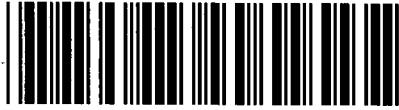




Control Number: 45489



Item Number: 44

Addendum StartPage: 0

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

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§

PUBLIC UTILITY COMMISSION  
OF TEXAS

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### COMMISSION STAFF'S RESPONSE TO CITY OF GREGORY

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Response to City of Gregory 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 November 10, 2016, Gregory filed proof of notice. On January 25, 2017, Gregory filed a supplement to its proof of notice. On April 13, 2017, Staff filed a motion to dismiss the application for failure to prosecute due to Gregory's failure to address landowner opt-out requests under Texas Water Code (TWC) § 13.246(h).

On April 17, 2017, Order No. 10 was issued establishing deadlines of May 3, 2017 for Gregory to respond to Staff's motion to dismiss and May 10, 2017 for Staff to file a response to Gregory's filing. Gregory filed responses on April 19 & 20, 2017. This pleading is therefore timely filed.

#### II. RESPONSE

As detailed in the attached memorandum from Sean Scaff and Gary Horton in the Commission's Water Utility Regulation Division, the maps contained in the Gregory's April 19 & 20 filings do not adequately address the opt-out requests. In addition, Gregory has not provided digital mapping data addressing the opt-out requests, and Gregory has not provided adequate information demonstrating the need for service. Staff therefore reiterates its recommendation that the application be dismissed.

### III. CONCLUSION

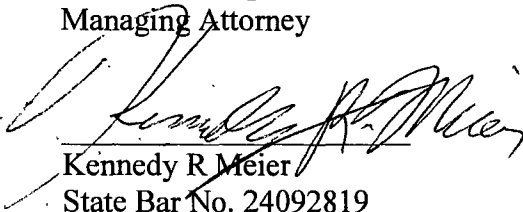
For the reasons detailed above, Staff respectfully reiterates its motion that Gregory's application be dismissed for failure to prosecute under 16 TAC § 22.181(d)(6).

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF  
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Katherine Lengieza Gross  
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 10<sup>th</sup> of May, 2017 in accordance with 16 TAC § 22.74.



Kennedy R. Meier

**Public Utility Commission of Texas**

**Memorandum**

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

**FROM:** Sean Scaff, Engineering Specialist  
Gary Horton, GIS Specialist  
Water Utilities Division

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

**DATE:** May 10, 2017

**RE:** **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 (City or Applicant) filed an application with the Public Utility Commission of Texas (Commission) to obtain water and sewer Certificates of Convenience and Necessity (CCN) in San Patricio County, Texas. This application is being reviewed pursuant to Texas Water Code (TWC) §§ 13.241-250 and 16 Tex. Admin. Code (TAC) §§ 24.101-24.107.

On April 19 and 20, 2017, the Applicant submitted an objection to Staff's motion to dismiss the docket and provided updated maps. The Applicant also provided a statement clarifying the need to provide service outside of its city limits by stating "There is a need for service for the requested areas outside the City of Gregory's City Limits since the City is the closest and most feasible source of service."

To date, the Applicant has still not provided sufficient information to support this statement. A review of the information provided shows no justifiable need for service outside of the City's existing City limits. There has been no request for service provided by the Applicant that would show a need to expand its current service area.

A Commission Staff review of the re-submitted mapping information shows the mapping information provided remains deficient. The Applicant has highlighted some of the opt-outs on the map, but continues to fail to actually remove the requested landowner opt-outs from the submitted maps. On multiple occasions Staff and the Applicant have discussed the need to remove these opt-outs from the proposed CCN area maps the Applicant provides to the Commission. To date, this deficiency has not been cured. The Applicant has also not provided the appropriate digital data reflecting removal of the opt-outs. As such, the mapping information continues to not meet Commission standards and remains insufficient to process the application.

Due to a history of application and mapping deficiencies throughout the Docket, and the deficiencies in the Applicant's response to Staff's motion to dismiss this proceeding, Commission Staff again requests dismissal of the docket.