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DOCKET NO. 53559

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

**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, VPTM Cross Creek LB LLC owes compensation in the amount of \$19,931 to Marilee Special Utility District under Texas Water Code (TWC) § 13.2541. The Commission previously granted streamlined expedited release and removed a tract of land from Marilee SUD's certificate of convenience and necessity (CCN) number 10150. The Commission's determination on compensation is based on the appraisal by the Commission's appointed appraiser.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

1. VPTM Cross Creek LB is a Delaware limited liability company registered with the Texas secretary of state under filing number 804238579.

CCN Holder

2. Marilee SUD is a special utility district operating under chapter 65 of the Texas Water Code (TWC).
3. Marilee SUD holds CCN number 10150 that obligates it to provide retail water service in its certificated service area in Collin County.
4. On November 2, 2021, Marilee SUD and Mustang Special Utility District were consolidated into a single entity.

Petition

5. On May 4, 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 10150.
6. In an Order filed on October 20, 2022, the Commission granted the petition and released the tract of land from the CCN holder's certificated service area.
7. Ordering paragraph seven of the Order stated that, if streamlined expedited release was granted, this docket would continue for the purpose of determining compensation in accordance with the schedule adopted in Order No. 2.

Appraisers and Appraisals

8. On December 29, 2022, the petitioner filed its appraiser's report, completed by Willdan Financial Services and dated December 29, 2022, which recommended compensation in the amount of \$0.
9. On December 29, 2022, the CCN holder filed its appraiser's report, completed by NewGen Strategies & Solutions and dated December 29, 2022, which recommended compensation in the amount of \$86,441.
10. On January 26, 2023, Commission Staff filed its Commission-appointed appraiser's report, completed by Hartman Consultants, LLC and dated January 23, 2023, which determined compensation was owed in the amount of \$19,931.

Compensation

11. The amount of compensation owed to the CCN holder by the petitioner for the streamlined expedited release is \$19,931.

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 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 on compensation under TWC § 13.2541 and 16 TAC § 24.245(i) is not a contested case.
5. Under 16 TAC § 24.245(i)(2), if a petitioner and CCN holder cannot agree on an independent appraiser, they must each engage their own appraiser at their own expense, and each appraiser's report must be submitted to the Commission within 70 days after release is granted. After receiving the appraisals, the Commission must appoint a third appraiser who must make a determination on compensation. The determination by the Commission's appraiser may not be less than the lower appraisal or more than the higher appraisal made by the appraisers engaged by the CCN holder and the petitioner.
6. Under 16 TAC § 24.245(i)(3), the determination of compensation made by the Commission-appointed appraiser is binding on the Commission, the CCN holder, and the petitioner.
7. Compensation in the amount \$19,931 is owed by the petitioner to the CCN holder for the release under TWC § 13.2541.
8. Under TWC § 13.2541(i) and 16 TAC § 24.245(i)(2)(B), the petitioner and CCN holder must each pay half the cost of the Commission-appointed appraiser.
9. 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. The petitioner must pay to the CCN holder compensation in the amount of \$19,931 within 90 days from the date of this Notice of Approval.
2. If they have not already done so, the CCN holder and the petitioners must, within 30 days of the date of this Notice of Approval, each pay half the cost of the Commission-appointed appraiser.
3. The Commission denies all other motions and any other requests for general or specific relief not expressly granted by this Notice of Approval.

Signed at Austin, Texas the 10th day of February 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink that reads "Katie Moore Marx". The signature is written in a cursive style with a large initial 'K'.

KATIE MOORE MARX
ADMINISTRATIVE LAW JUDGE

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