

Control Number: 45489



Item Number: 66

Addendum StartPage: 0

**DOCKET NO. 45489**

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

§  
§  
§  
§  
§

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

2018 MAY 13 AM 9:34

**COMMISSION STAFF'S RECOMMENDATION**

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Recommendation in response to Order No. 17 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 February 15, 2018, Staff filed its third motion to dismiss the application under 16 Texas Administrative Code (TAC) § 22.181(d)(6)<sup>1</sup> for failure to prosecute, due primarily to Gregory's failure to provide information and supporting documentation necessary for Staff review of the application.<sup>2</sup> On February 21, March 6, and April 24, 2018, Gregory filed supplemental information and supporting documentation. On May 2, 2018, Order No. 17 was issued, establishing a deadline of May 18, 2018, for Staff to file a recommendation regarding Gregory's latest filings. This pleading is therefore timely filed.

**II. RECOMMENDATION**

Staff has reviewed Gregory's supplemental information. As detailed in the attached memorandum of Sean Scaff from the Commission's Water Utility Regulation Division, Staff's review indicates that the information Gregory has provided does not indicate a need for service in

<sup>1</sup> 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.

<sup>2</sup> See Commission Staff's Third Motion to Dismiss (Feb. 15, 2018).

66

large portions of the area that Gregory is requesting for certification. Staff therefore recommends that Gregory be given until July 2, 2018, to either a) amend its application by filing updated mapping information reducing the requested area to the area for which Gregory has shown a need for service, b) file additional information demonstrating a need for service in the remainder of the requested area, or c) request a hearing on its application. If Gregory does not take action by July 2, Staff recommends that the application be referred to the State Office of Administrative Hearings (SOAH) for a hearing.

### **III. CONCLUSION**

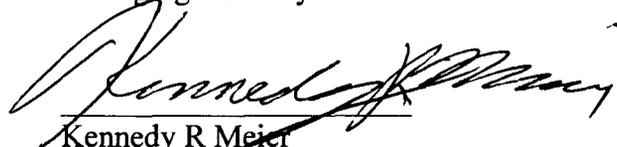
For the reasons detailed above, Staff requests that a deadline of July 2, 2018, be established for Gregory to address the need for service in its requested area as detailed above, and that this proceeding be referred to SOAH if Gregory has not addressed the need for service in its requested area by July 2.

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF  
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Katherine Lengieza Gross  
Managing Attorney

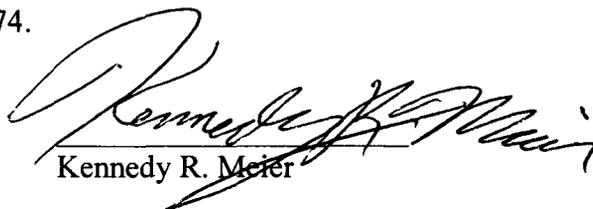


Kennedy R Meier  
State Bar No. 24092819  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7265  
(512) 936-7268 (facsimile)  
Kennedy.Meier@puc.texas.gov

**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 18<sup>th</sup> of May, 2018 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 Regulation Division

**THRU:** Tammy Benter, Director  
Heidi Graham, Manager  
Water Utilities Regulation Division

**DATE:** May 16, 2018

**RE:** **Docket No. 45489**; *Application of City of Gregory to obtain Certificates of Convenience and Necessity in San Patricio County*

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 Texas Administrative Code (TAC) §§ 24.101-24.107.

On March 6, 2018 and April 24, 2018, the City filed supplemental application and financial information. The March 6, 2018 filing included an Exterritorial Jurisdiction (ETJ) Agreement to serve an area of approximately 35 acres within its ETJ. This agreement meets the Commission criteria regarding the need for service. The City has also justified the need for service within its current City limits.

To date however, the Applicant has still not provided appropriate justification for the requested area outside of its city limits, with the exception of the 35 acre portion of the requested area addressed in the March 6, 2018 filing. This portion constitutes approximately 1,543 acres. This remaining 1,543-acre portion of the requested area has not met the need for service criterion addressed in TWC § 13.246(c)(2) and 16 TAC § 24.102(d)(2).

Staff recommends that the Commission allow the Applicant 45 days to either reduce the requested area by submitting revised mapping and digital data information, or provide additional information justifying the need for service.

If the applicant elects to alter its requested area, Commission mapping staff will need the following information:

- A general location map identifying only the requested area, in reference to the nearest county boundary, city, or town.
- A detailed map identifying only the requested area, in reference to verifiable man-made and natural landmarks, such as roads, rivers, and railroads.
- Digital mapping data for the requested area, as a single polygon record, in shapefile (SHP) format, georeferenced in either NAD83 Texas Statewide Mapping System (Meters) or NAD83 Texas State Plane Coordinate System (US Feet).

If the information cannot be submitted, then Staff requests that the application be referred to the State Office of Administrative Hearings (SOAH) for a hearing to resolve the application issues.