



Control Number: 45781



Item Number: 48

Addendum StartPage: 0

Kenneth W. Anderson, Jr.
Commissioner

Brandy Marty Marquez
Commissioner

Brian H. Lloyd
Executive Director



Greg Abbott
Governor

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PUBLIC UTILITY COMMISSION
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Public Utility Commission of Texas

TO: Kenneth W. Anderson, Jr., Commissioner
Brandy Marty Marquez, Commissioner

All Parties of Record

FROM: Irene Montelongo
Director, Docket Management

RE: **Open Meeting of August 17, 2017**
PUC Docket No. 45781
SOAH Docket No. 473-16-5010.WS – *Application of City of Portland to Amend its Certificates of Convenience and Necessity in San Patricio County*

DATE: July 20, 2017

Enclosed is a copy of the Proposed Order in the above-referenced docket. The Commission will consider this docket at an open meeting presently scheduled to begin at 9:30 a.m. on Thursday, August 17, 2017, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties shall file corrections or exceptions to the Proposed Order on or before Wednesday, August 9, 2017.

On July 7, 2016, this proceeding was referred to the State Office of Administrative Hearings. Subsequently, the docket was returned to the Commission and the Docket Management Section prepared this Proposed Order.

If there are no corrections or exceptions, no response is necessary.

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**PUC DOCKET NO. 45781
SOAH DOCKET NO. 473-16-5010.WS**

APPLICATION OF CITY OF PORTLAND TO AMEND ITS CERTIFICATES OF CONVENIENCE AND NECESSITY IN SAN PATRICIO COUNTY	§ § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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PROPOSED ORDER

This Order addresses the application of the City of Portland (Portland) to amend water and sewer certificates of convenience and necessity in San Patricio County. Commission Staff recommended approval of the application. The application is approved.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

Procedural History

1. On March 29, 2016, Portland filed an application to amend its water and sewer certificates in San Patricio County.
2. Portland holds water certificate 10541 and sewer certificate 20216.
3. Portland's current certificated boundaries do not extend to all areas recently annexed; therefore, Portland seeks to provide exclusive utility service to all areas within its city limits, including those areas recently annexed. Portland seeks to add approximately 5,700 acres to the certificated service area.
4. On April 4, 2016, Order No. 1 was issued, requiring comments on administrative completeness and notice, requesting a procedural schedule, and addressing other procedural matters.
5. On April 5, 2016, the Commission submitted notice of Portland's application to the *Texas Register* for publication on April 15, 2016.
6. On April 29, 2016, Staff recommended that the application be found administratively complete, that Portland be required to provide notice, and proposed a procedural schedule for continued processing.

7. On May 3, 2016, the Commission issued Order No. 2, deeming the application administratively complete, requiring Portland to provide notice, and establishing a procedural schedule.
8. On May 31, 2016, Portland filed proof of direct mail notice to entities, landowners, and neighboring systems on May 20, 2016, and publication of notice in the *Coastal Bend Herald* on May 19 and 26, 2016.
9. On June 8, 2016, Kenneth McKamey filed a request to opt out of the proposed certificate expansion. The opt out request affected 1,354 acres.
10. On June 15, 2016, Rincon Water Supply Corporation (Rincon) intervened and requested a hearing. Rincon stated Portland's proposed boundaries will overlap a portion of the Rincon service area.
11. On June 20, 2016, the City of Gregory (Gregory) intervened. Gregory stated that Portland's proposed CCN areas overlap Gregory's existing ETJ boundaries, which Gregory has requested to certificate in Docket No. 45489.¹
12. On June 24, 2016, Commission Staff requested that Portland's application be referred to the State Office of Administrative Hearings (SOAH).
13. On July 7, 2016, the Commission referred this docket to SOAH and requested the parties file lists of issues.
14. On July 22, 2016, Commission Staff filed a proposed list of issues.
15. On July 28, 2016, Rincon filed a response to Commission Staff's proposed list of issues.
16. On July 28, 2016, SOAH issued Order No. 1, establishing jurisdiction, setting a date for a prehearing conference, and providing for other general matters.
17. On August 24, 2016, SOAH issued Order No. 2, granting a continuance and postponing the prehearing conference to allow for settlement discussions.
18. On August 25, 2016, Portland requested a further continuance of the proceeding.

¹ *Application of City of Gregory to Obtain Certificates of Convenience and Necessity in San Patricio County*, Docket No. 45489 (pending).

19. On August 25, 2016, the Commission issued a preliminary order in this docket.
20. On September 14, 2016, Portland requested additional time to continue settlement discussions.
21. On September 19, 2016, SOAH issued Order No. 3, granting the continuance and postponing the prehearing conference.
22. On February 7, 2017, Portland filed a letter stating that a settlement had been reached.
23. On February 16, 2017, SOAH issued an order requiring Commission Staff to file a status report on the sufficiency of the settlement documents.
24. On February 24, 2017, Commission Staff filed a status report stating that the settlement documents were insufficient.
25. On March 1, 2017, SOAH issued Order No. 5, scheduling a prehearing conference.
26. On March 13, 2017, Rincon filed a letter stating agreement to the settlement terms outlined by Portland and withdrawing its request for a hearing.
27. On March 13, 2017, Portland requested that the prehearing conference be cancelled.
28. On March 14, 2017, Commission Staff filed an updated status report recommending that the settlement documentation was sufficient and that the prehearing conference be cancelled.
29. On March 16, 2017, SOAH issued Order No. 6, cancelling the prehearing conference.
30. On March 31, 2017, Commission Staff proposed a procedural schedule for continued processing of the application.
31. On April 12, 2017, SOAH issued Order No. 7, adopting Commission Staff's proposed procedural schedule.
32. On May 10, 2017, Portland filed consent to the proposed maps and certificates provided by Commission Staff.
33. On May 25, 2017, Commission Staff filed a final recommendation that the application be approved.

34. The final maps and certificates referenced in Finding of Fact 32 are attached to this Order.
35. On June 28, 2017, SOAH issued Order No. 10, admitting evidence, remanding the case to the Commission, and dismissing the SOAH docket.
36. On July 14, 2017, the Commission issued Order No. 4, requiring clarification regarding how and when Mr. McKamey's opt out request was addressed.
37. On July 19, 2017, Commission Staff responded to Order No. 4, stating that as a result of the agreement, Portland amended the proposed service area to no longer include the McKamey property in question.

II. Conclusions of Law

1. Portland is a retail public utility as defined in Texas Water Code § 13.002(19)² and 16 Tex. Admin. Code 24.3(59) (TAC).
2. The Commission has jurisdiction over this proceeding under TWC §§ 13.041-.042.
3. Portland provided notice of the application in compliance with TWC § 13.246 and 16 TAC § 24.106.
4. The application meets the requirements set forth in TWC §§ 13.241-.50.
5. After considering the factors in TWC § 13.241-.50, Portland is entitled to approval of the application, having demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and its current service area as required by TWC § 13.241(a).
6. Approval of the application is necessary for the service, accommodation, convenience, or safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.102(c).
7. Under TWC § 13.257(r) and 16 TAC § 24.106(e), Portland is required to record a certified copy of the approved certificates and maps, along with a boundary description of the service area in the real property records of each county in which the service area or a portion of the service area is located, and submit to the Commission evidence of the recording.

² Tex. Water Code Ann. § 13.002(19) (West 2008 and Supp. 2016) (TWC).

8. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. Portland's application is approved.
2. Portland's water certificate 10431 is amended consistent with this Order.
3. Portland's sewer certificate 20216 is amended consistent with this Order.
4. Portland shall serve every customer and applicant for service within the areas under water certificate 10541 and sewer certificate 20216, and such service shall be continuous and adequate.
5. Portland shall comply with the recording requirements in TWC § 13.257(r) for the area in San Patricio County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Order.
6. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

Signed at Austin, Texas the _____ day of August 2017.

PUBLIC UTILITY COMMISSION OF TEXAS

KENNETH W. ANDERSON, JR., COMMISSIONER

BRANDY MARTY MARQUEZ, COMMISSIONER



Public Utility Commission of Texas

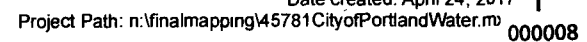
By These Presents Be It Known To All That City of Portland

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.

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Public Utility Commission of Texas

**By These Presents Be It Known To All That
City of Portland**

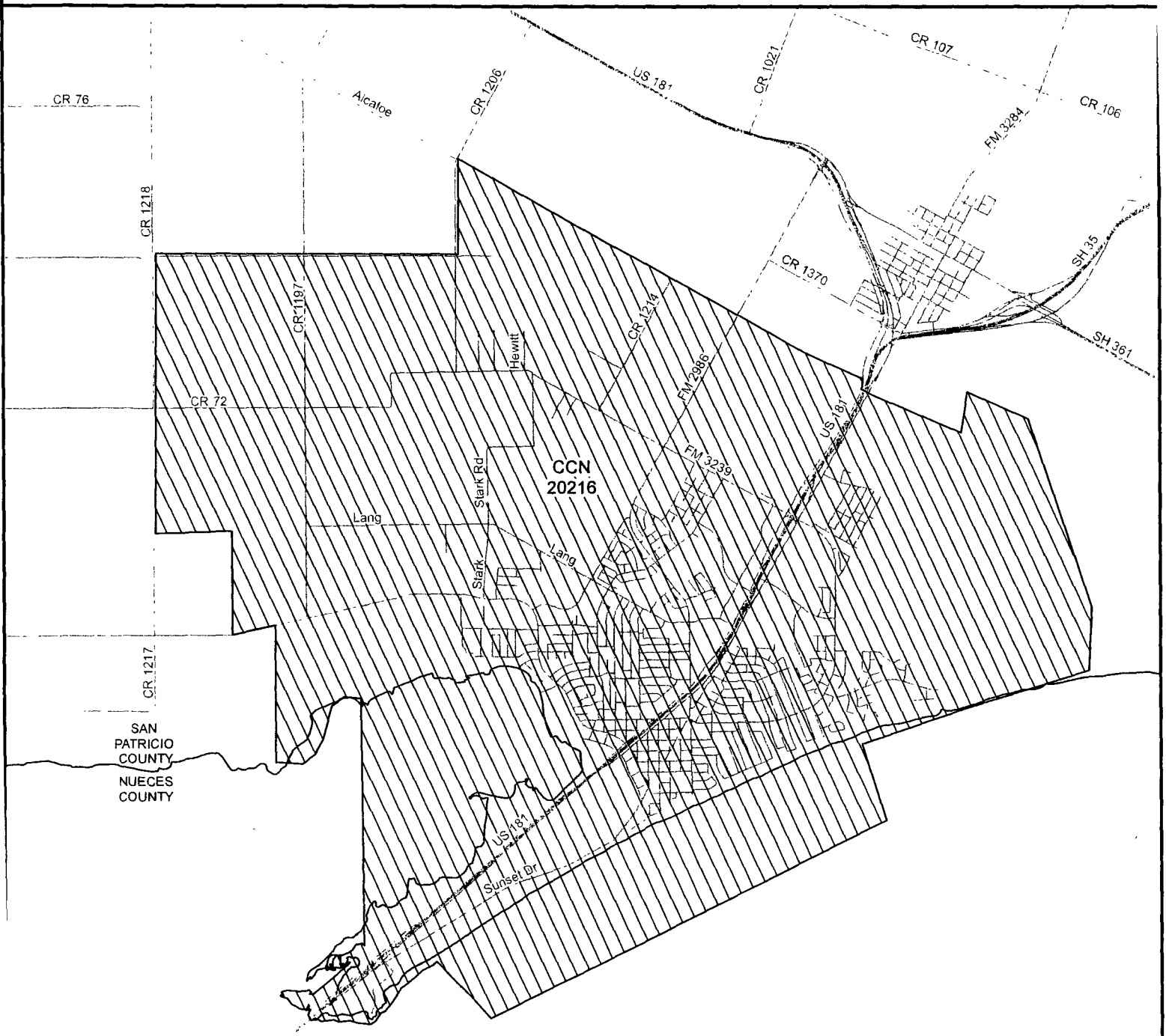
having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, the City of Portland is entitled to this

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.

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

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