



Control Number: 45489



Item Number: 111

Addendum StartPage: 0

DeAnn T. Walker
Chairman

Arthur C. D'Andrea
Commissioner

Shelly Botkin
Commissioner

John Paul Urban
Executive Director



Greg Abbott
Governor

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PUBLIC UTILITY COMMISSION
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Public Utility Commission of Texas

TO: DeAnn T. Walker, Chairman
Arthur C. D'Andrea, Commissioner
Shelly Botkin, Commissioner

All Parties of Record

FROM: Hunter Burkhalter *HB*
Administrative Law Judge

RE: **Open Meeting of June 27, 2019**
PUC Docket No. 45489
SOAH Docket No. 473-18-4178.WS – *Application of City of Gregory to Obtain*
Certificates of Convenience and Necessity in San Patricio County

DATE: June 3, 2019

Enclosed is a copy of the Revised Proposed Order Following Remand in the above-referenced docket. The Commission will consider this docket at an open meeting scheduled to begin at 9:30 a.m. on Thursday, June 27, 2019, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas.

On March 5, 2019, Commission Staff filed corrections to the Proposed Order. On March 12, 2019, Chairman Walker and Commissioner D'Andrea filed memoranda with their proposed changes to the Proposed Order. On March 28, 2019, the City of Gregory filed a more detailed map, as instructed by the Commission's Order Remanding to Docket Management. On April 30, 2019, Commission Staff confirmed that the new map was sufficient. On May 31, 2019, the new map was admitted in evidence.

The Revised Proposed Order Following Remand incorporates the proposed corrections and changes noted above.

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**PUC DOCKET NO. 45489
SOAH DOCKET NO. 473-18-4178.WS**

APPLICATION OF CITY OF	§	PUBLIC UTILITY COMMISSION
GREGORY TO OBTAIN	§	
CERTIFICATES OF CONVENIENCE	§	OF TEXAS
AND NECESSITY IN SAN PATRICIO	§	
COUNTY	§	

REVISED PROPOSED ORDER FOLLOWING REMAND

This Order addresses the application of the City of Gregory to obtain new water and sewer certificates of convenience and necessity (CCN) in San Patricio County. Commission Staff recommends approval of the application, as amended and supplemented. The Commission approves the application, as amended and supplemented, and grants water CCN number 13275 and sewer CCN number 21113, each including approximately 2,141 acres, to Gregory in San Patricio County, to the extent provided in this Order.

I. Findings of Fact

The Commission adopts the following findings of facts.

Applicant

1. Gregory is a municipality that provides water and sewer service.
2. Gregory owns and operates facilities to provide water and sewer service in San Patricio County.
3. Gregory operates under public water system identification number 2050001 issued by the Texas Commission on Environmental Quality (TCEQ) and TCEQ wastewater discharge permit number WQ-0010092001.

Application

4. On December 31, 2015, Gregory filed an application to obtain water and sewer CCNs to cover the area within its municipal boundaries and a large area of its extraterritorial jurisdiction in San Patricio County.
5. Gregory's application included a proposed service area of approximately 2,930 acres. The area has 696 customers, served by Gregory.

6. The proposed service area is located approximately four miles northeast of downtown Portland, Texas and is bounded to the north by County Road 1722, the east by Laquinta Road, the south by County Road 3239, and the west by FM 2986.
7. Timely requests to be excluded from the proposed CCN were filed by the Port of Corpus Christie Authority, Jeff McKamey, Lynn McKamey, Kenneth McKamey, Martha McKamey Decou, Kara McKamey, and Corinne McKamey.
8. On August 1, 2017, Gregory filed amended maps, which Commission Staff found adequately addressed all requests to be excluded from the proposed service area.
9. On November 9, 2018, Gregory filed maps amending its proposed service area to include only its current utility service area, part of which is located within its municipal boundaries and part of which is in its extraterritorial jurisdiction.
10. The requested area, as amended to (a) address landowner opt-outs, (b) resolve concerns raised by the City of Portland regarding overlapping certificated areas, and (c) implement other changes, contains approximately 2,141 acres and 686 current customers.
11. The requested area generally consists of the area within Gregory's municipal boundaries and a portion of Gregory's extraterritorial jurisdiction in which Gregory provides water and sewer service.
12. In Order No. 5 issued on July 14, 2016, the Commission administrative law judge (ALJ) found the application administratively complete.

Remand

13. The Commission considered this matter at its March 13, 2019 open meeting and remanded this docket to the Office of Policy and Docket Management for the purpose of obtaining additional mapping information to demonstrate the need to provide service in the entire proposed service area.
14. On March 28, 2019, Gregory filed a more detailed map, as instructed by the Commission.
15. On April 30, 2019, Commission Staff confirmed that the map filed by Gregory on March 28, 2019 contains the information required by the Commission.

Notice of Application

16. Notice of the application appeared in the January 22, 2016 issue of the Texas Register.
17. Notice of the application by publication appeared in the Portland News, a newspaper of general circulation in San Patricio County, on November 3, 2016, December 22, 2016, and December 29, 2016.
18. On November 10, 2016 and January 25, 2017, Gregory filed the publisher's affidavits, which stated that the Portland News, a newspaper of general circulation in San Patricio County, published notice of the application in that newspaper on November 3, December 22, and December 29, 2016.
19. On January 17, 2017, Gregory mailed notice of the application to neighboring utilities, counties, cities, and affected parties.
20. On January 25, 2017, Gregory filed an affidavit in which Robert Meager, City Manager of the City of Gregory, attested that notice was provided to landowners and other affected parties by the United States Postal Service. Mr. Meager stated that Gregory had provided notice to the following persons and entities: the City of Aransas Pass, the City of Corpus Christi, the City of Ingleside, the City of Portland, the Nueces River Authority, the Port of Corpus Christi, the Rincon Water Supply Corporation, San Patricio County, the San Patricio Ground Water Conservation District, the San Patricio County Drainage District, the San Patricio County Navigation District 1, the San Patricio Municipal Water District, Allen Hunt, and McKamey Farms.
21. In Order No. 9 issued on February 1, 2017, the ALJ found the notice of the application sufficient.

Evidentiary Record

22. On January 17, 2019, Commission Staff and Gregory filed a motion to admit evidence.
23. In Order No. 20 issued on February 20, 2019, the Commission ALJ admitted the following evidence into the record of the proceeding: (a) Gregory's application and attachments filed on December 31, 2015; (b) Gregory's supplement to the application filed on

March 29, 2016; (c) Gregory's amendment to the application filed on May 16, 2016; (d) Gregory's amendment to the application filed on June 28, 2016; (e) Gregory's supplement to the application filed on September 1, 2016; (f) Gregory's amendment to the application filed on March 2, 2017; (g) Gregory's supplement and amendment to the application filed on April 20, 2017; (h) Gregory's amendment to the application filed on May 12, 2017; (i) Gregory's amendment to the application filed on August 1, 2017; (j) Gregory's supplement to the application filed on October 23, 2017; (k) Gregory's supplement to the application filed on March 6, 2018; (l) Gregory's supplement to the application filed on May 22, 2018; (m) Gregory's supplement to the application filed on July 3, 2018; (n) Gregory's supplement to the application filed on September 12, 2018; (o) Gregory's amendment to the application filed on November 9, 2018; (p) Gregory's affidavits of proof of notice filed on November 10, 2016; (q) Gregory's affidavits of proof of notice filed on January 25, 2017; (r) Gregory's response to Commission Staff's first request for information filed on January 30, 2017; (s) Gregory's supplemental financial information filed on February 21, 2018; (t) Gregory's supplemental financial information filed on April 24, 2018; (u) Gregory's signed consent form filed on December 19, 2018; and (v) Commission Staff's final recommendation and attachments filed on January 11, 2019.

24. On April 30, 2019, Gregory and Commission Staff filed a motion to admit, as evidence, the map filed by Gregory on March 28, 2019.
25. In Order No. 23 issued on May 31, 2019, the Commission ALJ admitted in evidence the map filed by Gregory on March 28, 2019.

Adequacy of Existing Service—TWC § 13.246(c)(1), 16 TAC § 24.227(d)(1)

26. The area subject to this application is served by Gregory's TCEQ-approved public water system identification number 2050001 and under TCEQ wastewater discharge permit number WQ-0010092001.
27. Gregory is not subject to any pending TCEQ enforcement actions.
28. No additional construction is necessary for Gregory to serve the requested area.

Need for Service–TWC § 13.246(c)(2), 16 TAC § 24.227(d)(2)

29. Gregory currently serves 696 customers in the requested area.
30. The requested area generally encompasses existing customers and infrastructure served by Gregory.

Effect of Granting the Certificates–TWC § 13.246(c)(3), 16 TAC § 24.227(d)(3)

31. Gregory has amended the requested area to remove all land affected by landowner opt-out requests and to contain area that generally encompasses existing customers and infrastructure. Therefore, granting Gregory’s requested CCNs will not adversely affect landowners in the area.
32. Gregory has existing facilities in place to serve the requested area and will not incur additional costs for new facilities.
33. The requested area has been amended to address concerns raised by the City of Portland.
34. The Commission received no other protests or concerns from any other adjacent retail public utility.

Ability to Serve: Managerial and Technical–TWC §§ 13.241(a), 13.246(c)(4), 16 TAC §§ 24.227(a), 24.227(d)(4)

35. Gregory is a municipal utility that currently serves the requested area.
36. Gregory employs Dave Furzer as a licensed operator under number WW0007049.
37. On March 6, 2018, Gregory filed the following documentation to support a need for service in portions of its extraterritorial jurisdiction: (a) a letter from Gregory’s mayor to The Glades of Gregory affirming that the city could provide service to a new development; (b) an extraterritorial jurisdiction services agreement between the city and GCGV Asset Holding LLC; and (c) an extraterritorial jurisdiction non-annexation agreement between the city and Cheniere Land Holdings, LLC.
38. On May 22, 2018, Gregory filed the following documentation to support a need for service in portions of its extraterritorial jurisdiction: (a) an agreement with TPCO America Corporation regarding service to its facility; (b) a May 2018 agenda of Gregory’s Planning and Zoning Commission showing a discussion of development in a portion of the Coleman

Fulton Pasture Co.'s land and on the Jones Ranch; and (c) a letter from Martin Marietta expressing interest to receive service at the Martin Marietta Gregory Yard.

39. On July 3, 2018, Gregory filed a letter from landowner North Gregory, LLC, notifying the city of development plans and expressing an interest in receiving service.
40. Gregory obtains treated water from the San Patricio Municipal Water District
41. Gregory personnel have been providing service to water and sewer customers.
42. Gregory has adequately addressed any TCEQ violations.
43. Gregory has sufficient capacity to serve the requested area and has adequate facilities for the provision of water and sewer utility service.

Ability to Serve: Financial Ability and Stability–TWC §§ 13.241(a), 13.246(c)(6), 16 TAC §§ 24.227(a), 24.227(d)(6), 24.11(e)

44. Gregory has a debt service coverage ratio of 1.48, which is greater than 1.25.
45. Gregory has two years of unrestricted cash on hand for debt service.
46. Gregory did not submit projections in its application; however, based on its 2017 comprehensive annual financial report statement of revenues, expenses, and changes in fund net position, Gregory had \$324,103 in operating income.
47. Gregory has demonstrated that it has sufficient cash on hand to cover any projected operations and maintenance shortages in the first five years of operations.
48. Gregory has demonstrated that it has the financial ability to finance the facilities necessary to operate and manage the utility and to provide continuous and adequate service to the proposed service-area addition.

Financial Assurance–TWC § 13.246(d); 16 TAC § 24.227(e)

49. There is no need to require Gregory to provide a bond or other financial assurance to ensure continuous and adequate utility service is provided.

Ability to Serve: Water Utility Service–TWC § 13.241(b), 13.246(c)(4), 16 TAC 24.227(a)(1)

50. Gregory's water source is the San Patricio Municipal Water District, and Gregory has access to an adequate supply of water.

51. Gregory's public water system number 2050001 is capable of providing drinking water that meets the requirements of chapter 341 of the Texas Health and Safety Code and TCEQ rules.

Ability to Serve: Sewer Utility Service—TWC § 13.241(c), 13.246(c)(4), 16 TAC 24.227(a)(2)

52. Gregory's wastewater treatment plant is permitted by the TCEQ under permit number WQ10092-001 and is capable of meeting TCEQ's design criteria for sewer treatment plants.

Regionalization or Consolidation—TWC § 13.241(d), 16 TAC § 24.227(b)

53. Gregory does not intend to construct a new physically separate water or sewer system to serve the area.

Service from Other Utilities—TWC § 13.246(c)(5), 16 TAC § 24.227(d)(5)

54. It is not feasible for an adjacent utility to provide service to the requested area because Gregory already provides service to the requested area and has the facilities in place to serve the requested area.

Environmental Integrity—TWC § 13.246(c)(7), 16 TAC § 24.227(d)(7)

55. Granting Gregory's CCNs will not adversely impact the environmental integrity of the requested area as no additional construction is needed to provide service to the requested area.

Improvement in Service—TWC § 13.246(c)(8), 16 TAC § 24.227(d)(8)

56. Granting Gregory a CCN will not affect service to customers, because Gregory already serves the requested area.

Lowering of Cost—TWC § 13.246(c)(8), 16 TAC § 24.227(d)(8)

57. Gregory will continue to serve existing customers in the requested area using existing facilities and rates.

Effect on Land—TWC § 13.246(c)(9), 16 TAC § 24.227(d)(9).

58. No additional construction is necessary to provide service the requested area.

Map and Certificate

59. On December 14, 2018, Commission Staff emailed its proposed map and certificate to Gregory.
60. On December 19, 2018, Gregory filed its consent to the proposed map and certificate.
61. On January 17, 2019, Commission Staff filed the proposed map and certificate as an attachment to its recommendation.

Informal Disposition

62. More than 15 days have passed since the completion of notice provided in this docket.
63. Commission Staff, Gregory, and the City of Portland are the only parties to this proceeding.
64. All requests for property to be excluded from the proposed-service area and requests for hearing have been resolved.
65. Commission Staff recommended approval of the application.
66. This decision is not adverse to any party.

II. Conclusions of Law

The Commission adopts the following conclusions of law.

1. The Commission has jurisdiction over the application under TWC §§ 13.241 and 13.246.
2. Gregory is a retail public utility as defined in Texas Water Code (TWC) § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Notice of the application complies with TWC § 13.246 and 16 TAC § 24.235.
4. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act,¹ the TWC, and Commission rules.
5. Gregory possesses the financial, managerial, and technical capability to provide continuous and adequate service to the requested area as required by TWC § 13.241(a) and 16 TAC § 24.227.

¹ Tex. Gov't Code §§ 2001.001–.902.

6. After considering the factors in TWC § 13.246(c) and 16 TAC § 24.227(d), approval of the application is necessary for the service, accommodation, convenience, or safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(c).
7. Gregory must record a certified copy of the approved map for the certificate amendment, along with a boundary description of the service area, in the real property records of San Patricio County within 31 days of receiving this Order and submit to the Commission evidence of the recording. TWC § 13.257(r), (s).
8. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission grants Gregory water CCN number 13275 to include the requested area described in the Order and shown on the map attached to this Order.
2. The Commission grants Gregory sewer CCN number 21113 to include the requested area described in the Order and shown on the map attached to this Order.
3. The Commission grants the certificates attached to this Order.
4. Gregory must serve every customer and applicant for service within the areas certificated under water CCN number 13275 and sewer CCN number 21113, and such service shall be continuous and adequate.
5. Gregory must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in San Patricio County affected by the application.
6. Gregory must file in this docket proof of the recording required in ordering paragraph 5 not later than 45 days after the date of this Order.
7. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the _____ day of June 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D'ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER

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Public Utility Commission Of Texas

By These Presents Be It Known To All That

City of Gregory

having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Gregory, is entitled to this

Certificate of Convenience and Necessity No. 13275

to provide continuous and adequate water utility service to that service area or those service areas in San Patricio County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45489 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of Gregory, to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this _____ day of _____ 2019.



Public Utility Commission Of Texas

By These Presents Be It Known To All That

City of Gregory

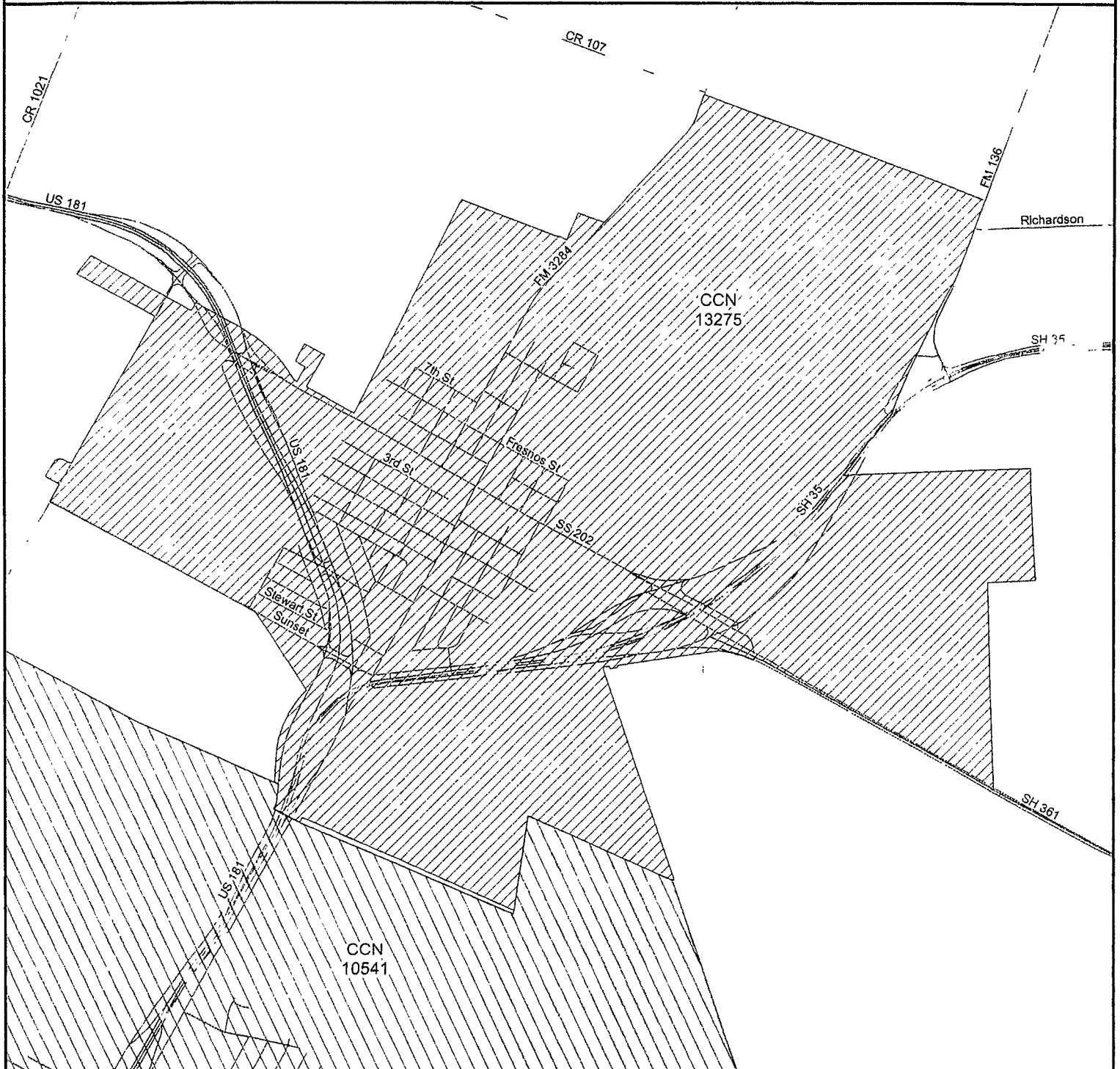
having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Gregory, is entitled to this

Certificate of Convenience and Necessity No. 21113

to provide continuous and adequate sewer utility service to that service area or those service areas in San Patricio County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45489 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of Gregory, to provide such utility service in accordance with the laws of this State and Rules of this Commission. subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.



Issued at Austin, Texas, this _____ day of _____ 2019.

City of Gregory
 Water CCN No. 13275
 PUC Docket No. 45489
 Obtained New CCN in San Patricio County



Public Utility Commission of Texas
 1701 N. Congress Ave
 Austin, TX 78701

Water CCN

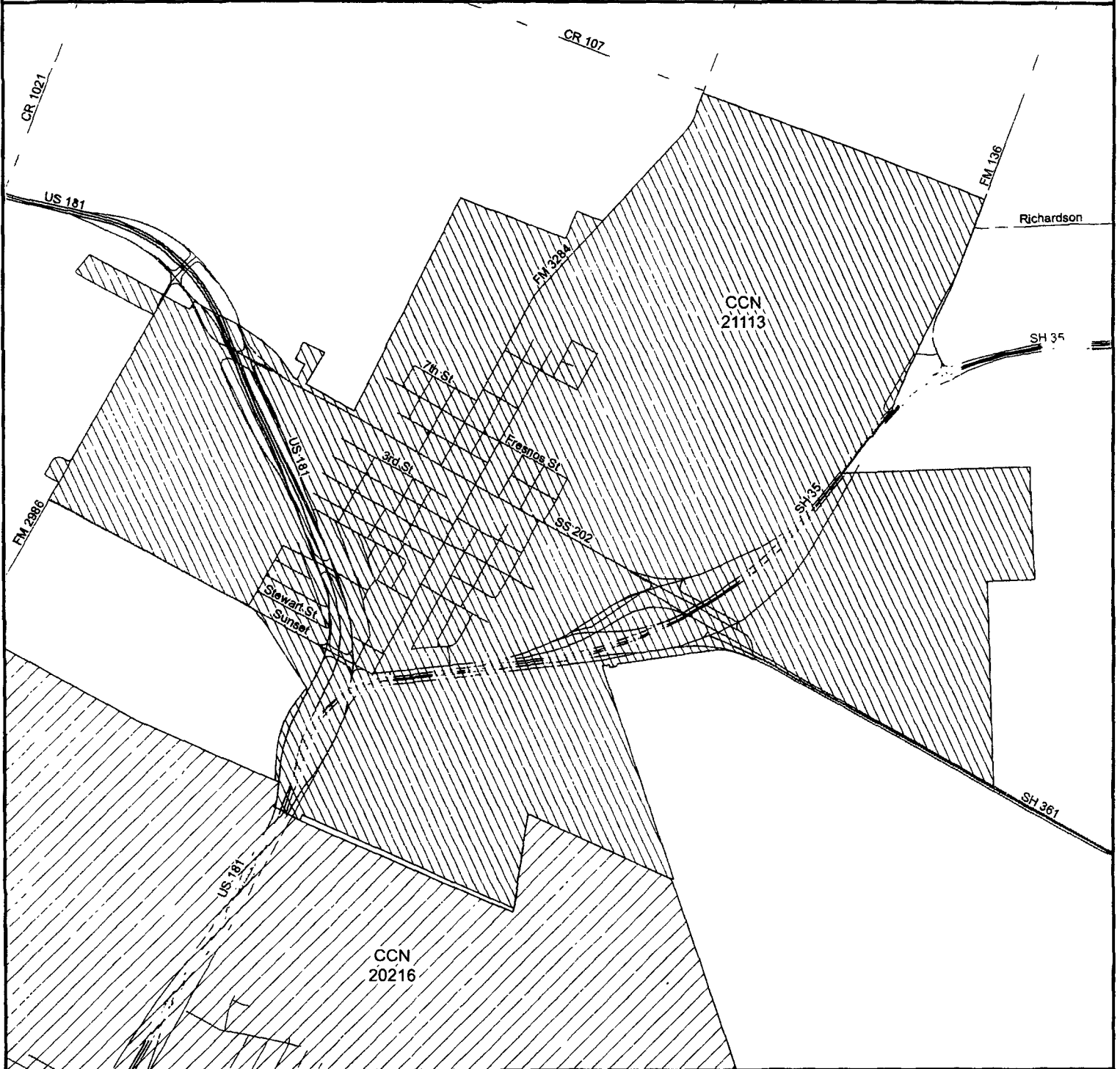
-  13275 - City of Gregory
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
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City of Gregory
 Sewer CCN No. 21113
 PUC Docket No. 45489
 Obtained New CCN in San Patricio County



Public Utility Commission of Texas
 1701 N. Congress Ave
 Austin, TX 78701

Sewer CCN

-  21113 - City of Gregory
-  20216 - City of Portland

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