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DOCKET NO. 26185

**APPLICATION OF GUADALUPE
VALLEY ELECTRIC COOPERATIVE,
INC. FOR A CERTIFICATE OF
CONVENIENCE AND NECESSITY FOR
A 138 Kv TRANSMISSION LINE IN
GUADALUPE COUNTY, TEXAS**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

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COMMISSION STAFF'S RESPONSE TO ORDER NO. 2

COMES NOW the Staff of the Public Utility Commission of Texas ("Commission Staff" or "Staff"), representing the public interest, and submits this response to Order No.

2.

I. BACKGROUND

On July 15, 2002, the Policy Development Division ("PDD") issued Order No. 2, which requires Staff to provide a recommendation, not later than July 25, 2002, of the following: (1) whether the application contains any deficiencies; (2) whether notice provided complies with P.U.C. Proc. R. §22.52(a) and the requirements set forth in the Order; and (3) a proposed procedural schedule, including a deadline for intervention. On July 23, Staff filed a request for an extension of time. PDD issued Order No. 3 granting Staff's request and extending the deadline for Staff's response in this docket to August 5, 2002.

**II. RECOMMENDATION AND ANALYSIS AS TO DEFICIENCIES,
NOTICE, AND DEADLINE FOR INTERVENTION**

A. Deficiencies in Application. Staff recommends that Guadalupe Valley Electric Cooperative, Inc.'s ("GVEC," "Applicant") application be considered sufficient.

Staff has reviewed the application and recommends that the application be considered sufficient. Staff additionally notes that on August 2, 2002, Staff spoke informally with Mark Davis, counsel for GVEC, and Steve Slaughter, Engineering Division Manager for GVEC, who agreed to provide Staff with a separate cost estimate for costs associated with the 11.29 miles of the project from the New Berlin Breakoff to the New Berlin substation described in GVEC's response to Question 3 (page 2 of the application). Staff notes that the costs in GVEC's application in response to Question 12 (page 3 of the application) represent costs for the entire project. GVEC also agreed to supply an additional map requested by Staff.

B. Sufficiency of Notice. Staff recommends that Applicant's notice be considered sufficient without material defects.

With respect to compliance of notice given with the requirements set out in PDD's Order No. 2, staff recommends the following:

1. Newspaper Publication. Staff recommends that GVEC's newspaper publication notice complies with the requirements of P.U.C. Proc. R. §22.52(a)(1), and that it be considered sufficient. Applicant submitted the Publisher's Affidavit from publisher Tommy Crow for The Seguin Gazette-Enterprise, a newspaper of general circulation published in the County of Guadalupe, verifying Applicant's intent to publish notice in the July 5 and July 10 editions of the newspaper of its intent to secure a CCN.

Applicant also included a copy of the notice as published. Staff recommends that the notice complies in all other respects with the requirements of P.U.C. Proc. R. §22.52(a)(1).

2. Notice to municipalities and neighboring utilities. Staff recommends that GVEC's required notice to applicable municipalities and neighboring utilities complies with the requirements of P.U.C. Proc. R. §22.52(a)(1) and (2). By way of Affidavit of Notice of Steve Slaughter, Engineering Division Manager for GVEC, Applicant submitted verification of notice of CCN to the representatives of the cities of New Berlin and Seguin, Texas, which are both municipalities, and to the City of Seguin, Texas, Brazos Electric Cooperative and City Public Service, which are utilities. Staff recommends that the notice complies in all other respects with the requirements of P.U.C. Proc. R. §22.52(a)(1) and (2).

3. Notice to county government(s). Staff recommends that GVEC's required notice to applicable county governments complies with the requirements of P.U.C. Proc. R. §22.52(a)(1) and (2). By way of Affidavit of Notice of Steve Slaughter, Engineering Division Manager for GVEC, Applicant submitted verification of notice of CCN to the county government(s) of Guadalupe Counties. Staff recommends that the notice complies in all other respects with the requirements of P.U.C. Proc. R. §22.52(a)(1) and (2).

4. Notice to directly affected landowners. Staff recommends that GVEC's required notice to directly affected landowners complies with the requirements of P.U.C. Proc. R. §22.52(a)(1) and (3). By way of Affidavit of Notice of Steve Slaughter, Engineering Division Manager for GVEC, Applicant submitted verification of notice by

first class mail to each of the persons listed as an owner of directly affected land on the current county tax roll(s). In Attachment 4 to its application, Applicant also provided a copy of the said notice. GVEC met with Staff to explain that when actual notice was sent to landowners, clerical staff removed the bold-faced type from the notice statement set forth in quotations marks in P.U.C. Proc. R. §22.52(a)(3)(A). GVEC and Staff have agreed, however, that GVEC will correct this deficiency by mailing a correction letter to each person who was sent the notice without the statement in required bold-faced type, explaining the deficiency and providing the required statement in bold-faced type. GVEC and Staff also agreed that, as contemplated by P.U.C. Proc. R. §22.52(a)(5), the date for intervention should be extended on a day-by-day basis, and a new date for intervention will also be provided in the correction letter.

C. Procedural Schedule. Staff notes that, as addressed in Part B above, the date for GVEC's sending the correction notice will trigger the date for extending the intervention deadline in this docket. As such, Staff is unable to provide a fixed procedural schedule until Staff has received a copy of GVEC's correction notice with a date to determine the new deadline for intervention and the other items routinely set forth in the procedural schedule that are based upon the intervention deadline. Staff respectfully requests that, following its receipt of the correction notice from GVEC, Staff will propose a procedural schedule.

Respectfully Submitted,

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Division Director – Legal Division

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Section



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CERTIFICATE OF SERVICE

I, Darrin L. Pfannenstiel, certify that a copy of this document was served on all parties of record by Facsimile and First Class, U.S. Mail, Postage Prepaid on August 5, 2002, in accordance with Public Utility Commission of Texas Procedural Rule §22.74.



Darrin L. Pfannenstiel

Attorney