



Control Number: 45781



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APPLICATION OF CITY OF
PORTLAND TO AMEND ITS
CERTIFICATES OF CONVENIENCE
AND NECESSITY IN SAN PATRICIO
COUNTY

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PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

STAFF'S FINAL RECOMMENDATION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this Final Recommendation in response to SOAH Order No. 8:

I. Background

On March 29, 2016, the City of Portland (Portland) filed an application to amend its water certificate of convenience (CCN) No. 10541 and sewer CCN No. 20216 in San Patricio County. SOAH Order No. 7, issued April 12, 2017, gave Staff until March 25, 2017 to issue a final recommendation. Therefore, this recommendation is timely.

II. Recommendation

Staff has reviewed Portland's application and, as supported by the attached memorandum of Sean Scaff of the Water Utilities Division, recommends that it meets the requirements of Tex. Water Code Ann. §§ 13.242-50 (West 2016) and 16 Tex. Admin. Code §§ 24.101-107 (TAC). Consequently, Staff recommends Portland's application be approved.

Staff also recommends that Portland file copies of the CCN map along with a written description of the CCN service area in the respective county clerks' offices in Comal County pursuant to TWC § 13.257 (r) and (s).

III. Conclusion

Staff respectfully requests the entry of an order consistent with Staff's above recommendations.


Dated: May 25, 2017

Respectfully Submitted,

PUBLIC UTILITY COMMISSION
OF TEXAS – LEGAL DIVISION

Margaret Uhlig Pemberton
Division Director

Karen S. Hubbard
Managing Attorney

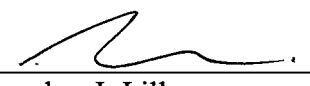


Landon J. Lill
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SOAH DOCKET NO. 473-16-5010.WS
DOCKET NO. 45781

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this the 25th day of May in accordance with 16 TAC § 22.74.



Landon J. Lill

PUC Interoffice Memorandum

To: Landon Lill, Attorney
Legal Division

Thru: Tammy Benter, Director
Water Utilities Division

From: Sean Scaff, Engineering Specialist
Water Utilities Division

Date: May 23, 2017

Subject: **Docket No. 45781**, *Application of City of Portland to Amend its Certificate of Convenience and Necessity in San Patricio County*

On March 29, 2016, City of Portland (Portland) filed with the Commission application to amend Certificate of Convenience and Necessity (CCN) Nos. 10541 and 20216 in San Patricia County pursuant to Tex. Water Code Ann. (TWC) §§ 13.242-50 and 30 Texas Admin. Code (TAC) §§ 291.101-07.

The application was accepted for filing by the Commission on May 3, 2016. Proper public notice was provided on May 20, 2016, to neighboring systems, cities and affected parties and published in the Coastal Bend Herald on May 19, and 26, 2016, in accordance with the requirements of TWC § 13.246(a) and 16 TAC § 24.112(c). The Applicant filed affidavits of notice on June 2, 2016. The comment period ended on June 26, 2016.

In determining whether to grant or amend a CCN, the Commission shall ensure that the Portland possesses the financial, managerial, and technical capability to provide continuous and adequate service pursuant to Tex. Water Code Ann. § 13.241(a) (TWC) and 16 Tex. Admin Code § 24.102(a) (TAC). The Commission shall also consider the nine elements as stated in TWC § 13.246(c) and 16 TAC § 24.102(d). Staff has reviewed the above referenced application, and has found that it meets the requirements to amend a water CCN, as detailed below.

TWC § 13.246(b) and 16 TAC § 24.102(d)(1)

In considering whether to amend a certificate, the Commission shall consider the adequacy of service currently provided to the requested area. The areas subject to this application is currently already being served by Portland through a Texas Commission on Environmental Quality (TCEQ) approved Public Water System (PWS) No. 1020004 and approved waste water permit No. 10478001. Portland has no current enforcement actions against it and is currently meeting TCEQ's required drinking and waste water standards. Portland currently receives 100% of its water from the San Patricio Municipal Water District. Portland provided a purchase water contract that shows it can purchase water at an appropriate rate that will insure appropriate pressure and capacity for the amended area and proposed connection count. The applicant also provided a plan to increase the capacity of the waste water facilities as the area and demand grows.

TWC § 13.246(c)(2) and 16 TAC § 24.102(d)(2)

In considering whether to grant or amend a certificate, the Commission shall consider the need for additional service in the proposed area. Portland received requests to serve, and is currently

serving the proposed areas. As such, Portland has justified the need to amend their CCN boundary to the proposed areas.

TWC § 13.246(c)(3) and 16 TAC § 24.102(d)(3)

In considering whether to grant or amend a certificate, the Commission shall consider the effect of granting a certificate on Portland, on the landowners in the area, and on any retail public utility of the same kind already serving the proximate area. Portland received requests for service to the proposed areas. As such, the approval of the water and sewer CCN amendments should have no effect on landowners and other retail providers in the area.

TWC § 13.246(c)(4) and 16 TAC § 24.102(d)(4)

In considering whether to grant or amend a certificate, the Commission shall consider the ability of Portland to provide adequate service, including meeting the standards of the commission, taking into consideration the current and projected density and land use of the area. Portland has an existing TCEQ approved water and waste water system. Portland also provided a copy of the purchase water contract with the San Patricio Municipal Water District. The contract allows Portland to purchase water as needed to ensure the ability to serve the area. The applicant also provided a plan to increase the capacity of the waste water facilities as the area and demand grows.

TWC § 13.246(c)(5) and 16 TAC § 24.102(d)(5)

In considering whether to grant or amend a certificate, the Commission shall consider the feasibility of obtaining service from an adjacent retail public utility. Portland already has water and sewer service infrastructure in place, and is currently already serving the requested area.

TWC § 13.246(c)(6) and 16 TAC § 24.102(d)(6)

In considering whether to grant or amend a certificate, the Commission shall consider the financial ability of Portland to pay for the facilities necessary to provide continuous and adequate service and the financial stability of Portland, including, if applicable, the adequacy of Portland's debt-equity ratio. 16 TAC § 24.11 establishes criteria to demonstrate that an owner or operator of a retail public utility has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and proposed utility service area. 16 TAC § 24.11(e) lists the financial tests. Staff notes that the following discussion shows that the applicant meets both the leverage and operations tests:

- 1) 16 TAC § 24.11(e)(2) refers to the leverage test. Below is a summary of four leverage tests that were met by the Applicant using their 2015 audited financial statements:
 - a.) 16 TAC § 24.11(e)(2)(A) states that the owner or operator must have a debt to equity ratio (DER) of one or less than one, using long term (LT) debt and equity or net assets. The Applicant has met this requirement with a 2015 DER of 0.245 based on LT debt of \$13,247,426 and equity of \$54,020,204.
 - b.) 16 TAC § 24.11(e)(2)(B) states the owner or operator must have a debt service coverage ratio (DSC) of more than 1.25 using annual net operating income before depreciation and non-cash expenses (NOIBDNCE) divided by annual combined long term (LT) debt payments. The Applicant has met this requirement with a 2015 DSC of 2.03 based on NOIBDNCE of \$6,804,841 and annual LT debt payments of \$3,346,380.
 - c.) 16 TAC § 24.11(e)(2)(C) states the owner or operator must have sufficient unrestricted cash available as a cushion for two years of debt service. The Applicant has met this

requirement, reporting \$23,836,465 in cash and equivalents, and two years LT debt payments equaling \$7,650,875.

- d.) The City of Portland has demonstrated a history of receiving and maintaining an investment grade credit rating (A+) from Standard & Poor's Financial Services, LLC as reflected on the 2015 audited financial statements.

TWC § 13.246(c)(7) and 16 TAC § 24.102(d)(7)

In considering whether to grant or amend a certificate, the Commission shall consider the environmental integrity of the proposed area resulting from the granting of the certificate or amendment. Since Portland is already currently serving the proposed areas, there should be minimal effect to the environmental integrity of the proposed area.

TWC § 13.246(c)(8) and 16 TAC § 24.102(d)(8)

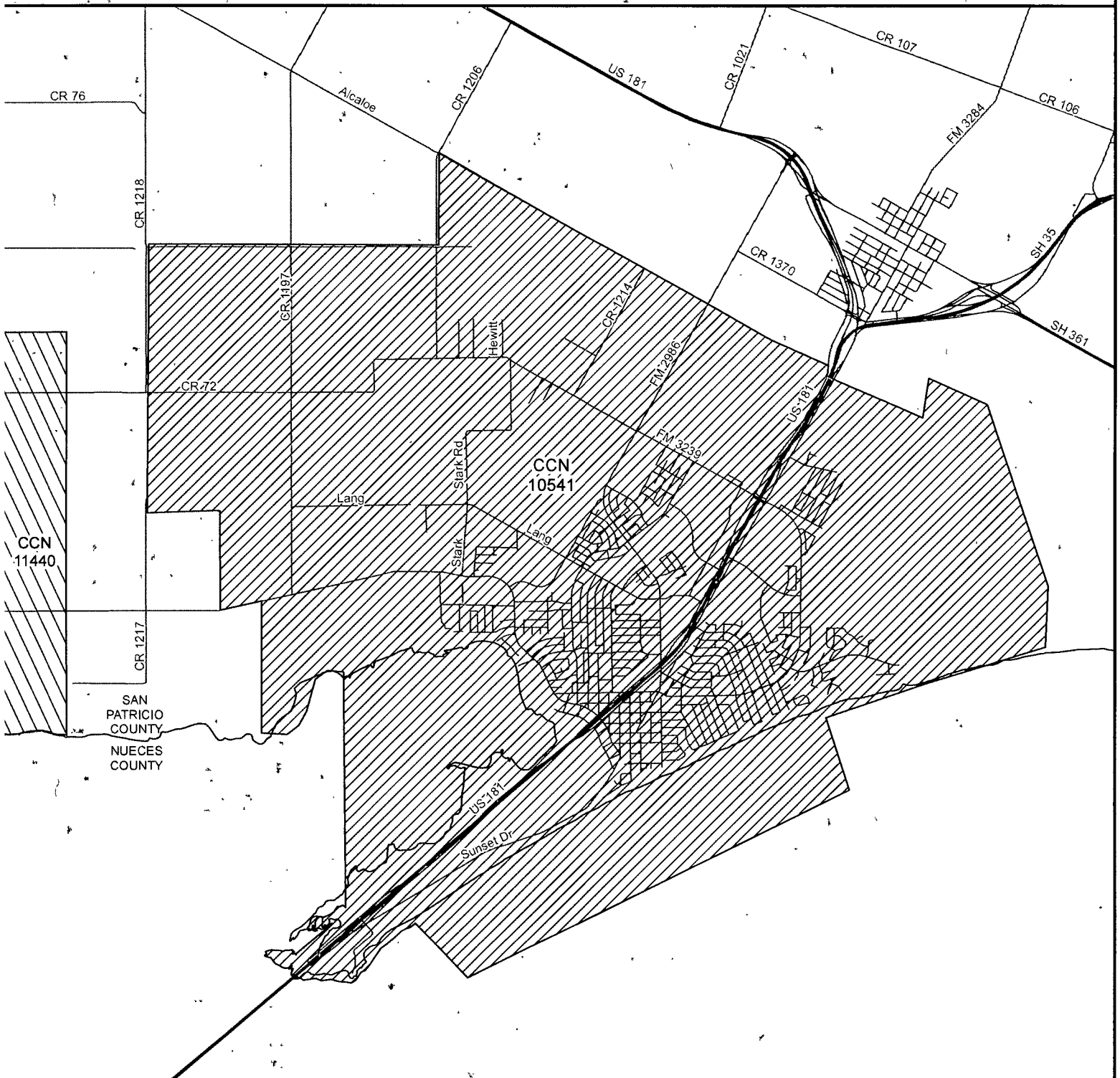
In considering whether to grant or amend a certificate, the Commission shall consider the probable improvement in service or lowering of cost to consumers in that area resulting from the granting of the certificate or amendment. Portland received a request for service and is currently already serving the proposed areas, so this condition was not considered for approval. However, as Portland is a city, the Commission does not have jurisdiction over its rate structure; therefore, the cost of service to customers was not considered as part of the application.

TWC § 13.246(c)(9) and 16 TAC § 24.102(d)(9)

In considering whether to grant or amend a certificate, the Commission shall consider the effect on the land to be included in the certificated area. Portland is already providing service to the proposed areas so there should be minimal effect on the land.



Based on my review of the application, Portland meets all of the statutory requirements of TWC Chapter 13 and 16 TAC Chapter 24 rules and regulations. Approving this application to amend Portland's CCN Nos. 10541 and 20216 is necessary for the service, accommodation, convenience and safety of the public pursuant to 16 TAC § 24.102(c). Staff recommends approval of the application.

City of Portland
Water CCN No. 10541
PUC Docket No. 45781
Amended CCN No. 10541 in San Patricio County

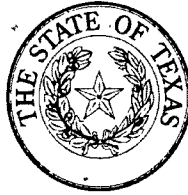


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Feet

Water CCN

-  10541 - City of Portland
-  11440 - Rincon WSC





Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Portland

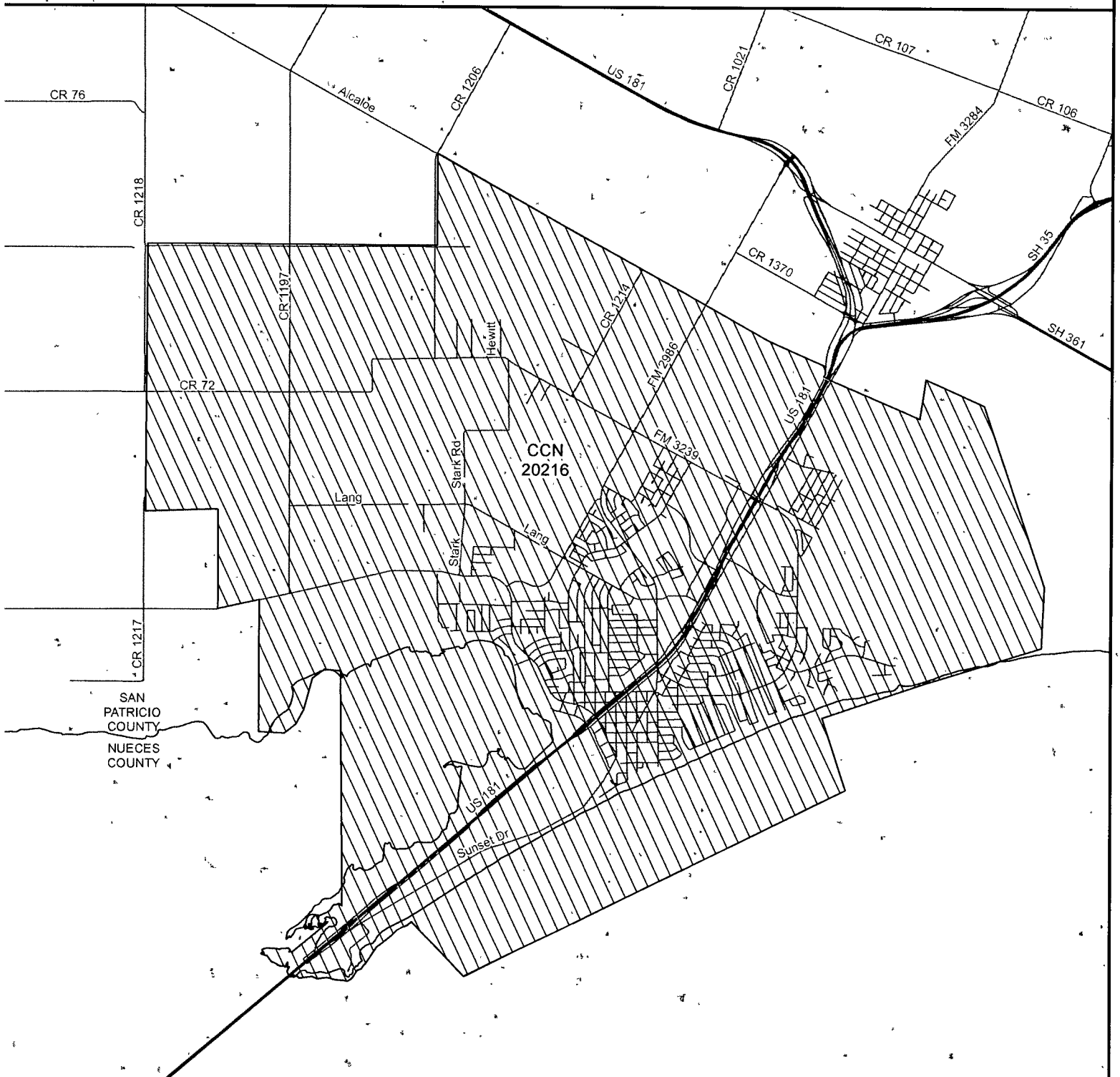
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, the City of Portland is entitled to this

Certificate of Convenience and Necessity No. 10541


to provide continuous and adequate water utility service to that service area or those service areas in Nueces and San Patricio Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45781 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of Portland, to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this _____ day of _____ 2017.

City of Portland
Sewer CCN No. 20216
PUC Docket No. 45781
Amended CCN No. 20216 in San Patricio County



Sewer CCN

 20216 - City of Portland

0 2,500 5,000
Feet





Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Portland

having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, the City of Portland is entitled to this

Certificate of Convenience and Necessity No. 20216

to provide continuous and adequate sewer utility service to that service area or those service areas in Nueces and San Patricio Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45781 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of Portland, to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this _____ day of _____ 2017.

**MILLER
ISAR** INC.
TRUSTED ADVISORS

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ANDREW O. ISAR

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May 19, 2017

Ms. Lisa Clark
Central Records
Public Utility Commission of Texas
1701 North Congress Avenue
Austin, Texas 78701

Re: Preferred Long Distance, Inc. dba Telplex Communications, Tariff Advice Letter No. 22

Dear Ms. Clark:

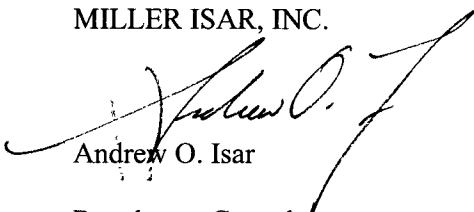
Pursuant to Section 51.911(c) of the Federal Communications Commission's rules, 47 C.F.R. §51.911(c), Preferred Long Distance, Inc. dba Telplex Communications dba Telplex ("Telplex") submits to the Public Utility Commission of Texas ("Commission") this Letter of Compliance.

Telplex will comply with the above cited regulation by reducing its combined terminating intrastate rate elements to \$0.0007,¹ at parity with price-cap incumbent local exchange carriers in its operating territory per Section 51.907 of the FCC's rules, 47 C.F.R. §51.907. Telplex adopts the corresponding incumbent local exchange carrier interstate terminating access rates by its existing Texas access tariff, Texas P.U.C. Tariff No. 3, citation to The Company's Tariff F.C.C. No. 1, effective July 1, 2017. The Company's F.C.C. Tariff No. 1 may be viewed at <https://apps.fcc.gov/etfs/public/tariff.action?idTariff=387>.

This submission has not been made via the Commission's PUC File as the submission is less than ten pages. Thank you for your attention to this matter. Questions concerning this filing may be directed to the undersigned.

Sincerely,

MILLER ISAR, INC.



Andrew O. Isar

Regulatory Consultants to
Preferred Long Distance, Inc.
dba Telplex Communications

¹ Terminating end office rate elements equal to zero and tandem rate elements rates not to exceed \$0.0007.

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