

TCEQ DOCKET NO. 2026-0189-DIS

PETITION FOR THE	§	BEFORE THE
CREATION OF WILLIAMSON	§	TEXAS COMMISSION
COUNTY MUNICIPAL	§	ON
UTILITY DISTRICT NO. 67	§	ENVIRONMENTAL QUALITY
	§	

**PROTESTANT WILLIAMSON COUNTY’S REPLY TO RESPONSES TO REQUEST
FOR CONTESTED CASE HEARING ON PETITION FOR CREATION OF
WILLIAMSON COUNTY MUNICIPAL UTILITY DISTRICT NO. 67**

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

Williamson County, Texas (County) files this Reply (Reply) to the Responses of the Executive Director (ED) and the Office of Public Interest Counsel (OPIC) to the County’s Request for Contested Case Hearing on Pinehurst Builders, LLC (Applicant) Petition (Petition) for the Creation of Williamson County Municipal Utility District No. 67 (District).

**I.
REPLY TO THE RESPONSES TO THE COUNTY’S HEARING REQUEST**

The Commission may grant a contested case hearing on the Petition if a written hearing request is filed within thirty (30) days after the newspaper publication of this notice. A contested case hearing may be requested by an “affected persons”, when authorized by law¹. An “affected person” is defined as “[a] person who has a personal justiciable interested related to a legal right, duty, privilege, power, or economic interest affected by the application.”² An interest common to the general public does not qualify as a personal justiciable interest.³ Governmental entities, like the County, with authority under state law over issues contemplated by the application may be

¹ 30 Tex. Admin. Code § 55.201(b)(4).

² 30 Tex. Admin. Code §§ 55.103 and 55.256(a).

³ *Id.*

considered “affected persons.”⁴ The Commission must consider all relevant factors when making a determination of an “affected person,” including, but not limited to the following:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health, safety, and use of property of the person;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
- (6) *for governmental entities, their statutory authority over or interest in the issues relevant to the application.*⁵

The County is an “affected person” entitled to a contested case hearing on issues raised in the Petition pursuant to 30 Tex. Admin. Code § 55.256(c)(6) because the County has statutory and/or constitutional authority over various functions affected by the creation of the proposed District.

In their Responses, the ED and OPIC incorrectly assert that the County is not an “affected person,” and its request for a hearing should be denied,⁶ despite conceding that the County’s hearing request identifies statutory interests.⁷ The ED and OPIC erroneously conclude that “[w]hile the County’s hearing request identifies a statutory interest, it does not sufficiently explain how the creation would affect that interest and should therefore be denied.”⁸ The ED argues that TCEQ provides a non-exclusive list of factors which must be considered in evaluating hearing requests, including “whether the interest claimed is one protected by the law under which the

⁴ 30 Tex. Admin. Code § 55.256(b).

⁵ 30 Tex. Admin. Code § 55.256(c) (emphasis added).

⁶ Executive Director’s Response to Hearing Request at 6 (March 23, 2026) (ED’s Response); *see also* Office of Public Interest Counsel’s Response to Hearing Request at 9 (March 23, 2026) (OPIC’s Response).

⁷ ED’s Response at 5.; *see also* OPIC’s Response at 7-8.

⁸ *Id.*

application will be considered” *and* “whether a reasonable relationship exists between the interest claimed and the activity regulated.”⁹

However, in its Response to determine who is an “affected person”, the ED lists only two of the six non-exhaustive factors listed in 30 Tex. Admin Code § 55.256(c).¹⁰ The ED fails to mention that 30 Tex. Admin. Code § 55.256(c) states, “[a]ll *relevant* factors shall be considered, including, but not limited to the following,” before listing the six factors. (emphasis added). 30 Tex. Admin. Code § 55.256(c)(6) specifically relates to governmental entities, such as the County, stating, “for governmental entities, their statutory authority over or interest in the issues relevant to the application.” Additionally, 30 Tex. Admin. Code § 55.256(b) states, “[e]xcept as provided by §55.103 of this title (relating to Definitions), governmental entities, including local governments and public agencies, with authority under state law over issues contemplated by the application may be considered affected persons.”

The ED and OPIC have conceded that the County has identified a statutory interest.¹¹ The County, in its Request for Contested Case Hearing (“Request”), cited the County’s authority over various functions, including but not limited to, transportation, emergency services, water quality, and health and safety that are all relevant to the creation of the proposed District.¹² Thus, the

⁹ ED’s Response at 5 (emphasis added).

¹⁰ *Id.*

¹¹ ED’s Response at 5.; *see also* OPIC’s Response at 7-8.

¹² Williamson County’s Request for Contested Case Hearing at 1 (Sep. 24, 2025). (County’s Request). The County’s Request cites: Local Government Code §§ 232.001-.011 (county authority for road construction in subdivisions as well as other subdivision regulations); Local Government Code Chapter 254 (drainage on public roads); Transportation Code § 251.016 (general control over roads, highways and bridges); Transportation Code § 251.003 (county order and rulemaking authority for roads); Local Government Code § 552.101 (regulation of water lines in county right of way); Health and Safety Code § 121.003 (enforcement of laws to promote public health); Health and Safety Code Chapter 366 (license procedures for private sewage facilities); Water Code § 26.171 et seq. (enforcement of water quality controls and inspection of public waters); Local Government Code § 352.001 et seq. (emergency fire protection service); Government Code Chapter 418 (emergency management); Health and Safety Code Chapter 343 (abatement of public nuisances); Local Government Code § 561.003 (flood control); Local Government Code § 562.016 (authority to own, operate, or acquire wastewater facilities); Local Gov’t Code Sect. 233.031-.036 (Building set-back lines) Local Gov’t Code Chapter 233, Subchapter C (fire code in unincorporated areas); Local Gov’t Code

County has authority under state law over the issues contemplated by this Application, is therefore an “affected person,” and its request for a hearing on the Application should be granted pursuant to 30 Tex. Admin. Code § 55.256.

Further, in its Response, the ED makes a secondary argument regarding two additional issues it considered in its ultimate recommendation that the County not be deemed an “affected person.” The ED states, “[n]otably the County has made multiple nearly identical requests for other MUD applications within the county over the past calendar year.”¹³ The ED also states that the District, if created, would still have to comply with County platting and road regulations.¹⁴ While it is true that the six factors listed in 30 Tex. Admin. Code § 55.256(c) are not exhaustive, only *relevant* factors can be considered.¹⁵ A reviewing court evaluates the Commission’s determination of “affected person” status by utilizing the abuse of discretion standard of review, and finds that an agency abuses its discretion in making a decision if it: (a) fails to consider a factor the legislature directs it to consider; (b) *considers an irrelevant factor*; or (c) weighs only relevant factors that the legislature directs it to consider but still reaches a completely unreasonable result.¹⁶

Neither of these are relevant factors to the determination of whether the County is an “affected person.” The ED cites no precedent or statutory authority to support its proposition that that a county’s prior history of protests or a district’s compliance with the rules and regulations of the county in which it is created are relevant to the analysis in 30 Tex. Admin. Code § 55.256(c). For the Commission to do so now, would establish a precedent contrary to the plain language of 30 Tex. Admin. Code §§ 55.256(b) and (c)(6). Lastly, even though the District, if created, would

Sect. 232.102-104 (Thoroughfare Plan, lot frontage, set-backs); and Local Gov’t Code Sect. 232.110 (Apportionment of County Infrastructure Costs).

¹³ ED’s Response at 5.

¹⁴ *Id.*

¹⁵ 30 Tex. Admin. Code § 55.256(c) (emphasis added).

¹⁶ *Sierra Club v. Texas Comm’n on Env’t Quality*, 455 S.W.3d 214, 233 (Tex. App. — Austin, 2014) (*pet. denied* (Oct. 9, 2015); *reh’g of pet. denied* (December 18, 2015)) (emphasis added).

still have to comply with the County's platting and road regulations, the County still has an interest in the impact of the District's proposed creation to platting and road regulations beyond just meeting County standards. The County has an interest in ensuring the District has sufficient taxing capacity to construct, operate, and maintain the required infrastructure in the District, including the proposed roads. If the District does not have sufficient taxes to fund, operate, and maintain the required infrastructure, poorly maintained facilities and roads affect the County's emergency services, impact the water quality within the County, and cause drainage problems. Thus, the two additional issues the ED considered in its Response are irrelevant and should be disregarded by the Commission.

Lastly, the ED discusses the County's reference to a Consent and Development Agreement ("Agreement") in its Request.¹⁷ The ED states the County's reference to such Agreement is not within the scope of what the TCEQ may consider pursuant to TWC § 54.021 when evaluating a petition for creation of a municipal utility district.¹⁸ The County's reference to such Agreement does not negate the fact that the County has met the requirements of 30 Tex. Admin. Code §§ 55.256(b) and (c)(6) and, in its Request for Contested Case Hearing, identified multiple relevant statutory interests, and as such, the County should be deemed an "affected person" and its hearing request be granted.

II. CONCLUSION

The County respectfully requests the Commission determine the County is an "affected person," grant the County party status, and refer this matter to the State Office of Administrative Hearings, and grant all relief just and reasonable.

¹⁷ ED's Response at 5.

¹⁸ *Id.*

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CERTIFICATE OF SERVICE

I hereby certify that on April 6, 2026, a copy of the foregoing document was served on all persons listed *via* electronic mail.

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