



Control Number: 45489



Item Number: 25

Addendum StartPage: 0

APPLICATION OF CITY OF §  
GREGORY TO OBTAIN §  
CERTIFICATES OF CONVENIENCE §  
AND NECESSITY IN SAN PATRICIO §  
COUNTY §

PUBLIC UTILITY COMMISSION  
OF TEXAS

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**STAFF'S RECOMMENDATION ON PROOF OF NOTICE**

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Staff's Recommendation on Proof of Notice and would show the following:

**I. BACKGROUND**

On December 31, 2015, the City of Gregory (Gregory) filed an application with the Public Utility Commission of Texas (Commission) to obtain new water and sewer certificates of convenience and necessity (CCN) in San Patricio County, Texas. Gregory seeks to acquire CCNs for the area within its extraterritorial jurisdiction (ETJ).

On July 14, 2016, Order No. 5 was issued finding the application administratively complete and directing Gregory to provide notice of the application. On September 12, 2016, Order No. 7 was issued abating the proceeding. On November 10, 2016, Gregory filed proof of notice.

**II. RECOMMENDATION**

Staff has conferred with Gregory and is authorized to represent that Gregory would like the abatement to be lifted so that the review of Gregory's application may continue. As detailed in the attached memorandum from Sean Scaff and Komal Patel in the Commission's Water Utility Regulation Division, Staff has reviewed Gregory's November 10 filing and has identified deficiencies. Specifically, the affidavit included in Gregory's November 10 filing attests that notice was published on November 3, 2016, but makes no mention of the second publication required by 16 Texas Administrative Code (TAC) § 24.106(c). Staff therefore recommends that Gregory be directed to publish newspaper notice of the application for two consecutive weeks in a newspaper of general circulation in San Patricio County as required by 16 TAC § 24.106(c) and file a new affidavit attesting to published notice along with a copy of the notice published. Staff

further recommends that Gregory be directed to file an affidavit attesting to the provision of mailed notice and confirm that the list of entities contained in Gregory's November 10 filing contains all landowners that Gregory identified as owning a tract of land with a size of at least 25 acres wholly or partially located within the proposed CCN area.

### **III. CONCLUSION**

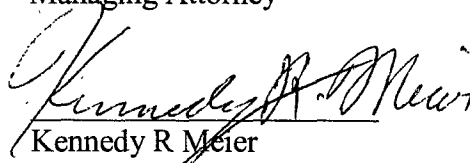
For the reasons detailed above, Staff respectfully recommends that Gregory be directed to cure the deficiency with its published notice and provide additional information as described above and in the attached memorandum.

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF  
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Stephen Mack  
Managing Attorney

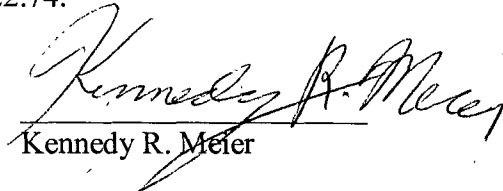


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**DOCKET NO. 45489**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this the 8<sup>th</sup> of December, 2016 in accordance with 16 TAC § 22.74.



Kennedy R. Meier

## PUC Interoffice Memorandum

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**To:** Kennedy Meier, Attorney  
Legal Division

**Through:** Tammy Benter, Director  
Water Utilities Division

**From:** Sean Scaff, Engineering Specialist  
Komal Patel, GIS Specialist  
Water Utilities Division

**Date:** December 1, 2016

**Subject:** **Docket No. 45489**, *Application of the City of Gregory to obtain Certificates of Convenience and Necessity in San Patricio County, Texas*

On December 31, 2015, the City of Gregory (Gregory or Applicant) filed with the Public Utility Commission (Commission) an application to obtain water and sewer Certificates of Convenience and Necessity (CCN) in San Patricio County, Texas. Gregory currently serves customers in the city but purchases water from San Patricio Municipal Water District. Gregory seeks to acquire CCNs for the area within their city limits and extraterritorial jurisdiction.

A Staff recommendation on sufficiency was filed on July 8, 2016, recommending that the Applicant be ordered to issue notices to neighboring cities and utilities and publish in local media, and file notices and affidavits within 30 days of a Commission order directing the Applicant to provide notice. Due to complications related to the application and a request for abatement by the Applicant, proof of notice was not filed until November 10, 2016. A Staff review of the submitted notices and affidavits found deficiencies that should be addressed prior to proceeding. Therefore, Staff recommends the Applicant be ordered to do the following:

- 1) Provide correct notice of the application to the following:
  - a. publish notice once each week for two (2) consecutive weeks in a newspaper of general circulation in San Patricio County;
- 2) Within 30 days of the Commission order, supplement the November 10, 2016 filing by including the affidavit for the mailed notice and confirming that all landowners who own a tract of land that is at least 25 acres in size and wholly or partly located in the proposed CCN area have been noticed. It is recommended that the Applicant use the attached notices and affidavits to meet these requirements.

**Notice to Landowners**

**NOTICE OF APPLICATION FOR CERTIFICATES OF CONVENIENCE AND NECESSITY  
TO PROVIDE WATER AND SEWER IN SAN PATRICIO COUNTY, TEXAS**

To: \_\_\_\_\_

Date Notice Mailed: \_\_\_\_\_, 2016

(Landowner)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City                      State                      Zip)

The City of Grègory has submitted an application with the Public Utility Commission of Texas to obtain water and sewer Certificates of Convenience and Necessity (CCNs) in San Patricio County:

The proposed utility service area is located within approximately 4 miles north of downtown Portland, Texas, and is generally located on the north by County Road 1722; on the east by Laquinta Road; on the south by FM 3239; and on the west by FM 2986.

**See enclosed map of the proposed service area.**

The total area being requested includes approximately 2930 acres and serves 696 current customers.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should write the:

Public Utility Commission of Texas  
Central Records  
1701 N. Congress, P. O. Box 13326  
Austin, TX 78711-3326

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the Commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the Commission will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If you are a landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the proposed area, you may request to be excluded from the proposed area (or “opt out”) by providing written notice to the Commission within (30) days from the date that notice was provided by the applicant. All requests to opt out of the requested service area must include a large scale map and a metes and bounds description of the tract of land.

Persons who meet the requirements to opt out, and wish to request this option should file the required documents with the:

Public Utility Commission of Texas  
Central Records  
1701 N. Congress, P. O. Box 13326  
Austin, TX 78711-3326

A copy of the request to opt out of the proposed area must also be sent to the applicant. Staff may request additional information regarding your request.

Si desea informacion en Espanol, puede llamar al 1-512-936-7221.

***NOTICE FOR PUBLICATION***

**NOTICE OF APPLICATION FOR CERTIFICATES OF CONVENIENCE AND NECESSITY  
TO PROVIDE WATER AND SEWER IN SAN PATRICIO COUNTY, TEXAS**

The City of Gregory has submitted an application with the Public Utility Commission of Texas to obtain water and sewer Certificates of Convenience and Necessity (CCNs) in San Patricio County:

The proposed utility service area is located within approximately 4 miles north of downtown Portland, Texas, and is generally located on the north by County Road 1722; on the east by Laquinta Road; on the south by FM 3239; and on the west by FM 2986.

The total area being requested includes approximately 2930 acres and serves 696 current customers.

A copy of the proposed service area map is available at: 204 W. 4th Street, Gregory, Texas 78359.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should write the:

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Si desea informacion en Espanol, puede llamar al 1-512-936-7221.

PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE TO LANDOWNERS  
DOCKET NO. 45489

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared

\_\_\_\_\_

who being by me duly sworn, deposes and that (s)he is the

\_\_\_\_\_ of the \_\_\_\_\_  
(TITLE) (NAME OF UTILITY)

that the attached notice was provided to landowners and other affected parties by

\_\_\_\_\_  
(METHOD USED TO PROVIDE NOTICE)

on or about the following date, to wit \_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(SIGNATURE OF UTILITY OFFICIAL)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public

Commission Expires \_\_\_\_\_

PUBLIC UTILITY COMMISSION



PUBLISHER'S AFFIDAVIT  
DOCKET NO. 45489

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this day personally appeared

\_\_\_\_\_

who being by me duly sworn, deposes and that (s)he is the

\_\_\_\_\_ of the \_\_\_\_\_  
(TITLE) (NAME OF NEWSPAPER)

that said newspaper is regularly published in \_\_\_\_\_  
(COUNTY/COUNTIES)

and generally circulated in \_\_\_\_\_, Texas;  
(COUNTY/COUNTIES)\_

and that the attached notice was published in said newspaper on the following dates, to wit:

\_\_\_\_\_  
(DATES)

\_\_\_\_\_  
(SIGNATURE OF NEWSPAPER REPRESENTATIVE)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Print or Type Name of Notary Public

Commission Expires \_\_\_\_\_