

TCEQ DOCKET NO. 2024-1872-DIS
TCEQ INTERNAL CONTROL NO. D-03122024-020

PETITION BY CRYSTAL CLEAR	§	BEFORE THE TEXAS COMMISSION
SPECIAL UTILITY DISTRICT FOR	§	ON
APPROVAL TO LEVY IMPACT FEE	§	ENVIRONMENTAL QUALITY

CRYSTAL CLEAR SUD’S RESPONSE TO HEARING REQUESTS

TO THE HONORABLE COMMISSONERS:

COMES NOW, Crystal Clear Special Utility District (“Crystal Clear SUD” or “Applicant”) and files this Response to Hearing Requests on its Petition for Approval of Amended Impact Fee (the “Petition”) in the above-referenced docket. Crystal Clear opposes the requests for hearing submitted by Austin Mark Ventures, LLC (“Austin Mark”) and Mr. Joseph Benavides (“Benavides”) submitted to the Commission in connection with Crystal Clear SUD’s Petition for Approval to Levy an Impact Fee, and in support of its opposition would respectfully show the Commission as follows.

I. CRYSTAL CLEAR’S PETITION MEETS ALL APPLICABLE COMMISSION REQUIREMENTS AND ITS PROPOSED IMPACT FEE ADJUSTMENT IS NECESSARY TO THE STATUTORY MANDATE THAT CRYSTAL CLEAR PROVIDE CONTINUOUS AND ADEQUATE SERVICE TO ALL CUSTOMERS WITHIN ITS DISTRICT BOUNDARY AND CCN SERVICE AREA.

In support of its Application to increase its impact fee from \$2,500 to \$5,163 per new standard residential connection, Crystal Clear provided (1) a certified copy of the September 23, 2023 Crystal Clear Board of Directors’ resolution authorizing approval of the impact fee and stating the amount of the proposed fee; (2) the Crystal Clear 2023-2032 capital improvements plan report (“CIP”), signed and sealed by Crystal Clear’s consulting professional engineer and identifying the proposed capital improvements for which the impact fees will be assessed; (3) the required land use plan mapping, including number of connections, methodology associated with each category of development, identifying properties against which the impact fees shall be

assessed, proposed land uses, and existing facilities, and including estimated demand required by the new connections; (4) the description of facilities intended to be financed through impact fees and detailed cost analysis, which was included in the CIP; and (5) a detailed calculation of the impact fee and complete explanation of all assumptions used in the calculation prepared by an independent consultant.

These materials met all applicable TCEQ standards and Crystal Clear's Petition was determined to be administratively complete on March 12, 2024. On September 30, 2024 the Districts Bond Team determined that the Petition complied with the Commission's technical requirements, Crystal Clear's proposed revised impact fee of \$5,163 per standard residential connection appeared to be "reasonable, equitable and necessary as a mechanism to finance improvements which serve the designated service area and is within the limits allowed by applicable statutes and TCEQ rules."

II. NEITHER AUSTIN MARK VENTURES NOR MR. BENAVIDES HAVE ESTABLISHED A PERSONAL JUSTICIABLE INTEREST.

As with the many thousands of other landowners within Crystal Clear's 206 square mile District boundary and certificate of convenience and necessity ("CCN") service area, the hearing requests submitted by Austin Mark and Benavides have established *only* that they are landowners in the District. Austin Mark and Benavides have each failed to show that they are uniquely situated or uniquely impacted by the Petition, nor can they. As a retail public utility and CCN holder, Crystal Clear has a mandatory state law duty to provide "continuous and adequate service" to all customers within its CCN service area. *See* TEX. WATER CODE § 13.250. Crystal Clear is mandated by law to charge rates, including its impact fee in a manner that is neither unreasonably preferential, prejudicial nor discriminatory,¹ and, as the Districts Bond Team concluded in finding

¹ *See* TEX. WATER CODE § 13.043(h).

the Petition reasonable, equitable and necessary, the proposed impact fee meets this statutory requirement.

Neither Austin Mark Ventures nor Benavides has alleged any technical deficiency or unique effect of its proposed impact fee adjustment that is uncommon with the effect Crystal Clear's impact fee would have on any of the other thousands of landowners with Crystal Clear's district boundary who may request new service. While Austin Mark repeatedly alleges that the proposed impact fee either is or may "unreasonable, inequitable and an unnecessary to finance improvements" and further speculates both that "it *does not appear* that the proposed fee is being proposed to fund or recoup the costs of facility expansions necessitated by new development" and that "the proposed impact fee would improperly assess fees to either pay for existing infrastructure or new infrastructure to serve existing service area," Austin Mark offers zero evidentiary support for this speculation.

Similarly, Benavides has not demonstrated any unique interest in the outcome of Crystal Clear's impact fee petition that is not shared with all other landowners within its district boundary and CCN service area who *may* request future service. Benavides appears to incorrectly believe that its proposed impact fee would burden existing customers, asserting that "CCSUD does not need this expansion to service its current customers." Benavides is correct and Crystal Clear is prohibited by law from imposing impact fees for existing connections or for maintenance and repair of existing facilities. The proposed impact fees may only be assessed to new development.²

² Benavides incorrectly believes that most new service connections will be made to existing customers. While Crystal Clear receives a small handful of requests for additional meters to existing customers, it has gone under contract for over 8,000 new residential meters in the past three years, which would more than double Crystal Clear's customer base upon completion of these subdivision projects.

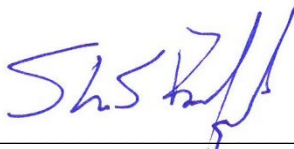
As a special utility district operating pursuant to the requirements of Texas Water Code Chapters 49 and 65, and its enabling act,³ Crystal Clear has no taxing authority and thus must rely on impact fees assessed on new development to finance infrastructure improvements. Were its impact fee petition to be denied, Crystal Clear's only alternative to meet its statutory mandate to serve all customers within the hundreds of miles that encompass its service area would be to place the burden of system expansion on its existing customer base. Thus, Austin Mark, Benavides and other land developers are essentially requesting that Crystal Clear *subsidize* new development on the backs of Crystal Clear's existing customers who have already bought in to Crystal Clear's infrastructure when their property initially received service.

III. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Crystal Clear Special Utility District respectfully requests that the Commissioners deny the hearing requests of Austin Mark Ventures, LLC and Joseph Benavides, that the Commissioners approve Crystal Clear's petition authorizing the imposition of a \$5,163 impact fee for all new standard residential service connections, and that the Commissioners grant Crystal Clear any additional relief to which it may be entitled.

³ See Texas Special District Local Laws Code Chapter 7206.

Respectfully submitted,

By: _____

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**ATTORNEYS FOR CRYSTAL CLEAR
SPECIAL UTILITY DISTRICT**

CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2024, a true and correct copy of the foregoing was served as indicated.

VIA ELECTRONIC FILING

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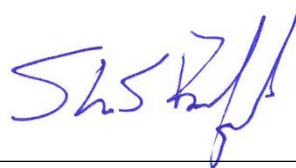
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