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PUC DOCKET NO. 53515

PETITION BY MAPLE	§	BEFORE THE
VIEW DEVELOPMENT, LLC	§	
TO AMEND ORBIT SYSTEMS, INC.’S	§	PUBLIC UTILITY COMMISSION
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY IN BRAZORIA	§	OF TEXAS
COUNTY BY EXPEDITED RELEASE	§	

**MAPLE VIEW DEVELOPMENT, LLC’S MOTION TO MAKE DETERMINATION ON
COMPENSATION AND ISSUE NOTICE OF APPROVAL**

TO THE PUBLIC UTILITY COMMISSION OF TEXAS:

COMES NOW, Maple View Development, LLC (“Maple”) and files this, its Motion to Make Determination on Compensation and Issue Notice of Approval.

On October 4, 2022, the Public Utility Commission of Texas (the “Commission”) issued its Order No. 6 granting Maple’s petition for expedited decertification thereby releasing Maple’s property from Orbit Systems, Inc.’s (“Orbit”) certificate of convenience and necessity number 11982. This Order commenced the proceeding to determine the amount of compensation to be awarded to Orbit in accordance with the schedule adopted in Order No. 4.

On October 14, 2022, Maple filed its Notification of Non-Agreement on Appraiser. Orbit then filed a letter of nonparticipation and withdrawal from this proceeding on October 17, 2022. In its letter, Orbit informed the Commission that it will not participate in the compensation phase of the proceeding and will not be submitting an appraisal. On October 18, 2022, Maple filed its Motion to Not Require Compensation Proceeding because Orbit withdrew from this proceeding and indicated its intent to not submit an appraisal. Pursuant to the deadlines established in Order No. 4, the time for Orbit to file an appraisal has passed.

Under PUC rule 16 Texas Administrative Code (“TAC”) § 24.245(i)(4), “[i]f the former CCN holder fails to engage an appraiser or file an appraisal within the timeframes required by [subsection (i) of Section 24.245], the amount of the compensation to be paid will be deemed to be zero.” Because Orbit did not submit an appraisal within the timeframe provided by state law and the PUC’s rules, the Commission should deem the amount of compensation owed to Orbit by Maple to be zero, as required by 16 TAC § 24.245(i)(4).

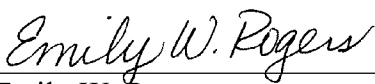
Maple therefore respectfully requests that the Commission deem the amount of compensation owed to by it to Orbit to be zero without need for a compensation proceeding, and to issue a Notice of Approval Making a Determination on Compensation. A form Notice of Approval is attached hereto as Exhibit 1.

Respectfully submitted,

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BY: 

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CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record via email on January 11, 2023, in accordance with the requirements of 16 Tex. Admin. Code § 22.74.

Emily W. Rogers

Emily W. Rogers

Exhibit 1

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NOTICE OF APPROVAL

MAKING A DETERMINATION ON COMPENSATION

In this Notice of Approval, the Commission determines that, for the streamlined expedited release granted in this docket, Maple View Development, LLC (“Maple”) owes no compensation to Orbit Systems, Inc. (“Orbit”) under Texas Water Code § 13.2541. The Commission granted Maple’s petition for streamlined expedited release and removed Maple’s land from Orbit’s service area under water certificate of convenience and necessity number 11982. The Commission’s determination on compensation is based on the fact that Orbit failed to file an appraiser’s report.

I. Findings of Fact

The Commission makes the following findings of fact:

Petitioner

1. Maple is a Texas limited partnership registered with the Texas secretary of state under filing number 804227133.

CCN Holder

2. Orbit is a Texas non-profit corporation registered with the Texas secretary of state under filing number 72981900.

3. Orbit holds water CCN number 11982 that obligates it to provide retail water service in its certificated service area in Brazoria County.

Petition

4. On April 21, 2022, the petitioner filed a petition for streamlined expedited release of a tract of land from the CCN holder's service area under CCN number 11982.
5. In an Order filed on October 4, 2022, the Commission granted the petition and released the petitioner's land from the CCN holder's certificated service area.

Appraisers and Appraisals

6. The petitioner and the CCN holder did not agree on the compensation to be paid to the CCN holder for the streamlined expedited release.
7. The petitioner and the CCN holder did not agree to an independent appraiser.
8. On October 17, 2022, the CCN holder filed a letter of nonparticipation, informing the Commission that it would not submit an appraisal, and indicated it was withdrawing from this proceeding.
9. In response, on October 18, 2022, the petitioner filed its Motion to Not Require Compensation Proceeding based on the CCN holder's indication that it would not submit an appraisal.
10. The CCN holder did not file an appraiser's report within 70 days after the Commission granted the release.

Compensation

11. Because the CCN holder did not file an appraiser's report within 70 days after the Commission granted the release, no compensation is owed for the release.

II. Conclusions of Law

The Commission makes the following conclusions of law:

1. The Commission has authority to determine the amount of compensation to be awarded after granting streamlined expedited release petitions under TWC §§ 13.254 and 13.2541.
2. No notice is required to determine the amount of compensation.
3. No opportunity for a hearing to determine compensation for streamlined expedited release is provided under TWC § 13.2541 or 16 Texas Administrative Code (TAC) § 24.245(h)(7).
4. The determination of compensation under TWC § 13.2541 and 16 TAC § 24.245(i) is not a contested case.
5. Under 16 TAC § 24.245(i)(2)(B), if the petitioner and CCN holder cannot agree on the amount of compensation and cannot agree on an independent appraiser, they must each file their own appraiser's report within 70 days after the Commission grants the streamlined expedited release petition.
6. Under 16 TAC § 24.245(i)(4), if the CCN holder fails to file an appraisal report within 70 days after the Commission granted the streamlined expedited release petition, the amount of compensation due to the CCN holder is deemed to be zero.
7. No compensation is owed by the petitioner to the CCN holder for the release under TWC § 13.2541.
8. The Commission processed the petition in accordance with the TWC and Commission rules.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. No compensation is owned by the petitioner to the CCN holder for the streamlined expedited release.
2. The Commission denies all other motions and any other requests for general or specific reliefs that have not been expressly granted.

Signed at Austin, Texas on _____ day of _____, 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE