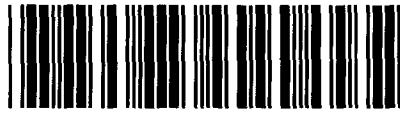


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Item Number: 59

Addendum StartPage: 0

DOCKET NO. 45489

**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**

COMMISSION STAFF'S THIRD MOTION TO DISMISS

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Third Motion to Dismiss 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 6, 2017, Staff filed its second motion to dismiss the application under 16 Texas Administrative Code (TAC) § 22.181(d)(6)¹ for failure to prosecute, due primarily to Gregory's failure to provide information and supporting documentation necessary for Staff review of the application.² On November 29, 2017, Order No. 15 was issued, establishing a deadline of December 13, 2017, for Gregory to respond to Staff's motion to dismiss and requiring Gregory to include in its response a specific date as to when Gregory would provide complete responses to Staff's Second Request for Information. On December 15, 2017, Gregory filed a letter responding to Order No. 15.

II. MOTION TO DISMISS

Staff re-urges its motion that Gregory's application be dismissed without prejudice for failure to prosecute under 16 TAC § 22.181(d)(6). Gregory's December 15 letter included none

¹ The Commission has amended 16 TAC § 22.181 effective January 5, 2017. A provision analogous to the one cited is located in § 22.181(a)(1)(F) of the version of § 22.181 that was in effect when Gregory originally filed its application on December 31, 2015.

² See Commission Staff's Second Motion to Dismiss (Nov. 6, 2017). Staff re-urges all of the arguments advanced in that motion, but does not repeat them here in the interest of brevity.

of the information that Order No. 14 directed it to provide.³ The letter did not include a specific date as to when Gregory would provide complete responses to Staff's Second Request for Information, despite Order No. 15's explicit direction to provide such a date.⁴ Two months have elapsed since the letter was filed. Gregory has provided no further information in support of its application, nor any update as to when the necessary information might be available. Staff therefore re-urges its motion that Gregory's application be dismissed under 16 TAC § 22.181(d)(6) for failure to prosecute. Staff further requests that such dismissal be without prejudice to the filing of a new, complete application. Dismissing the application would allow Gregory as much time as it needs to gather information and refile an updated application, while conserving Commission resources in the interim.

III. CONCLUSION

For the reasons detailed above, Staff respectfully re-urges its motion that Gregory's application be dismissed without prejudice for failure to prosecute under 16 TAC § 22.181(d)(6).

³ See Letter from Hector Castaneda, LNV (Dec. 15, 2017).

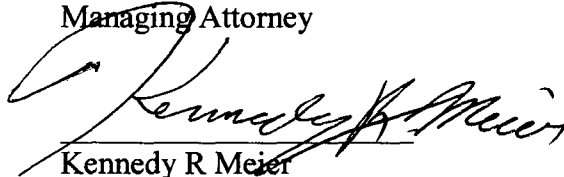
⁴ See *id.*

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF
TEXAS LEGAL DIVISION**

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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 15th of February, 2018 in accordance with 16 TAC § 22.74.



Kennedy R. Meier