

# State Office of Administrative Hearings

Kristofer S. Monson  
Chief Administrative Law Judge

December 17, 2025

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**VIA EFILE TEXAS**

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**VIA EFILE TEXAS and REGULAR MAIL**

**RE: SOAH Docket No. 582-25-13425; TCEQ No. 2024-1872-DIS;  
*Application by Crystal Clear Special Utility District for Approval to  
Levy an Amended Impact Fee***

Dear Parties:

Please find attached a Proposal for Decision on Summary Disposition in this case.

Any party may, within 20 days after the date of issuance of the PFD, file exceptions or briefs. Any replies to exceptions, briefs, or proposed findings of fact shall be filed within 30 days after the date of issuance on the PFD. 30 Tex. Admin. Code § 80.257.

All exceptions, briefs, and replies along with certification of service to the above parties and the ALJ shall be filed with the Chief Clerk of the TCEQ electronically at <http://www14.tceq.texas.gov/epic/eFiling/> or by filing an original and seven copies with the Chief Clerk of the TCEQ. Failure to provide copies may be grounds for withholding consideration of the pleadings.

CC: Service List

**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**APPLICATION BY  
CRYSTAL CLEAR SPECIAL UTILITY DISTRICT  
FOR APPROVAL TO LEVY AN AMENDED IMPACT FEE**

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**PROPOSAL FOR DECISION ON SUMMARY DISPOSITION**

Crystal Clear Special Utility District (CCSUD) filed an application with the Texas Commission on Environmental Quality (TCEQ) to levy a revised impact fee of \$5,163 per standard residential connection within its district boundary (Application). The Administrative Law Judge (ALJ) granted CCSUD's Motion for Summary Disposition (MSD) and recommends that the Application be approved.

**I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY**

No party challenged notice or jurisdiction, which are addressed in the proposed order without further discussion here.

The Application was filed on March 11, 2024. On February 5, 2025, TCEQ granted requests for contested case hearing filed by Joseph Benavides and Austin Mark Ventures, LLC (Mark Ventures), and referred this case to the State Office of Administrative Hearings (SOAH). A preliminary hearing was held on April 14, 2025, at which the ALJ admitted the administrative record into evidence.<sup>1</sup> CCSUD, TCEQ's Executive Director (ED), the Office of Public Interest Counsel (OPIC), Mr. Benavides, and Mark Ventures were named as parties to the proceeding. Mark Ventures subsequently withdrew its protest and request for a contested case hearing.

A hearing on the merits was scheduled, and a procedural schedule was adopted that included deadlines for dispositive motions. CCSUD filed a Supplement to Application on June 30, 2025, and timely filed its direct case on July 1, 2025. The ED timely filed her direct case on August 15, 2025. Neither OPIC nor Mr. Benavides filed a direct case. CCSUD filed its MSD on August 15, 2025, and Mr. Benavides filed a response on August 27, 2025. No party made additional filings by the September 26, 2025 deadline set in the procedural schedule.

After considering the pleadings, evidence, and applicable law, on October 1, 2025, the ALJ granted CCSUD's MSD, canceled the hearing on the merits, and ordered CCSUD to file proposed findings of fact (FOF) and conclusions of law (COL) by October 31, 2025. CCSUD and Mr. Benavides both timely filed proposed FOF and COL.

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<sup>1</sup> Tabs A-C were admitted at the preliminary hearing. By agreement of all parties at the preliminary hearing, Tab D (the full Application with exhibits) was filed and admitted on April 16, 2025.

## II. APPLICABLE LAW

CCSUD was created in 2013 by an act of the Texas Legislature.<sup>2</sup> Its enabling legislation permits CCSUD to charge a water service impact fee not greater than the capital recovery fee charged by the Crystal Clear Water Supply Corporation (CCWSC) on December 31, 2012, under CCWSC's tariff.<sup>3</sup> The impact fee may be increased, *inter alia*, by approval of the Commission.<sup>4</sup> If a special utility district's impact fee is "reasonable, equitable, and necessary as a mechanism to finance improvements to serve the designated service area," TCEQ "shall approve" the capital improvements plan and impact fee.<sup>5</sup>

CCSUD has the burden of proof to show that the amended impact fee is reasonable, equitable, and necessary.<sup>6</sup> The standard of proof is a preponderance of the evidence.<sup>7</sup>

SOAH has adopted TCEQ's procedural rules for hearings referred by TCEQ.<sup>8</sup> Under TCEQ's rules, summary disposition shall be granted on all or part of a contested case if there is no genuine issue as to any material fact and the moving

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<sup>2</sup> Tex. Spec. Dist. Code ch. 7206.

<sup>3</sup> Tex. Spec. Dist. Code § 7206.102(a).

<sup>4</sup> Tex. Spec. Dist. Code § 7206.102(c).

<sup>5</sup> 30 Tex. Admin. Code § 293.174.

<sup>6</sup> 1 Tex. Admin. Code § 155.427.

<sup>7</sup> *Granek v. Tex. State Bd. of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).

<sup>8</sup> 1 Tex. Admin. Code § 155.1(f).

party is entitled to summary disposition as a matter of law on all or some of the issues expressly set out in the motion or in an answer or any other response.<sup>9</sup> Summary disposition may be granted “based on the uncontroverted testimonial evidence of an interested witness, or of an expert witness as to subject matter concerning which the judge must be guided solely by the opinion testimony of experts.”<sup>10</sup> Summary disposition evidence must be “clear, positive and direct, otherwise credible and free from contradictions and inconsistencies, and could have been readily controverted.”<sup>11</sup>

### **III. DISCUSSION**

#### **A. EVIDENCE**

In Order No. 7, granting CCSUD’s MSD, the ALJ admitted CCSUD’s direct case, consisting of Exhibits E through G, inclusive of attachments 1-15.<sup>12</sup> The ED’s Exhibits ED-JT-1 through ED-JT-5 were also admitted,<sup>13</sup> and together with the Administrative Record, constituted the record evidence.

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<sup>9</sup> 30 Tex. Admin. Code § 80.137(c).

<sup>10</sup> 30 Tex. Admin. Code § 80.137(d).

<sup>11</sup> 30 Tex. Admin. Code § 80.137(d).

<sup>12</sup> CCSUD’s exhibits were labeled and admitted as follows: Ex. E (Direct Testimony of Regina Franke, CCSUD General Manager); Ex. F (Direct Testimony of Brady Kosub, P.E., M&S Engineering); Ex. G (Direct Testimony of Jason Gray, Willdan Financial Services). CCSUD Ex. E has 10 attachments (numbered 1-10), Ex. F has three attachments (numbered 11-13), and Ex. G has four attachments (copies of Attachments 1-2 and attachments numbered 14-15). Attachment 2, included with Ex. E and Ex. G, is the Supplement to Application.

<sup>13</sup> ED Ex. ED-JT-1 is the Direct Testimony of Justin Taack, Manager of TCEQ Districts Section, Water Supply Division. Ex. ED-JT-2 is Mr. Taack’s résumé; Ex. ED-JT-3 is the ED’s Technical Memorandum; Ex. ED-JT-4 is the CCSUD Capital Improvement Plan and Study; and Ex ED-JT-5 is CCSUD’s June 30, 2025 Supplement to the Application.

## B. ANALYSIS

Although Mr. Benavides did not file a direct case, he filed a response to CCSUD's MSD. In the response, Mr. Benavides reiterated his argument, previously stated in other pleadings, that CCSUD's Application was improperly supplemented by a June 30, 2025 filing.<sup>14</sup> With its initial March 11, 2024 Application, CCSUD attached a 2022 Water Supply Acquisition Fee and Impact Fee Study (2022 Study) instead of a 2023 PowerPoint presentation (2023 Spreadsheet). CCSUD's June 30, 2025 Supplement to Application attached the 2023 Spreadsheet. Mr. Benavides contends that the supplement cannot be considered by SOAH because it was not submitted to TCEQ with the initial Application, and CCSUD must file a new application. Because CCSUD's Supplement to Application was filed by the deadline for its direct case, Mr. Benavides's motion to exclude the supplement was denied.<sup>15</sup>

CCSUD's direct case includes fact and expert testimony supporting CCSUD's assertion that the requested impact fee meets applicable requirements. The ED's direct case also includes testimony finding that the impact fee is reasonable and necessary and recommending that it be approved. In Order No. 7 granting the MSD, the ALJ noted that this case is not an obvious candidate for resolution on summary disposition because determining whether a fee is "reasonable," "equitable," and "necessary" implicates fact-based inquiries and, if

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<sup>14</sup> Benevides Response to CCSUD Motion for Summary Disposition at 2.

<sup>15</sup> See SOAH Order No. 5 (Jul. 18, 2025). In SOAH Order No. 7, the ALJ assigned numbers to the earlier issued orders for ease of reference. See SOAH Order No. 7 (Oct. 1, 2025) at n. 1.

there are genuine issues of material fact as to these elements, summary disposition might be inappropriate.<sup>16</sup>

The summary disposition evidence in this case met the requirements of being “clear, positive and direct, otherwise credible and free from contradictions and inconsistencies.”<sup>17</sup> The evidence could also have been “readily controverted” by fact and/or expert testimony; but there is no controverting evidence in the record. Therefore, the uncontroverted evidence shows that the impact fee proposed in the Application is reasonable, equitable, and necessary as a mechanism to finance improvements to serve the designated service area and should be approved by TCEQ.

#### **IV. CONCLUSION**

For the reasons stated above, the ALJ recommends the Application be approved. In further support of this recommendation, the ALJ has prepared the Findings of Fact and Conclusions of Law incorporated with the accompanying proposed Order of the Commission.

**Signed December 17, 2025**

ALJ Signature:



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Pratibha J. Shenoy  
Administrative Law Judge

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<sup>16</sup> 30 Tex. Admin. Code § 80.137(c).

<sup>17</sup> 30 Tex. Admin. Code § 80.137(d).



**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

**AN ORDER GRANTING THE APPLICATION OF  
CRYSTAL CLEAR SPECIAL UTILITY DISTRICT  
FOR APPROVAL TO LEVY AN AMENDED IMPACT FEE  
SOAH DOCKET NO. 582-25-01926  
TCEQ DOCKET NO. 2024-1872-DIS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality (TCEQ or Commission) considered the application of Crystal Clear Special Utility District (CCSUD) to levy a revised impact fee of \$5,163 per standard residential connection within its district boundary (Application). A Proposal for Decision on Summary Disposition (PFD) was presented by Pratibha J. Shenoy, an Administrative Law Judge (ALJ) of the State Office of Administrative Hearings (SOAH), after granting CCSUD's Motion for Summary Disposition on October 1, 2025.

After considering the PFD, the Commission makes the following findings of fact and conclusions of law.

## I. FINDINGS OF FACT

### Procedural History

1. CCSUD filed its Application on March 11, 2024, and requested a limited waiver of the notice requirements pursuant to 30 Texas Administrative Code section 293.173.
2. On March 12, 2024, the Application was declared administratively complete.
3. On August 21, 2024, the TCEQ Districts Section approved CCSUD's request for limited waiver of the notice requirements under 30 Texas Administrative Code section 293.173.
4. Notice of the Application was published in the following newspapers: on August 25 and September 1, 2024, in *The Daily Record*, a newspaper regularly published or circulated in Hays County; on August 25 and September 1, 2024, in the *Seguin Gazette*, a newspaper regularly published or circulated in Guadalupe County; and on August 18 and September 4, 2024, in the *Herald-Zeitung*, a newspaper regularly published or circulated in Comal County.
5. On September 4, 2024, notice of the Application was mailed to all landowners and developers who expressed an interest in service during the past five years.
6. Notice of the Application was also provided to all CCSUD customers via an insert to all customers in September 2024 billings.
7. On September 12, 2024, Joseph Benavides filed a request for a contested case hearing with the TCEQ Chief Clerk's Office.
8. On September 24, 2024, Austin Mark Ventures, LLC (Mark Ventures) filed a request for contested case hearing with the TCEQ Chief Clerk's Office.
9. On February 5, 2025, TCEQ granted the requests for contested case hearing submitted by Joseph Benavides and Mark Ventures and referred the Application to SOAH.

10. On April 14, 2025, the SOAH ALJ conducted a preliminary hearing, at which time CCSUD, the TCEQ Executive Director (ED), the Office of Public Interest Counsel (OPIC), Mark Ventures, and Mr. Benavides were named as parties.
11. The TCEQ ED offered the administrative record, which was admitted as Applicant Exhibits Tab A through Tab C.
12. On April 16, 2025, ED Staff filed Tab D of the Administrative Record, the full Application with all attachments, as agreed to by all parties at the preliminary hearing.
13. On April 21, 2025, Mark Ventures withdrew its protest and request for contested case hearing.
14. On May 7, 2025, the ALJ issued an order formally admitting Tab D to the Administrative Record, adopting a procedural schedule, scheduling a hearing on the merits, and granting Mark Ventures's motion to withdraw.
15. On June 30, 2025, CCSUD filed a Supplement to Application.
16. On July 1, 2025, CCSUD filed the direct testimonies of Regina Franke, General Manager of CCSUD; Brady Kosub, P.E., the engineer for CCSUD; and Jason Gray, an expert in utility rate and impact fee development. A copy of the Supplement to Application was attached to the testimonies of Ms. Franke and Mr. Gray.
17. On August 15, 2025, the ED filed the direct testimony of Justin Taack, TCEQ Districts Section Manager, who testified that CCSUD's proposed impact fee is reasonable and necessary and recommended its approval.
18. On August 15, 2025, CCSUD filed a motion for summary disposition or, in the alternative, motion to compel.
19. On August 27, 2025, Mr. Benavides filed a response to CCSUD's motion for summary disposition.

20. On October 1, 2025, the ALJ granted CCSUD's motion for summary disposition and canceled the hearing on the merits scheduled for October 15-16, 2025.

### **Applicant**

21. CCSUD is a special utility district created in 2013 by an act of the Texas Legislature, codified at Texas Special District Local Laws Code chapter 7206.
22. CCSUD holds water certificate of convenience and necessity number 10297.
23. CCSUD's service area contains approximately 203.77 square miles within Hays, Comal, and Guadalupe Counties, Texas, including portions of the rapidly-growing Interstate Highway 35 corridor between Austin and San Antonio.
24. As of July 1, 2025, CCSUD provided retail water service to approximately 6,939 customer accounts.

### **Application**

25. The Application, as supplemented, includes a capital improvement plan, land use assumptions, and an impact fee study, which identified the capital improvements necessary to serve new development during the planning period of 2023 to 2032.
26. The proposed impact fee was based on a projected average annual growth rate of 12 percent over a planning period of 2023 to 2032.

### **Eligibility to Levy Impact Fee**

27. CCSUD's enabling legislation authorizes it to increase its impact fee in accordance with Chapter 395 of the Texas Local Government Code, as approved by the Commission, or as otherwise provided by law.
28. CCSUD's application to amend its impact fee was submitted following the procedures outlined in title 30, chapter 293 of the Texas Administrative Code.

### **Hearing Requests and Referral to SOAH**

29. Between September 12 to 24, 2024, two parties requested a contested case hearing on the Application.
30. On January 30, 2025, the ED issued a Response to Hearing Requests, recommending that the Commission find Mark Ventures and Mr. Benavides to be affected persons, grant their hearing requests, and refer the Application to SOAH for a contested case hearing.
31. Mr. Benavides is the only party remaining in this proceeding who contested the Application.

### **Testimony**

32. The pre-filed evidence—both factual and expert testimony and exhibits—supports the reasonableness, equity, and necessity of the proposed impact fee.
33. OPIC did not pre-file any testimony or evidence controverting the reasonableness, equity, or necessity of the proposed impact fee.
34. Mr. Benavides did not pre-file any testimony or evidence controverting the reasonableness, equity, or necessity of the proposed impact fee.

### **Calculation of the Impact Fee**

35. CCSUD's requested impact fee of \$5,163 is supported by a capital improvement plan prepared, signed, and sealed by a professional engineer.
36. The capital improvement plan identifies the proposed capital improvements for which impact fees will be assessed and contains a projected number of

connections attributable to new development that does not exceed a development period of 10 years.

37. CCSUD's Application, as supplemented, includes a detailed calculation of the impact fee amount, including an explanation of all assumptions used in the calculation.
38. The impact fee was calculated using a well-established and well-suited methodology endorsed by industry experts and used by utilities nationwide.

## II. CONCLUSIONS OF LAW

1. The Commission has authority over this proceeding. Tex. Spec. Dist. Code § 7206.102; Tex. Loc. Gov't Code § 395.080; 30 Tex. Admin. Code ch. 290, subch. N.
2. SOAH has jurisdiction to conduct a hearing and to prepare a PFD in this case pursuant to Texas Government Code § 2003.047.
3. CCSUD has the burden of proof in this case. 1 Tex. Admin. Code § 155.427.
4. The standard of proof is a preponderance of the evidence. *Granek v. Tex. State Bd. of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).
5. CCSUD is a special utility district. Texas Water Code § 65.001 *et seq.*
6. CCSUD is eligible to file this application for an amended impact fee. Tex. Loc. Gov't Code § 395.080; 30 Tex. Admin. Code §§ 293.171-176.
7. CCSUD's Application, as supplemented, complies with the requirements of 30 Texas Administrative Code § 293.172(1)-(8).
8. CCSUD calculated its impact fee in accordance with 30 Texas Administrative Code § 293.172.
9. CCSUD provided notice of the Application as required. 30 Tex. Admin. Code § 293.173(c).

10. The impact fee approved by this Order is reasonable, equitable, and necessary to finance improvements required to serve CCSUD's service area, based on the evidence presented. 30 Tex. Admin. Code § 293.174.
11. CCSUD's revised impact fee in the amount of \$5,163.00 is approved.

**ISSUED:**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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**Brooke Paup, Chairwoman, For the Commission**