

**SOAH DOCKET NO. 582-23-16963
TCEQ DOCKET NO. 2022-1653-DIS**

APPLICATION FOR CREATION OF LAMPASAS COUNTY MUNICIPAL UTILITY DISTRICT NO. 1	§ § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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APPLICANT’S EXCEPTIONS TO THE PROPOSAL FOR DECISION

TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

Now comes Pitt Creek Ranch LLC, Applicant (“Applicant”), and submits these Exceptions to the Proposal for Decision (“PFD”) filed in this case concerning the application for the creation of Lampasas County Municipal Utility District No. 1 (the “District”) pursuant to Chapters 49 and 54 of the Texas Water Code and Chapter 293 of the Texas Commission of Environmental Quality’s (“TCEQ” or “Commission”) rules (“Application”).

I. INTRODUCTION

The presiding State Office of Administrative Hearings (“SOAH”) Administrative Law Judge (“ALJ”) erroneously concludes in the PFD that Applicant failed to show the project planned for construction by the District is feasible and necessary, and the ALJ recommends that the Commission deny Applicant’s petition to create the District on that basis. Specifically, the ALJ has concluded that Applicant failed to meet its burden of proof to show that projected construction costs, tax rates, and water rates are reasonable, and thus failed to show that the proposed District’s project is feasible. The ALJ has also concluded that the Applicant failed to show a realistic market demand for the proposed development, and thus failed to show that the proposed District’s project is necessary. Respectfully, Applicant disagrees with the ALJ’s conclusions.

The ALJ’s PFD analysis, proposed findings of fact, conclusions of law, and ordering paragraphs that if adopted would result in Application denial are plainly contrary to applicable law, TCEQ policies and practices, and the evidentiary record. Applicant excepts to those portions of the PFD. If the Commission adopts the PFD without changes to those portions, it will significantly violate Applicant’s due process rights and establish precedent that would adversely impact future Texas district creation applicants before the Commission. Therefore, Applicant excepts to the ALJ’s PFD and requests the Commission modify it as discussed herein.

II. PROJECTED CONSTRUCTION COSTS

Applicant excepts to the ALJ's conclusion that the Applicant failed to meet its burden of proof to show in its Application that projected construction costs are reasonable.¹ In reaching this conclusion, the ALJ acknowledges that the construction costs submitted by Applicant as part of the Application were reasonable at the time the application was filed in July 2022.² However, the ALJ also considered testimony filed in November 2023 by Trey Taylor, a witness for the Association of Concerned Landowners of Lampasas County ("Protestant"), asserting that construction costs had increased since the time the Application was filed. Based on this evidence filed more than a year after the Application was submitted, the ALJ found that there is no evidence that construction costs remain reasonable under current cost projections, and thus, concluded that Applicant failed to meet its burden of proof to show that projected construction costs are reasonable. But considering such evidence represents a stark departure from applicable law, TCEQ rules, TCEQ precedent, and TCEQ policy as reflected in the TCEQ ED's direct evidence and the PFD itself.

As part of a MUD creation application, the TCEQ rules require an applicant to submit a preliminary engineering report that includes *tentative* itemized cost *estimates* of the proposed capital improvements and an itemized cost summary for the anticipated bond issue requirement.³ This is consistent with Texas Water Code ("TWC") § 54.015(2) which requires municipal utility district application petitions to "state . . . the cost of the project as *then estimated* by those filing the petition."⁴

Here, the cost information included in the Application is precisely that—as *then estimated*. The Application included a Preliminary Engineering Report that has cost estimates of the proposed capital improvements in the form of engineer's opinions of probable construction costs⁵ and itemized cost summaries for anticipated bond issue requirements developed when the Application was filed.⁶ The Preliminary Engineer's Opinion of Probable Construction Cost contained in Applicant's preliminary engineering report included itemized tables that show the estimated costs for water construction, storm drainage construction, and road construction.

¹ PFD at p. 20.

² PFD at p. 18.

³ 30 TAC § 293.11(d)(1)(E) and (5); *see also* *Petition for the Creation of Ellis Ranch Municipal Utility District No. 1*, TCEQ Docket No. 2022-1157-DIS; SOAH Docket No. 582-23-11658, Order at 8, Explanation of Changes. Para. 1 (July 16, 2024).

⁴ TWC § 54.015(2) (emphasis added).

⁵ App. Ex. 4 (Corrected), pp. 6-7, pp. 52-56.

⁶ App. Ex. 4 (Corrected), pp. 9-10.

The Preliminary Engineer’s Opinion of Probable Construction Cost contained in the Preliminary Engineering Report estimated that construction costs for the District will be approximately \$10,881,500 for water facilities, \$5,3000,000 for storm drainage facilities, and \$15,217,605 for roads. Starting with these facilities cost estimates, then adding a ten percent (10%) increase for contingencies and a fifteen percent (15%) increase for engineering costs, the Preliminary Engineering Report includes an Estimated Total Water & Drainage Cost and Bond Issue Requirement of \$26,800,000 and an Estimated Total Road Improvement Cost & Bond Issue Requirement of \$24,700,000, which combined result in a total bond issue requirement of \$51,500,000.⁷ But all these cost estimates were projected at the time the Preliminary Engineering Report was prepared for the Application filing.

Applicant’s witnesses Paul Schroeder, P.E. and Ken Heroy, P.E. testified that the estimated costs listed in the Preliminary Engineering report were reasonable as of June 2022, which is the month prior to the TCEQ receipt of the Application on July 6, 2022.⁸ Similarly, the TCEQ Executive Director’s (“Staff”) engineering witness, James Walker, testified that (i) the proposed district’s tax rates, construction costs, and water and wastewater rates were reasonable at the time they were submitted compared to other taxing authorities in the area (ii) the improvements are reasonable based on the information submitted with the application in relation to similar water district developments in the region,⁹ and (iii) the water supply infrastructure costs appear to be reasonable when compared to previous district creation applications in the general area.¹⁰ The Protestant’s expert, Trey Taylor, did not refute Applicant’s evidence and did not contend that Applicant’s construction cost projections were inaccurate or unreasonable at the time the Application was filed.¹¹ The PFD does not make any finding to the contrary.

In fact, the ALJ’s PFD says, “The preponderance of the evidence shows that the projected construction costs *were reasonable at the time the application was filed* in 2022.”¹² That is where the ALJ’s PFD analysis should have stopped. Instead, the PFD unnecessarily adds, “There is no evidence that construction costs remain reasonable under *current* cost projections” and includes a

⁷ App. Ex. 4 (Corrected), pp. 9-10.

⁸ App. Ex. 2., p. 8, ll. 1-3; App. Ex. 6, p. 11, ll. 3-5. App. Ex. 21, p. 1.

⁹ ED Ex. 1, p. 7, ll.15-19.

¹⁰ ED Ex. 1, p. 9, ll. 28-30.

¹¹ Tr. at 156:3-157:15, 157:20-158:10, 158:21-159:6, and 159:25-160:4 (Taylor Cross) (Feb. 21, 2024).

¹² PFD at p. 18 (emphasis added).

proposed finding of fact that “Projected construction costs offered by Petitioner are unreasonable under *current* market conditions.”¹³ The apparent reason for this treatment is the ALJ’s interpretation of the Commission’s *Highland Lakes Municipal Utility District No. 1* creation application decision issued on November 6, 2023 (well after the Application was filed).¹⁴ The ALJ found that post-application construction cost information was considered by the Commission in that case.¹⁵ However, Applicant responds that: (1) the portion of that decision that commented on post-application construction costs was not the primary basis for the decision; and (2) to the extent the *Highland Lakes* decision did change the temporal standard for municipal utility district creation application estimates, that precedent was recently superseded by another Commission decision approving the creation of *Ellis Ranch Municipal Utility District No. 1* that is in line with Applicant’s and Staff’s positions.¹⁶

If the PFD is adopted without reversing the ALJ’s cost estimate analysis, it would create a new evidentiary burden for Applicant that no applicable statute, rule, precedent or policy requires. Applicant has not even had the opportunity to present this type of evidence because Applicant prepared the Application based on existing TWC, TCEQ rule, precedent, and policy requirements in place when the Application was filed and which the *Ellis Ranch* decision seems to affirm. There is no TWC, TCEQ rule, precedent, or policy that would lead any municipal utility district creation applicant to believe there was any need to periodically update cost estimates contained in an application over the course of a contested case hearing. That is particularly true given the possibility, as has occurred here, for the application and hearing process to take over two years or more. Importantly, neither the Commission, the TCEQ Executive Director, nor the presiding SOAH ALJ ever directed Applicant to perform this type of update. There must be a bright line temporal standard for application cost estimates. All applicable authority makes that standard the time of application. The Commission should reject all portions of the PFD that would make that standard anything else.

¹³ PFD at 20 and Proposed Finding of Fact Nos. 20, 21, 22, 23, and 24 (emphasis added).

¹⁴ PFD at p. 19 (citing *Petition for Creation of Highland Lakes Municipal Utility District No. 1 of Ellis County*, TCEQ Docket No. 2022-0532-DIS; SOAH Docket No. 582-22-07138, Order at 3, Finding of Fact No. 24, 25, and 29 (Nov. 6, 2023)).

¹⁵ *Id.*

¹⁶ *Petition for the Creation of Ellis Ranch Municipal Utility District No. 1*, TCEQ Docket No. 2022-1157-DIS; SOAH Docket No. 582-23-11658, Order at 9, Explanation of Changes, Sec. 1 (July 16, 2024).

Otherwise, the Commission will be conducting improper *ad hoc* rulemaking without prior notice to Applicant in violation of Applicant's due process rights.¹⁷

For all these reasons, the Commission should reject the ALJ's PFD findings of fact, conclusions of law, and ordering paragraphs that recommend finding Applicant failed to meet its burden of proof to show its projected construction costs are reasonable and instead enter findings and conclusions confirming that Petitioner satisfied that burden. Specifically, Applicant excepts to the ALJ's Findings of Fact Nos. 20, 21, 22, 23, 24, 25, 30, and 32, which are based on the ALJ's erroneous reliance on increases in construction costs and interest rates after Applicant's petition and application were filed in July 2022. These findings of fact should be amended or deleted as follows:

20. Delete.

ADD: The application includes a preliminary engineering report that has tentative itemized cost estimates of the proposed capital improvements in the form of engineer's opinions of probable construction costs and itemized cost summaries for anticipated bond issue requirements.

21. Delete.

22. Delete.

ADD: The District's application projected cost estimates are \$10,881,500 for construction of water facilities, \$5,300,000 for construction of storm drainage facilities, and \$15,217,605 for construction of road improvements.

23. Projected construction costs offered by Petitioner in the application preliminary engineering report were reasonable as of the application date and are reasonable today for application purposes.

24. Delete.

25. Delete.

30. Delete.

¹⁷ See *Texas State Bd. of Pharmacy v. Witcher*, 503 S.W.3d 520, 535-544 (Tex. App.—Austin 2014, pet. denied) (discussing extremely limited exceptions from Texas Administrative Procedures Act ("APA") rulemaking requirements that permit *ad hoc* rulemaking and the APA preference for rulemaking procedures that permit notice and comment); see also *Madden v. Texas Bd. of Chiropractic Exam'rs*, 663 S.W.2d 622, 626-27 (Tex. App.—Austin 1983, writ ref'd n.r.e.) (holding that where *ad hoc* rulemaking was arguably properly used, at a minimum, due process required prior notice of legal criteria and hearing relative to issues that would actually control result).

ADD: The projected tax rate of \$0.9313 per \$100 valuation, comprised of \$0.8813 for debt and \$0.05 for operation and maintenance, falls within the limits set by the TCEQ under its economic feasibility rules.

32. Delete.

ADD: Petitioner has demonstrated that the projected construction costs, tax rates, and water and sewer rates are reasonable.

Applicant also excepts to the PFD's Conclusion of Law No. 11, which would conclude that Petitioner failed to meet its burden of proof to show that the project is feasible in part based on the ALJ's findings regarding construction costs, Conclusion of Law No. 13 which states the Petition should be denied, and Ordering Paragraph No. 1 which would deny the Application in part on this same basis.

III. PROJECTED TAX RATES

Applicant excepts to the ALJ's recommended findings and conclusion that the Applicant failed to meet its burden of proof to show reasonable projected tax rates, which factors into the PFD recommendation to find Applicant failed to show the project is feasible and as a basis to deny the Application.¹⁸ The Applicant also excepts to the PFD finding that the Applicant's projected tax rate of \$0.9313 is not reliable in light of increasing construction costs and interest rates.¹⁹ The Preliminary Engineering Report forecasts a projected combined tax rate for the District of \$0.9313 per \$100 of assessed value. This projected combined tax rate is comprised of a projected debt service tax rate of \$0.4586 per \$100 of assessed value for water and drainage facilities, a projected debt service tax rate of \$0.4227 per \$100 of assessed value for road improvements, and a projected District operation and maintenance tax of \$0.05 per \$100 of assessed value

The Preliminary Engineering Report submitted with the Application and the testimony of Ken Heroy explain the Applicant's projected District tax rate.²⁰ The values used to determine a District tax rate are as follows:

¹⁸ PFD at p. 20, Proposed Findings of Fact Nos. 24, 25, 30, and 32, Conclusion of Law No. 11, and Ordering Paragraph No. 1.

¹⁹ *Id.*

²⁰ App. Ex. 4 (Corrected), pp. 10-12; App. Ex. 6, p 12, ll. 4-12.

- A total estimated bond issue requirement of \$51,500,000 comprised of a bond issue requirement in the amount of \$26,800,000 for water and drainage and a bond issue requirement in the amount of \$24,700,000 for roads.²¹
- A conservative estimate of the total assessed valuation of all Property within the District at full development in the amount of \$357,850,000.²²
- 100% reimbursement of developer costs for eligible facilities.
- An interest rate of 4% per year.²³
- A tax collections rate of 98%.²⁴
- The term of the bonds: 28 years.²⁵

John Barganski testified that Commission Rule 30 TAC § 293.59, regarding economic feasibility of a project, provides that in Lampasas County the combined projected tax rate must not exceed \$1.00 per \$100 assessed value when a district is seeking approval from the Commission for issuances of bonds.²⁶ As explained in the Preliminary Engineering Report, a total projected combined tax rate of \$0.9313 per \$100 of assessed value is within the feasibility limits of TCEQ rules.²⁷ The Preliminary Engineering report shows that the tax rates of other municipal utility districts near the proposed district in the range of \$0.8315--\$0.95 per \$100 of assessed value.²⁸ Mr. Barganski testified that the projected tax rate of \$0.9313 per \$100 of assessed valuation is reasonable and comparable to other new districts in Central Texas.²⁹ Mr. Heroy also testified that the projected tax rate for the District is reasonable and comparable to taxing authorities in the area of the District.³⁰ Mr. Heroy further testified that the total projected overlapping tax rate within the District is comparable to what is common in other districts in Central Texas.³¹

The ALJ acknowledges that the projected tax rate of \$0.9313 per \$100 of assessed value is within the \$1.00 per \$100 of assessed value limit applicable to Lampasas County under the

²¹ App. Ex. 4 (Corrected), p. 9, Table No. 3, p. 10, Table No. 4.

²² App. Ex. 4 (Corrected), pp. 11, Table No. 6,

²³ App. Ex. 4 (Corrected), p. 11.

²⁴ App. Ex. 4 (Corrected), p. 11.

²⁵ App. Ex. 4 (Corrected), p. 11.

²⁶ App. Ex. 16, p. 24, ll. 18-22.

²⁷ App. Ex. 4 (Corrected), p. 12.

²⁸ App. Ex. 4 (Corrected), p. 11, Table 5.

²⁹ App. Ex. 16, p. 25, ll. 5-9.

³⁰ App. Ex. 6, p. 16, l. 22 – p. 17, l 1.

³¹ App. Ex. 6, p. 12, ll. 14-23.

provisions of the Commission’s financial feasibility rule for district bond issues per 30 TAC §293.59.³² However, the ALJ concluded that the Applicant failed to meet its burden of proof to show reasonable projected tax rates because there was no calculation of tax rates based on the Protestant’s cost projections formulated after the application was filed.³³ Applicant reiterates that the tentative itemized cost estimates for capital improvements that are proposed to be constructed by or on behalf of the District are required to be estimated at the time the application is filed, not later.³⁴ Thus, there is no legal basis for the ALJ to impose a requirement for a projected tax rate to be calculated based on updated cost estimates and Applicant excepts to the ALJ’s recommended findings and conclusions on projected tax rates for the same reasons previously discussed with respect to the construction cost estimate issue.

Additionally, the Commission should consider that each municipal utility district (“MUD”) bond issue must meet the TCEQ’s financial feasibility requirements before the TCEQ will approve that bond issuance. In practice, this means that before bonds can be sold, sufficient assessed value must exist within the district so that a tax rate not exceeding \$1.00 will generate sufficient property tax revenues to pay the debt service on the new bonds and any previously outstanding bonds. Applicant witness John Barganski explained, “TCEQ will only approve the issuance of bonds by a district if it determines the issuance of bonds is financially feasible.”³⁵ The Applicant can only be reimbursed costs based on the tax rate limit of \$1.00 per \$100 of assessed value in Lampasas County. If the cost of the capital improvements increases beyond what is estimated in the Application, then the developer’s reimbursement will still be limited in amount or delayed until assessed value increases with time. The PFD does not consider these facts.

To the contrary, the ALJ independently finds without any supporting evidence that increasing construction costs and interest rates will result in a District tax rate that is double or triple the tax rate projected by the Applicant.³⁶ This finding is completely inconsistent with the Commission’s financial feasibility rule for district bond issues, which limits the tax rate for the proposed District at \$1.00 per \$100 of assessed value. The Commission would not allow a district

³² PFD at 20.

³³ PFD at 19-20.

³⁴ TWC § 54.015(2); TAC § 293.11(d)(1)(E) and (5); *see also* *Petition for the Creation of Ellis Ranch Municipal Utility District No. 1*, TCEQ Docket No. 2022-1157-DIS; SOAH Docket No. 582-23-11658, Order at 8, Explanation of Changes. Para. 1 (July 16, 2024).

³⁵ App. Ex. 16, p. 16, ll. 7-9.

³⁶ PFD at Finding of Fact No. 25.

to issue bonds that result in a tax rate that is double or triple the tax limit specified in TCEQ Rule 293.59. Regardless, it seems the ALJ's sole basis for finding Applicant's tax projections unreliable is post application information.³⁷ Therefore, the Commission should reject the ALJ's proposed findings of fact and the conclusion that Applicant failed to meet its burden of proof to show reasonable projected tax rates.

For these reasons, Applicant excepts to the ALJ's Findings of Fact Nos. 24, 25, 30, and 32, stating that the projected tax rate of \$0.9313 is not reliable because of changes in construction costs and interest rates after Applicant's petition and application were filed in July 2022. These findings of fact should be amended as follows:

24. Delete.

25. Delete.

ADD: The developer will pay all upfront costs of capital improvements and can only be reimbursed to the extent available under the \$1 per \$100 valuation maximum tax rate set by TCEQ rules applicable in Lampasas County.

ADD: Each proposed District bond is evaluated by the Commission before issuance, at which time the developer's reimbursement for costs may be limited to satisfy the tax rate cap.

ADD: Although the Petition assumes the issuance of bonds to reimburse the developer 100%, the Applicant can only recoup costs through the tax rate up to the tax rate cap of \$1.00 per \$100 assessed value.

30. Delete.

ADD: The projected tax rate of \$0.9313 per \$100 valuation, comprised of \$0.8813 for debt and \$0.05 for operation and maintenance, falls within the limits set by the Commission under its economic feasibility rules.

ADD: The projected tax rate of \$0.9313 per \$100 of valuation is sufficient to fund a reasonable assessment of costs.

ADD: The District's proposed tax rates are reasonable.

32. Delete.

ADD: Petitioner has demonstrated that the projected construction costs,

³⁷ PFD at 20.

tax rates, and water and sewer rates are reasonable.

Applicant also excepts to the PFD's Conclusion of Law No. 11, which would conclude that Petitioner failed to meet its burden of proof to show that the project is feasible in part based on the ALJ's findings regarding projected construction costs and projected tax rates, Conclusion of Law No. 13 which states the Petition should be denied, and Ordering Paragraph No. 1 which would deny the Application in part on this same basis.

IV. PROJECTED WATER AND SEWER RATES

Applicant excepts to the ALJ's findings and conclusions that the Applicant failed to meet its burden of proof to show the reasonableness of projected water rates that would be paid by the future residents of the proposed District under the water tariff of Corix Utilities (Texas) Inc. ("Corix").³⁸ Applicant further excepts to Finding of Fact No. 26 because it fails to state that during the hearing on the merits, the Petitioner clarified that the projected water rates within the District should be based on the Corix tariff for CCN No. 13227 filed in and now approved in Public Utility Commission of Texas ("PUC") Docket No. 53815.⁴⁰

The land within the proposed District is entirely located within the certificated service area of Corix.⁴¹ A significant reason for including the Applicant's land within a municipal utility district is for the District to assist with financing the cost of installing the water facilities needed for Corix to provide water service to the proposed development.⁴² The Preliminary Engineering Report correctly explains that the proposed District will receive retail water service from Corix Utilities (Texas).⁴³ However, the Preliminary Engineering Report incorrectly states that the residential water rates of the proposed District are expected to be comparable to the water rates of the City of Lampasas. This misstatement was corrected in the prefiled direct testimony of Ken Heroy, the engineering consultant who supervised and compiled the application.

³⁸ PFD at p. 21.

³⁹ The Preliminary Engineering Report explains that each lot within the District will have its own on-site septic tank for wastewater treatment. Thus, the residents of the District will not be charged sewer rates.

⁴⁰ PFD at Finding of Fact No. 26; *Application of Corix Utilities (Texas) Inc. for Authority to Change Rates*, Public Utility Commission of Texas, PUC Docket No. 53815, Order at 12, Conclusion of Law No. 12A (June 13, 2024).

⁴¹ App. Ex. 2, p. 6, ll. 13-18.

⁴² App. Ex. 2, p. 3, l. 21 – p. 4, l. 6.

⁴³ App. Ex. 4 (Corrected), pp. 6 and 13.

Ken Heroy testified that the projected water rates within the District should be based on the Corix tariff for CCN No. 13227 filed in PUC Docket No. 53815.⁴⁴ Mr. Heroy testified that the tariff rates would result in a projected monthly bill of \$180.29 based on a water use of 10,000 gallons per month.⁴⁵ The ALJ noted that the Corix tariff also requires customers to pay a purchased water pass through rate of \$1.61 per 1,000 gallons, a rate case expense surcharge of \$2.55 per month, and a 1% regulatory assessment.⁴⁶ The ALJ also notes that the final rates in PUC Docket No. 53815 were approved on June 13, 2024.⁴⁷ No party has refuted Mr. Heroy’s testimony that the water rates in the Corix tariff will be applicable to residents of the proposed District.

In his analysis, the ALJ explains that there was no testimony that the Corix water rates are reasonable, and there is no authority for concluding that water rates determined to be just and reasonable by the PUC under Section 13.182 of the Texas Water Code are reasonable under Section 54.021 of the Texas Water Code for purposes of evaluating a district creation application. Applicant submits that the ALJ’s reasoning is flawed for several reasons.

The applicable portion of TWC § 54.021 states as follows:

- (b) In determining if the project is feasible and practicable and if it is necessary and would be a benefit to the land included in the district, the commission shall consider:
 - (1) the availability of comparable service from other systems, including but not limited to water districts, municipalities, and regional authorities;
 - (2) the reasonableness of projected construction costs, tax rates, and water and sewer rates; and

First, with regard to TWC § 54.021(b)(1), under CCN No. 13227, Corix has an exclusive right to provide retail water service within the land that is proposed for inclusion within the District. However, Corix currently does not have a water distribution system within the land proposed for inclusion in the District. Also, Corix does not currently have facilities to transport and treat water to serve the scope of residential development that is proposed for the land within the District. Under its water utility tariff, Corix imposes the costs for the distribution and service extension facilities on

⁴⁴ App. Ex. 6, p. 17, l. 21 – p. 18, l. 7.

⁴⁵ App. Ex. 6, p. 17, l. 21 – p. 18, l. 7.

⁴⁶ PFD at p. 17.

⁴⁷ PFD at p. 17, n. 78; *see also Application of Corix Utilities (Texas) Inc. for Authority to Change Rates*; PUC Docket No. 53815, Order (June 13, 2024).

the landowner by requiring developer contributions in aid of construction. Part of the District's project will be constructing the water transmission, treatment, and distribution facilities needed to provide retail water service for the land within the District from Corix. Because Corix does not have the ability to serve the land within the proposed District unless the District constructs water facilities as part of its District project, the ALJ correctly concluded that there is no comparable water service available within the area of the proposed District.⁴⁸

Second, with regard to TWC § 54.021(b)(2), in the context of a typical district creation: (i) the projected construction costs refer to the facilities that will be constructed by or for the proposed district, (ii) the projected tax rates refer to the projected debt service and operations and maintenance tax rates of the proposed district, and (iii) the projected water and sewer rates refer to the retail water and sewer rates that will be charged by the *proposed* district. However, here, the proposed District will not have or charge retail sewer rates because each home will have its own onsite sewage facility, which will be constructed by the landowner or builder when a home is constructed, and the proposed District will not have or charge retail water rates because the retail water service provider, Corix, will charge its retail water rates to residents of the proposed District. Thus, there are no "reasonable water and sewer rates" of the proposed District for the Commission to consider. Instead, the residents of the District are required by Texas statutes and regulations to be charged and pay the retail water rates of Corix that have been set by the PUC's final order in Docket No. 53815 subject to any approved changes in future Corix rate proceedings. Pursuant to Section 13.182 of the Texas Water Code, the PUC is required to ensure that the rates applicable to CCN No. 13227 are just and reasonable.⁴⁹ The Commission may, and should, take judicial notice of the PUC's final order in Docket No. 53815, which expressly states in Conclusion of Law 12A as follows:⁵⁰

12A. The rates approved in this Order are just and reasonable under TWC § 13.182(a).

Thus, the Commission should reject the ALJ's reasoning and conclude that rates charged by Corix for retail water service within the District that are consistent with the PUC's final order in Docket

⁴⁸ PFD at p. 34.

⁴⁹ Texas Water Code § 13.182(a); *see also* Texas Water Code §§ 13.183(a) and (e), 13.186(a), 13.187(h).

⁵⁰ *Application of Corix Utilities (Texas) Inc. for Authority to Change Rates*, PUC Docket No. 53815, Order at 12, Conclusion of Law No. 12A (June 13, 2024). Final tariffs must be filed in PUC Docket No. 56477.

No. 53815 are reasonable in fact, and as a matter of law, and future requested Corix rates will be subject to review by the PUC for reasonableness before they are approved too.

For these reasons, Applicant excepts to the ALJ's Findings of Fact Nos. 26, 27, 29, and 32 because they do not accurately depict Applicant's evidence of water rates within the District as presented at the hearing on the merits, fail to clarify that the District will not charge rates for retail water or sewer service, and fail to acknowledge the PUC's review of the Corix rates that will be charged for reasonableness. These findings of fact should be amended as follows:

26. Delete.

ADD: The preliminary engineering report projects an average monthly retail water bill of \$69.50 based on a water use of 10,000 gallons per month. This bill amount was based on City of Lampasas rates. However, during the hearing on the merits, the Petitioner presented uncontroverted evidence that the projected retail water rates within the District should have been based on the Corix Utilities (Texas) Inc.'s tariff for CCN No. 13227 filed for review in Public Utility Commission of Texas Docket No. 53815.

27. Delete.

ADD: The Property is within Corix Utilities (Texas) Inc.'s water Certificate of Convenience and Necessity (CCN) No. 13227 service area and Corix will provide retail water service within the District. The District will not charge retail water rates or provide retail water service.

ADD: The retail water rates that will be charged by Corix within the District are just and reasonable as finally determined by the Public Utility Commission of Texas in Docket No. 53815 in its June 13, 2024 final order, and future Corix retail water rate changes will similarly be reviewed by the Public Utility Commission of Texas for just and reasonableness.

29. Delete.

ADD: Residents of the District will be required to install onsite septic systems at their own expense. The District will not charge retail sewer rates or provide retail sewer utility service within the District.

32. Delete.

ADD: Petitioner has demonstrated that the projected construction costs, tax rates, and retail water and sewer rates are reasonable.

Applicant also excepts to the PFD's Conclusion of Law No. 11, which would conclude that Petitioner failed to meet its burden of proof to show that the project is feasible in part based on the ALJ's findings regarding projected construction costs and projected tax rates, Conclusion of Law No. 13 which states the Petition should be denied, and Ordering Paragraph No. 1 which would deny the Application in part on this same basis.

V. FEASIBILITY OF THE PROJECT

The Commission should find Applicant's District project feasible. The tentative itemized cost estimates of the proposed capital improvements submitted in the Preliminary Engineering Report contained in the application have not been challenged or refuted by any evidence that such cost estimates were not reasonable at the time the application was submitted to the Commission. The proposed District's projected combined tax rate of \$0.9313 per \$100 of assessed value is within the limit of \$1.00 per \$100 of assessed value allowed for Lampasas County by the Commission's rules. The Commission will not approve the proposed District's issuance of bonds that require a tax rate in excess of the \$1.00 per \$100 of assessed value limitation. The residents of the proposed District will have onsite sewage facilities and will not pay retail sewer rates. The proposed District will not provide retail water service and will not set, charge, or collect retail water rates. The residents of the proposed District will pay the retail water rates stated in the approved tariff of Corix Utilities (Texas) Inc. at the time the water service is provided, which rates have been determined to be just and reasonable by the PUC.

In short, the Applicant has met its burden of proof on the estimated cost of capital improvements, projected tax rates, and retail water and sewer rates, and has met its burden of proof to show that the project to be constructed by or on behalf of the District is feasible. Thus, the Commission should reject the ALJ's conclusion that the Applicant failed to show that the project is feasible.⁵¹ Applicant excepts to contrary proposed Finding of Fact No. 32, Conclusion of Law No. 11, Conclusion of Law No. 13, and Ordering Paragraph No. 1.

VI. NECESSITY AND DEMAND

In the PFD, the ALJ concludes that the Applicant has failed to show a realistic market demand for the proposed development.⁵² In reaching this conclusion, the ALJ improperly

⁵¹ PFD at p.22

⁵² PFD at p. 33.

discounted and mischaracterized the Applicant's forward-looking market study and accorded improper weight to the anecdotal historical evidence of Protestant's witness Richard Petree. Applicant excepts to the ALJ's findings and conclusion that the Applicant failed to show a realistic market demand for the project. Specifically, the Applicant excepts to Finding of Fact Nos. 34, 35, 36, 37, 38, 40, 41, 42, and 43.

Commission rule 30 TAC §293.11 specifies the information required to accompany applications for creation of districts. TCEQ Rule 293.11(a)(6) provides:

- (a) Creation applications for all types of districts, excluding groundwater conservation districts, shall contain the following:
 - (6) if substantial development is proposed, a market study and a developer's financial statement.

First, in compliance with Rule 293.11(a)(6), Applicant provided a market study as part of its Application and it is the only market study in the evidentiary record here. Applicant's market study⁵³ was accepted into evidence along with the testimony of Bryan Glasshagel,⁵⁴ Applicant's expert witness who prepared the market study. The Commission does not publish specific guidance on the content of a market study for a creation application. However, in the context of a district bond application, the Commission has published the "Suggested Outline for Market Study Report," which is Appendix No. 1 to Developer's Bond Application Report Format guidance document.⁵⁵ Applicant's market study contains information that is consistent with the Suggested Outline for Market Study Report to the extent such information is applicable and relevant to a proposed district in which no development has occurred.⁵⁶ Protestant did not present a market study report at all. Thus, Applicant's market study is the only market study report in the record, and it is uncontroverted by any other market study.

Second, Protestant's appraisal district consultant, Richard Petree conceded on cross-examination that he was not trained to perform a market study such as the Zonda market study included in the Application, which was prepared and sponsored by Applicant's expert witness,

⁵³ App. Ex. 15.

⁵⁴ App. Ex. 13.

⁵⁵ TCEQ Publication RG 178, June 2006.

⁵⁶ As part of the Developer's Bond Application Report Format, the Suggested Outline for Market Study Report is directed towards describing the market in an existing district where substantial development has occurred and that is preparing to issue bonds based on the actual assessed value of land and improvements within the district.

Bryan Glasshagel.⁵⁷ Nevertheless, in analyzing Applicant’s evidence on necessity and demand, the ALJ mischaracterized Applicant’s market study by stating that Mr. Glasshagel “speculated” that Lampasas County would issue an average of 65 single family housing permits per year between 2022 and 2026. Contrary to the ALJ’s mischaracterization, the estimate of 65 permits per year was clearly stated in the Zonda market study,⁵⁸ and was directly attributed to Moody’s Analytics.⁵⁹ This use and identification of reference sources by Mr. Glasshagel is consistent with the Commission’s Suggested Outline for Market Study Report. The market study’s projected level for construction of new homes is supported by the record, and the ALJ’s contention otherwise is simply incorrect.

In summary, the recommendations in the PFD on necessity and demand are quite shocking when Applicant’s evidence is compared to that of the Protestant. Instead of according weight to Applicant’s 61-page market study conformed to the Commission’s published guidance and submitted in compliance with Rule 293.11, the ALJ’s PFD relies on two sentences from Mr. Petree’s direct testimony⁶⁰ to misinterpret the evidence by concluding that the annual value and quantity of lot sales projected in Applicant’s market study is unrealistic because the 2021 Lampasas County median household income was \$66,506 and the 2021 median property value in Lampasas County was \$174,300. By the definition of the word “median,” the median income value would indicate that half of the Lampasas County households had an income less than \$66,506 during 2021, and half of the households had an income greater than \$66,506 during 2021. However, this median income value does not provide any information on the financial capability of households having an income greater than \$66,506 in 2021. In the market study, the competitive market area (“CMA”) for the proposed district is defined as Lampasas County.⁶¹ The market study also recognizes the median income within the CMA of Lampasas County in the amount of \$66,019, and further explains that nearly 29% of households in the CMA earn over \$100,000 per year. The market study concludes as follows:

Based upon our projected lot (\$125,000 to \$960,000) and home (\$400,000 to \$2.0 million+) prices for the Subject Property, most buyers will likely have income levels over \$100,000 per year.

⁵⁷ Compare App. Ex. 13, 14, and 15, with Tr. at 116:25-117:15 (Petree Cross) (Feb. 21, 2024).

⁵⁸ App. Ex. 15.

⁵⁹ App. Ex. 15 at p. 19 and p. 49. “Moody’s is projecting that Lampasas County will issue an average of 65 single-family permits per year between 2022 and 2026.”

⁶⁰ Protestant Ex. 7 (Petree Dir.) p. 11, ll. 2-3.

⁶¹ App. Ex. 15, p. 41.

Furthermore, Applicant’s market study does not solely rely on existing residents of Lampasas County to purchase lots in the planned development. Applicant’s market study expressly states:

[W]e anticipate that a mix of growing and maturing families and some pre-retirement/retirement households will represent the dominant buyer profiles at the Subject Property. Given location and product type, the Subject Property will likely attract a sizable number of second home buyers from outside the local area.⁶²

Similarly, by the definition of the word “median,” the median property value would indicate that half of Lampasas County properties had a value less than \$174,300 in 2021, and half of the properties in Lampasas County had a value greater than \$174,300 in 2021. However, this median value does not provide any information on the actual value of properties in excess of \$174,300.

Additionally, Mr. Petree’s median property value testimony does not provide any specific description of the area of a property or whether a property is vacant, residential, commercial, agricultural, or governmental. In contrast, as part of preparing the market study, Mr. Glasshagel compiled and analyzed 2021 residential sales data for Lampasas County, including 24 new home closings and 244 existing home closings. The market study reports that in 2021, Multiple Listing Service closing prices for new and existing homes on 1.0-acre lots ranged from \$175,000 to \$790,000 in Lampasas County.⁶³ The market study also reports that in Lampasas County during 2021, there were 15 new home closings on 1.0-acre+ lots and 152 existing home closings on 1.0-acre+ lots.⁶⁴ The market study acknowledges “With home prices above \$400,000, the Subject Property will be targeting the upper-end of activity in the CMA.”⁶⁵ The testimony of Protestant’s witness Richard Petree reports an increased number of 1-acre+ lot homes being sold in Lampasas County during the year 2022, as compared to the 2021 sales listed in the market study.⁶⁶ Thus, both Applicant’s market study and the testimony by Protestant witness Mr. Petree demonstrate a market demand in Lampasas County for homes on 1.0-acre+ lots at the price levels projected in Applicant’s market study.

In finding that the Applicant failed to show a market demand for the proposed development, the ALJ relies on the Commission’s final order in *Application of Galilee Partners, L.P., for Creation*

⁶² App. Ex. 15, p. 20.

⁶³ App. Ex. 15, p. 9.

⁶⁴ App. Ex. 15, p. 10.

⁶⁵ App. Ex. 15, p. 53.

⁶⁶ Protestant Ex. 7, P. 7, ll. 7-8.

of *Maypearl Water Control and Improvement District No. 1 of Ellis County, Texas* (“Galilee Partners”).⁶⁷ During the Commission’s proceedings in the *Galilee Partners* application, the United States economy encountered an overwhelming collapse of the subprime mortgage industry and a related housing bust. These calamitous events occurred after the *Galilee Partners* application was filed, but before the hearing on the merits was held. In that case, Galilee Partners intended to construct a dense residential development with **several small lots per acre** of residential land in a rural area outside of any city. Because of the unprecedented downturn in the housing market that occurred after the Galilee Partner’s application was filed, the Commissioners concluded that Galilee Partners did not establish a need for a proposed high density starter home development in that rural area.

This case is distinguishable from the facts of *Galilee Partners*. Here, in stark contrast, the development proposed by the Applicant will be large lot rural homes with a public water system and onsite sewer facilities, which is entirely consistent with a rural “ranchette” style of development. Unlike the economic circumstances in *Galilee Partners*, here there has been no evidence of a mortgage industry failure, and there has been no evidence of a housing bust that completely destroyed all demand for large lot rural home sites. Applicant’s market study projects a moderate absorption rate of 18 lots per year for a period of 23 years.⁶⁸ This extended absorption period allows for weathering housing market fluctuations. In *Galilee Partners*, the Commission’s final order contained a finding that dense development in such a rural location was atypical and not consistent with how development occurs. Conversely, the Applicant here proposes to develop large lots of two acres or more, which are entirely consistent with the rural area. The proposed development is planned to offer a range of lot sizes for home sites, including 53 lots having an area of 2 to 4 acres, 358 lots having an area of 5 to 10 acres, 6 lots having an area of 10 to 27 acres, and 4 lots having more than 100 acres.⁶⁹ These distinctions show that the *Galilee Partners* decision is not applicable to the development and projects proposed by the Applicant here.

Mr. Glasshagel evaluated the historical market information and the development plans to project a range of lot prices from \$125,000 to \$960,000 and a range of home prices from \$400,000

⁶⁷ *Galilee Partners, L.P. v. Tex. Comm’n on Env’tl. Quality*, TCEQ Docket No. 2005-1686-DIS, SOAH Docket No. 582-07-2163, Order (April 27, 2009). This case was highlighted by the presiding ALJ as one of interest towards the end of the hearing on the merits while providing post-hearing instructions. See Tr. at 202:7-16 (Feb. 21, 2024). But that case is distinguishable from this one for the reasons discussed herein.

⁶⁸ App. Ex. 15, p. 9.

⁶⁹ App. Ex. 4 (Corrected) p. 44, Preliminary Concept Plan.

to \$2,000,000.⁷⁰ The market study projects that absorption of lots will occur at a relatively slow pace of eighteen lots per year over a twenty-three-year period,⁷¹ which is consistent with a move-up, second home, and retirement community.

A market study that follows the Commission's market study guidance involves more than a superficial inquiry regarding median income and median property values for a single year. Thus, the 2021 median income and median property values within Lampasas County cited by the ALJ do not show by a preponderance of evidence that it is unrealistic that Applicant could sell 18 lots per year as forecast in the market study.^{72 73} The Applicant has submitted a market study that fully supports a market demand for the proposed development within the District and that qualifies for full consideration under the Commission's rules and guidance publications.

The ALJ supported his conclusion regarding a lack of market demand by citing an increase in mortgage rates occurring after the market study was prepared and after the Application was filed, noting that Applicant's market study witness acknowledged that mortgage rates increased after the market study was prepared in early 2022.⁷⁴ Similar to the tentative itemized cost estimates contained in Preliminary Engineering Report, Applicant's market study was prepared and submitted as part of the Application *when it was filed*. No TWC, TCEQ rule, TCEQ precedent, or TCEQ policy requires the results of a MUD creation applicant's market study to be re-evaluated to account for changes in mortgage rates that occur after a district creation application is filed. As previously discussed in these exceptions, each utility bond issue by a MUD must meet the TCEQ's financial feasibility requirements before the TCEQ will approve the issuance of the bonds. Sufficient assessed value must exist within the district so that a tax rate not exceeding \$1.00 per \$100 of assessed value will generate sufficient property tax revenues to pay the debt service on the new bonds and any previously outstanding bonds. The risk of not receiving reimbursement falls on the developer of land within a district, not on the home buyers and residents within the district. Thus, the reimbursements to the developer may occur more slowly than a developer anticipates if (i) development of land within a district occurs more slowly than predicted in a market study, or (ii) the assessed value of improvements and land is less than projected in a market study. The

⁷⁰ App. Ex. 15, p. 9.

⁷¹ *Id.*, p. 9.

⁷² PFD at p. 32.

⁷³ App. Ex. 15, p. 9.

⁷⁴ PFD at p. 33.

uncontroverted evidence in the record confirms that there is a consistent demand for ready to build acreage lots that are served by a public water system.⁷⁵ The Commission should reject the ALJ's conclusion that the Applicant has failed to show a realistic market demand for the proposed development.

Applicant excepts to the ALJ's Findings of Fact Nos. 34, 35, 36, 37, 38, 40, 41, 42, and 43 because they do not accurately interpret Applicant's market study evidence contained in the Application and the evidence presented at the hearing on the merits. These findings of fact should be amended or deleted as follows:

34. Delete.

35. Delete.

ADD: The proposed district is within a three-hour drive of Austin, San Antonio, Dallas-Fort Worth, and Abilene.

36. Delete.

ADD: The application market study projected home values within the District ranging from \$400,000 to \$2,000,000 over a development period of twelve to twenty-three years. Petitioner predicted an average assessed value of homes within the District of \$850,000 over the development period for calculating tax rates and financial feasibility.

37. Delete.

ADD: The application market study projected that buyers of homes within the District will likely have income levels over \$100,000 per year.

38. Delete.

40. Delete.

41. Delete.

42. Delete.

ADD: Petitioner demonstrated a long-term market demand for residential lots larger than one acre in Lampasas County.

43. Delete.

⁷⁵ App. Ex. 18, p. 5, ll.

ADD: Petitioner has demonstrated that the project is necessary.

Applicant also excepts to the PFD's Conclusion of Law No. 12, which would conclude that Petitioner failed to meet its burden of proof to show that the project is necessary, Conclusion of Law No. 13 which states the Petition should be denied, and Ordering Paragraph No. 1 which would deny the Application in part on this same basis.

VII. TRANSCRIPT COSTS

Applicant excepts to the ALJ's recommendation that an appropriate allocation of transcript costs is 80% to Petitioner and 20% to Protestant. Despite the costly discovery and hearing process that Protestant has imposed on Petitioner, Protestant has failed to provide evidence of any impact or adverse effect within the Commission's jurisdiction that its members will suffer as result of the project that is proposed to be undertaken by the District. The contested case hearing revealed that Protestant's true goal is to control Petitioner's use of its land, rather than to protect any justiciable interest of Protestant's members. Applicant also disagrees that Protestant has controverted any of Applicant's evidence despite certain PFD findings and conclusions to the contrary. Regardless, Protestant has cited the transcript in its briefing and arguments, and Protestant has thus benefitted from the preparation of the transcript. Thus, requiring Protestant to pay an equal 50% share of the transcript costs is a fair and reasonable result. Applicant excepts to the ALJ's Findings of Fact Nos. 69 and 70, which should be amended as follows:

69. Delete.

ADD: Protestant failed to provide evidence of any impact or adverse effect that its members will suffer as result of the project that is proposed to be undertaken by the District.

70. Delete.

ADD: Transcript costs should be allocated 50% to Protestant and 50% to the Petitioner.

Applicant also excepts to the PFD's proposed Conclusion of Law No. 16 and Ordering Paragraph No. 2 which should be similarly revised on this same basis.

VIII. REVISIONS TO CONCLUSIONS OF LAW AND ORDERING PARAGRAPHS

To facilitate Commission implementation of the foregoing exceptions and proposed changes to the PFD's proposed findings of fact, Applicant requests the Commission adopt the following marked revisions, additions, and deletions to the conclusions of law and ordering paragraphs contained in the PFD:

Revisions to Conclusions of Law

1. No change.
2. No change.
3. No change.
4. No change.
5. No change.

ADD: The maximum allowable combined tax valuation for the District is \$ 1.00 per \$ 100. 30 Tex. Admin. Code§ 293.59(k).

ADD: The estimated cost for a district's project and the reasonableness of the projected construction costs shall be evaluated as of the time the district creation petition and application are filed with the Commission for the purposes of TEX. WATER CODE §§54.015 and 54.021 and 30 TEX. ADMIN CODE §293.11.

ADD: The reasonableness of the projected tax rates and total tax assessments on all land located within a proposed district shall be evaluated as of the time the district creation petition and application are filed with the Commission for the purposes of TEX. WATER CODE § 54.021 and 30 TEX. ADMIN CODE §293.11.

ADD: The Applicant submitted sufficient evidence to establish the reasonableness of the District's projected construction costs and tax rates. Tex . Water Code§ 54.021(b)(2).

ADD: The Applicant submitted sufficient evidence to establish that the District is economically feasible. 30 Tex. Admin. Code§ 293.59(b).

ADD: The rates that will be charged by Corix Utilities (Texas) Inc. for retail water service within the District that are consistent with the Public Utility

Commission of Texas final order in Docket No. 53815 are just and reasonable as a matter of law.

6. No change.

7. No change.

ADD: Sufficient evidence was presented to establish that the funding of the road improvements is financially and economically feasible. 30 Tex. Admin Code §293.11(d)(5)(J).

ADD: The necessity for a district's project shall be evaluated as of the time the district creation petition and application are filed with the Commission for the purposes of TEX. WATER CODE §54.021 and 30 TEX. ADMIN CODE §293.11.

ADD: The Application provided complete justification for creation of the District supported by evidence that the project is feasible, practicable, necessary, and will benefit all of the land included in the district. 30 Tex. Admin. Code § 293.11(d)(5)(J).

ADD: The District is feasible, practicable, necessary, and will benefit all of the land included in the District. Tex. Water Code § 54.021.

8. No change.

9. Delete.

10. Delete.

11. Petitioner met its burden of proof to show that the project is feasible. Tex. Water Code § 54.021.

12. Petitioner met its burden of proof to show that the project is necessary. Tex. Water Code § 54.021.

13. The petition should be granted.

ADD: Kurt Lippert, Randy Juenger, Lynn Yuan, Gerry Courtney, and James Leftwich qualify to be temporary directors under Texas Water Code § 54.022.

14. No change.

15. No change.

16. Considering the factors in 30 Texas Administrative Code section

80.23(d)(1), an appropriate allocation of transcript costs is: 50% to Petitioner and 50% to Protestant.

Revisions to Ordering Paragraphs

1. The Petition for Creation of Lampasas County Municipal Utility District No. 1 and the request to acquire road powers is granted and the District is created under the terms and conditions of Article XVI, Section 59 of the Texas Constitution and Texas Water Code Chapters 49 and 54.

- ADD: 1A. Kurt Lippert, Randy Juenger, Lynn Yuan, Gerry Courtney, and James Leftwich are named and appointed as temporary directors and shall, as soon as practicable after the date of entry of this Order, execute their official bonds and take their official oaths of office. All such bonds shall be approved by the Board of Directors of the District, and each bond and oath shall be filed with the District and retained in its records.

2. The transcript costs are allocated 50% to the Petitioner and 50% to Protestant.

3. No change.

- 3A. This Order shall in no event be construed as an approval of any proposed agreements or of any particular items in any documents provided in support of the petition for creation, nor as a commitment or requirement of the TCEQ in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for TCEQ consideration.

4. No change.

5. No change.

6. No change.

IX. CONCLUSION

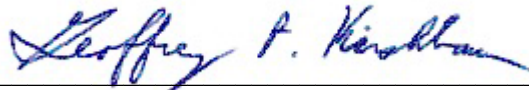
The Applicant has met its burden of proof to establish that the proposed project is feasible and practical and is necessary and would benefit the land to be included in the proposed district. The Application for creation of the District should be approved. The Applicant respectfully requests that the Commission grant their exceptions to the ALJ's Proposal for Decision and proposed finding of fact and conclusions of law, and adopt Applicant's proposed findings of fact, conclusions of law, and ordering paragraphs included herein, and approve the creation of the District.

In the alternative and in the unlikely event that the Commission determines that Applicant's Application should be evaluated based on cost and market information arising after the application was filed in 2022, or related projected tax estimates, the Applicant respectfully requests that its Application be remanded to the Executive Director and/or SOAH to provide Applicant an opportunity to revise and supplement its Application based on cost and market information available as of a date certain specified by the Commission. Applicant respectfully requests such other any further relief to which it may be entitled.

Respectfully submitted,

/s/ Richard Hamala

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**ATTORNEYS FOR PITT CREEK
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CERTIFICATE OF SERVICE

I certify that on July 29, 2024, a true and correct copy of this pleading was emailed to the persons listed below:

/s/ Richard Hamala
Richard Hamala

LAMPASAS COUNTY MUNICIPAL UTILITY DISTRICT NO. 1 SOAH DOCKET NO. 582-23-16963; TCEQ DOCKET NO. 2022-1653-DIS	
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