



Control Number: 45489



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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

2018 JUN 5 AM 9:36  
PUBLIC UTILITY COMMISSION  
FILING CLERK

**COMMISSION STAFF'S REQUEST FOR HEARING**

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Request for Hearing in response to Order No. 18 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 18, 2018, Staff filed a recommendation that Gregory has not provided information demonstrating a need for service in a large portion of its requested area. Staff recommended that Gregory be given an opportunity to amend or supplement its application, and that the application be referred to the State Office of Administrative Hearings (SOAH) if Gregory failed to take action. On May 22, 2018, Gregory filed additional information supplementing its application. On May 24, 2018, Order No. 18 was issued, establishing a deadline of June 5, 2018, for Staff to file an amended recommendation based on Gregory's May 22 filing. This pleading is therefore timely filed.

<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).

## **II. RECOMMENDATION**

Staff has reviewed Gregory's supplemental information. As detailed in the attached memorandum of Sean Scaff and Gary Horton from the Commission's Water Utility Regulation Division, Staff's review indicates that the information Gregory has provided does not sufficiently address the issues identified in Staff's May 18 recommendation. Staff therefore requests that the application be referred to SOAH for a hearing on the merits.

## **III. CONCLUSION**

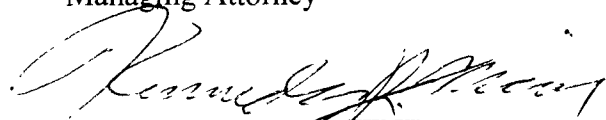
For the reasons detailed above, Staff requests that this proceeding be referred to SOAH.

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF  
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Katherine Lengieza Gross  
Managing Attorney

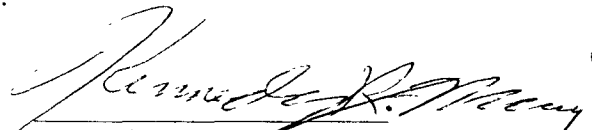


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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this the 5<sup>th</sup> of June, 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:** June 4, 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 May 22, 2018, the City filed supplemental application information regarding Extraterritorial Jurisdiction (ETJ) Agreements to serve within its ETJ. However, the Applicant did not provide additional mapping information to show the location of the proposed service areas.

To date, the Applicant has still not provided appropriate justification for most of the requested area outside of its city limits. Commission staff has requested justification for a need for service in the approximately 1,543 acres outside of Applicant's City limits on multiple occasions. This remaining 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).

As the Applicant continues to be deficient in submitting the required information, Staff requests that the application be referred to the State Office of Administrative Hearings (SOAH) for a hearing to resolve the application issues.