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## ***Public Utility Commission of Texas***

TO: Stephen Journeay  
Commission Counsel

All Parties of Record

FROM: Katie Moore Marx  
Administrative Law Judge

Handwritten signature of Katie Moore Marx in cursive.

RE: **Docket No. 53918** – *McIlrath Properties LLC's Appeal of the Cost of Obtaining Service from Caddo Basin Special Utility District*

DATE: October 26, 2022

Enclosed is the Proposal for Decision (PFD) in the above-referenced case. By copy of this memo, the parties to this proceeding are being served with the PFD.

Please place this docket on an open meeting agenda for the Commissioners' consideration. Please notify me and the parties of the open meeting date, as well as the deadline for filing exceptions to the PFD, replies to the exceptions, and requests for oral argument.

**If there are no corrections or exceptions, no response is necessary.**

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**DOCKET NO. 53918**

<b>MCILRATH PROPERTIES LLC’S</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>APPEAL OF THE COST OF</b>	<b>§</b>	
<b>OBTAINING SERVICE FROM CADDO</b>	<b>§</b>	<b>OF TEXAS</b>
<b>Basin Special Utility District</b>	<b>§</b>	

**PROPOSAL FOR DECISION**

In this proceeding, McIlrath Properties LLC filed an appeal of the cost of obtaining water service from Caddo Basin Special Utility District under Texas Water Code (TWC) § 13.043(g) and 16 Texas Administrative Code (TAC) § 24.101(g). On September 1, 2022, Commission Staff filed a motion to dismiss the proceeding. In this Proposal for Decision (PFD), the administrative law judge (ALJ) recommends that the Commission dismiss the appeal under 16 TAC § 22.181(d)(1) for lack of jurisdiction. The ALJ recommends that the dismissal be with prejudice.

**I. Findings of Fact**

The ALJ makes the following findings of fact.

1. McIlrath Properties is a Texas limited liability company registered with the Texas secretary of state under file number 801913813.
2. Caddo Basin SUD is a special utility district operating under chapters 49 and 65 of the TWC.
3. Caddo Basin SUD operates, maintains, and controls facilities for providing water service in Hunt and Collin counties under CCN number 10165.
4. On August 1, 2022, McIlrath Properties filed an appeal of the cost of obtaining service from Caddo Basin SUD under TWC § 13.043(g) and 16 TAC § 24.101(g).
5. On September 1, 2022, Commission Staff filed a motion to dismiss for lack of jurisdiction.
6. McIlrath Properties did not file a response to Commission Staff’s motion to dismiss and has filed nothing in this docket since its August 1, 2022 appeal.
7. No hearing was held on the motion to dismiss, and none is necessary, because the facts relevant to jurisdiction are undisputed.

## II. Conclusions of Law

The ALJ makes the following conclusions of law.

1. Under TWC § 13.043(g) and 16 TAC § 24.101(g), an applicant requesting to receive water or sewer service from an affected county, a water supply corporation, or a sewer service corporation may appeal to the Commission the cost to obtain such service as stated by the affected county, water supply corporation, or sewer service corporation.
2. An affected county is defined in TWC § 13.002(26) as a county to which chapter 232, subchapter B, of the Local Government Code applies.
3. A water supply or sewer service corporation is defined in TWC § 13.002(24) as a nonprofit corporation organized and operating under chapter 67 of the TWC that is member-owned and member-controlled and that provides potable water or sewer service for compensation.
4. Caddo Basin SUD is a special utility district operating under chapters 49 and 65 of the TWC and is not an affected county, a water supply corporation, or a sewer service corporation.
5. Because Caddo Basin SUD is not an affected county or a water supply or sewer service corporation, the Commission lacks jurisdiction to consider McIlrath Properties' appeal under TWC § 13.043(g) and 16 TAC § 24.101(g).
6. Under 16 TAC § 22.181(d)(1), the ALJ may recommend to the Commission that it dismiss a proceeding, with or without prejudice, for lack of jurisdiction.
7. Under 16 TAC § 22.181(f)(2), dismissal of a case for reasons other than those specified in 16 TAC § 22.181(g)(1) or (2) requires preparation of a PFD.
8. Dismissal of McIlrath Properties' appeal is proper under 16 TAC § 22.181(d)(1) due to the Commission's lack of jurisdiction.

## III. Ordering Paragraphs

In light of the foregoing findings of fact and conclusions of law, the ALJ recommends the following ordering paragraphs.

1. The Commission dismisses McIlrath Properties' appeal, with prejudice, due to a lack of jurisdiction.

2. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

**Signed at Austin, Texas the 26th day of 2022.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

A handwritten signature in black ink, reading "Katie Moore Marx". The signature is written in a cursive, flowing style.

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**KATIE MOORE MARX  
ADMINISTRATIVE LAW JUDGE**