the Texas Water Code. This analysis did not include an inspection of the property contained in CCN 10150 or the property which is the subject of petition for expedited release and decertification.

Unless otherwise stated, this analysis does not include any opinions of market value of any real property rights for any property including the CCN and the property proposed for decertification in the subject petition.

***Compliance with the Uniform Standards of Professional Appraisal Practice.***

The appraisal profession adopts and adheres to the rules and requirements of the *Uniform Standards of Professional Appraisal Practice* ("USPAP").

The JURISDICTIONAL EXCEPTION RULE of USPAP recognizes that in certain situations, applicable law or regulation may preclude compliance with any part of USPAP. In the subject case, the rules established by the Texas Water Code set forth specific guidelines for determining compensation that are not necessarily consistent with traditional valuation methodology.

For instance, the factors for consideration in determining compensation as set forth in Section 13.254(g) of the Texas Water Code are not generally considered in the typical valuation of real property rights. Therefore, this valuation assignment is completed by invoking the JURISDICTIONAL EXCEPTION RULE of USPAP.

***Relevant Assignment Dates***

The effective date of value of the UVE analysis and determination of compensation for an expedited release from MSUD as requested by the Petitioner is February 13, 2023. The date of the UVE compensation report is February 13, 2023.

### ***Determination of Compensation***

The following is a summary of the analysis and conclusions developed by UVE in forming its opinion of compensation for the subject case.

**FACTOR ONE** - *The value of real property owned and utilized by the retail public utility for its facilities (as determined according to the standards set forth in Chapter 21, Property Code, governing actions in eminent domain).*

The Willdan report concluded there was no compensation due for this factor.

The NewGen report concluded there was no compensation due for this factor.

Comments: UVE concurs with the opinions of the Willdan and NewGen reports, respectively, with respect to Factor One.

**UVE CONCLUSION FOR FACTOR ONE: Compensation = \$0**

**FACTOR TWO** - *The amount of the retail public utility's debt allocable for service to the area in question*

The Willdan report concluded there was no compensation due for this factor.

The NewGen report concluded there was \$27,923 due for this factor.

Comments: NewGen states in Section 3 (Page 3-1) of its report the following: "Marilee SUD has issued debt to fund the planning, design, and construction of facilities to provide water service to existing and future customers within its CCN." Schedule 1, Table 2 in the NewGen report lists the remaining debt obligations that total approximately \$1,363,890. The NewGen report does not include an explanation for how much of the original debt (or remaining debt) is attributable to the various components (planning, design, and construction)<sup>4</sup>, nor does the NewGen report indicate how much of the original debt (or remaining debt) is allocated to existing facilities as opposed to planned/contemplated facilities (including, but not limited to, the subject Decertified Area). Based upon the NewGen report, the implication is that there are only two areas of the whole CCN from which the debt should be recovered: (1) the area that is currently served by Marilee SUD (existing customers) and (2) the subject Decertified Area -- as all of the approximate \$1.36 million of debt, according to NewGen, is

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<sup>4</sup> It is reasonable to assume that the majority of the debt would apply to construction of facilities, of which there is none in the subject Decertified Area.

attributed to the existing customers and the subject Decertified Area.<sup>5</sup>

Based on these observations, UVE concurs with the opinion contained in the Willdan report with respect to Factor Two.

**UVE CONCLUSION FOR FACTOR TWO: Compensation = \$0**

**FACTOR THREE** - *The value of the service facilities of the retail public utility located within the area in question.*

The Willdan report concluded there was no compensation due for this factor.

The NewGen report concluded there was no compensation due for this factor.

Comments: UVE concurs with the opinions of the Willdan and NewGen reports, respectively, with respect to Factor Three.

**UVE CONCLUSION FOR FACTOR THREE: Compensation = \$0**

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<sup>5</sup> According to Docket 52497, there was a petition by HC Celina, 414, LLC, for an expedited release from the same CCN (Marilee SUD; CCN 10150). The appraisal prepared for Marilee SUD for Docket 52497 (also prepared by NewGen) addressed the issue of recovering a portion of the Marilee SUD debt from the Petitioner for the Decertified Area (for Docket 52497) based upon the number of future connections in that Decertified Area. Even though in that case the number of connections was 0, the analysis demonstrates that there are other areas within CCN 10150 that potentially will (or could) increase the number of connections within the Marilee SUD service area and those potential areas (and the count of those future connections) are not being included in the allocation of the debt in the subject case, as *all of the remaining \$1.59 million* of debt is being attributed to the sum of (1) the existing customers and (2) the potential/future customers exclusively in the subject Decertified Area.

According to Docket 50404, there was a petition by the Sterling Deason O'Donnell Trust for an expedited release from the same CCN (Marilee SUD; CCN 10150). The appraisal prepared for Marilee SUD for Docket 50404 (also prepared by NewGen) addressed the issue of recovering a portion of the Marilee SUD debt from the Petitioner for the Decertified Area (for Docket 50404) based upon the number of future connections in that Decertified Area (estimated in the NewGen report to be 1,094 over a five-year period). In that case (Docket 50404), the total debt of Marilee SUD (estimated at approximately \$1.59 million) was attributed to the sum of (1) the existing customers and (2) the potential/future customers exclusively in that Decertified Area (for Docket 50404).

In each case, the NewGen analysis concludes the total Marilee SUD debt should be attributed exclusively to Marilee's existing customers and the potential/speculative customers only for the Decertified Area to which the respective analysis pertains.

**FACTOR FOUR** - *The amount of any expenditures for planning, design, or construction of service facilities that are allocable to service to the area in question.*

The Willdan report concluded there was no compensation due for this factor.

The NewGen report concluded there was no compensation due for this factor.

Comments: UVE concurs with the opinions of the Willdan and NewGen reports, respectively, with respect to Factor Four.

**UVE CONCLUSION FOR FACTOR FOUR: Compensation = \$0**

**FACTOR FIVE** - *The amount of the retail public utility's contractual obligations allocable to the area in question.*

The Willdan report concluded there was no compensation due for this factor.

The NewGen report concluded there was no compensation due for this factor.

Comments: UVE concurs with the opinions of the Willdan and NewGen reports, respectively, with respect to Factor Five.

**UVE CONCLUSION FOR FACTOR FIVE: Compensation = \$0**

**FACTOR SIX** - *Any demonstrated impairment of service or increase of cost to consumers of the retail public utility remaining after the decertification.*

The Willdan report concluded there was no compensation due for this factor.

The NewGen report concluded there was no compensation due for this factor.

Comments: UVE concurs with the opinions of the Willdan and NewGen reports, respectively, with respect to Factor Six.

**UVE CONCLUSION FOR FACTOR SIX: Compensation = \$0**

**FACTOR SEVEN** - *The impact on future revenues lost from existing customers.*

The Willdan report concluded there was no compensation due for this factor.

The NewGen report concluded there was no compensation due for this factor.

Comments: UVE concurs with the opinions of the Willdan and NewGen reports, respectively, with respect to Factor Seven.

**UVE CONCLUSION FOR FACTOR SEVEN: Compensation = \$0**

**FACTOR EIGHT** - *Necessary and reasonable legal expenses and professional fees.*

The Willdan report concluded there was no compensation due for this factor, but states that MSUD is entitled to recover necessary and reasonable legal and professional fees as approved by the Commission.

The NewGen report concludes an opinion of compensation for legal expenses of \$4,336.

With regard to the legal fees, UVE has reviewed the subject docket as well as other PUC dockets in order to determine what is reasonable for legal fees. In most cases, the legal fees for similar petitions appear to be in the range of approximately \$4,000 to \$7,500. The subject legal fees reported by NewGen (\$4,336) appear to be consistent with the typical fees for similar matters.

**UVE CONCLUSION FOR FACTOR EIGHT: Compensation = \$4,336**

**FACTOR NINE** - *Other relevant factors.*

The Willdan report concluded there was no compensation due for this factor.

The NewGen report concluded there was no compensation due for this factor.

Comments: UVE concurs with the opinions of the Willdan and NewGen reports, respectively, with respect to Factor Nine.

**UVE CONCLUSION FOR FACTOR NINE: Compensation = \$0**

### **Summary of Compensation Opinions**

The following is a summary of the compensation opinions of Willdan, NewGen, and UVE.

<b>SUMMARY OF COMPENSATION OPINIONS</b>			
<b>DECERTIFICATION OF PART OF CCN 10150 (Docket 53514)</b>			
<b>FACTOR</b>	<b>WILLDAN REPORT <i>For Petitioner</i></b>	<b>NEWGEN REPORT <i>For MSUD</i></b>	<b>UVE CONCLUSION</b>
ONE	\$0	\$0	\$0
TWO	\$0	\$27,923	\$0
THREE	\$0	\$0	\$0
FOUR	\$0	\$0	\$0
FIVE	\$0	\$0	\$0
SIX	\$0	\$0	\$0
SEVEN	\$0	\$0	\$0
EIGHT	\$0	\$4,336	\$4,336
NINE	\$0	\$0	\$0
<b>TOTAL</b>	<b>\$0</b>	<b>\$32,259</b>	<b>\$4,336</b>

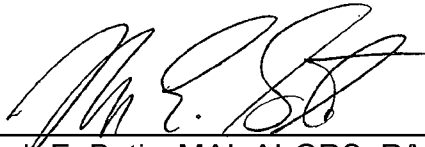
**Statement of Certification – Joseph E. Batis, MAI, AI-GRS, R/W-AC**

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have not performed any services pertaining to the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the developing or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice* and in conformity with the requirements of the *Code of Professional Ethics* and the *Standards of Professional Appraisal Practice* of the Appraisal Institute.
- I have not made a personal inspection of the property that is the subject of this report.

As of the date of this report, Joseph E. Batis has completed the requirements of the continuing education program of the Appraisal Institute.

Furthermore, I certify that the use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.



\_\_\_\_\_  
Joseph E. Batis, MAI, AI-GRS, R/W-AC  
State Certification in  
Illinois | Missouri | Tennessee | Virginia | Texas  
Arizona | Maryland | New Hampshire | Pennsylvania

February 13, 2023  
Date