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PETITION OF MORGAN ACRES, LLC FOR STREAMLINED EXPEDITED RELEASE FROM JOHNSON COUNTY SPECIAL UTILITY DISTRICT'S WATER CERTIFICATE OF CONVENIENCE AND NECESSITY IN JOHNSON COUNTY	§ § § § § § § §	BEFORE THE PUBLIC UTILITY COMMISSION OF TEXAS
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**MORGAN ACRES, LLC'S MOTION TO EXCLUDE OR DISREGARD JOHNSON
COUNTY SPECIAL UTILITY DISTRICT'S RESPONSE TO COMMISSION STAFF'S
RECOMMENDATION ON FINAL DISPOSITION
AND IN THE ALTERNATIVE MORGAN ACRES LLC'S RESPONSE TO SAME**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

COMES NOW, Morgan Acres, LLC ("Petitioner" or "Morgan Acres") and files this above-titled Motion and Alternative Response to Johnson County Special Utility District's ("JCSUD") unsolicited filing of January 10, 2023. Morgan Acres respectfully requests that the Administrative Law Judge ("ALJ") exclude, disregard and not consider JCSUD's filing, or in the alternative also allow this response to that filing to be included in the record of this proceeding. In support thereof, Morgan Acres would respectfully show the following:

I. MOTION TO DISREGARD

ALJ's Order No. 5 established the procedural schedule for this application. The procedural schedule allows each party to brief the ALJ on its position regarding the merits of the Morgan Acres application for expedited release from JCSUD's CCN area and provides for the appraisal process subsequent to the Commission's approval of the streamlined expedited release. The procedural schedule does not provide for filings such as the filing made by JCSUD on January 10, 2023. JCSUD's filing is not a motion or other affirmative request, but rather, an attempt to rebut the positions taken by the PUC staff and the Petitioner in this proceeding. Such a sua sponte response is contrary to the ALJ's established procedural schedule, acts in utter disregard of its underlying

purpose, and therefore should be excluded or disregarded. Ample opportunity has been provided for the parties to state their positions. Allowing additional responses to responses, outside of reasonable and fair constraints leads to interminable back-and-forth filings, and puts a strain on Petitioner's limited resource. Plainly stated, it is an abuse of the PUC's process and should be disallowed.

II. ALTERNATIVE RESPONSE TO JCSUD'S RESPONSE TO COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION

JCSUD's January 10, 2023 response filing continues to mislead the ALJ about the law and facts of this case. Their pleading notably does not include any claim that JCSUD has a water customer within the Morgan Acres tract. They cannot make that claim because they know it is not true. Instead, JCSUD points to water lines along the perimeter of the Morgan Acres property within easements they own and operate for other customers beyond the Morgan Acres tract. That is just an attempt to bootstrap those lines to somehow show JCSUD is providing service to the subject property, when in fact they don't. Exhibit "A" to their January 10, 2023 filing shows this fact and tellingly does not show any customers or lines within the Morgan Acres tract itself. Even better proof is found in Attachment 1 to the affidavit (Exhibit "A") included in JCSUD's Motion to Intervene and Supplemental Response to Petition. Attachment 1 is an aerial photograph of the general area with JCSUD's waterlines and CCN boundary overlain on the aerial photograph. It shows a small 3" line running south in the easement on the west side of the Morgan Acres tract, and a 1"-2.5" line running east along the north boundary of the Morgan Acres tract. The aerial photograph shows that these lines are serving customers well beyond the Petitioner's tract to the east, northeast and south of that tract. They were not installed to serve the Morgan Acres tract. Also, this aerial photograph confirms that JCSUD is not serving anyone in the Morgan Acres tract,

which is the actual relevant consideration for the ALJ's determination on the release, as already briefed by the Petitioner and the PUC staff.

III. CONCLUSION AND PRAYER

Petitioner respectfully requests that the ALJ put a stop to the war of attrition JCSUD is waging, by granting this Motion to Exclude or Disregard. Alternatively, Morgan Acres asks that this Response to JCSUD's Response be included in the record and given due consideration also. Finally, Morgan Acres re-urges its Petition and asks that the ALJ find that it meets all applicable requirements, and grant the Petition. Issues related to the value of any existing infrastructure and what, if any, compensation might be due are rightfully examined in the appraisal phase of this proceeding, and not in the release phase.

Respectfully submitted,

LLOYD GOSSELINK
ROCHELLE & TOWNSEND, P.C.
816 Congress Ave., Suite 1900
Austin, Texas 78701
(512) 322-5800
(512) 472-0532 (Fax)
dnorton@lglawfirm.com

/s/ *Duncan C. Norton*

DUNCAN C. NORTON
State Bar No. 15103950

ATTORNEYS FOR MORGAN ACRES, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was transmitted to all parties of record via electronic mail on January 11, 2023, in accordance with the Order Suspending Rules issued in Project No. 50664.

/s/ *Duncan C. Norton*

DUNCAN C. NORTON