

Control Number: 46866



Item Number: 7

Addendum StartPage: 0

RECEIVED

PETITION OF PATRICIA MILLER §
DEASON TO AMEND MARILEE §
SPECIAL DISTRICT'S CERTIFICATE §
OF CONVENIENCE AND NECESSITY §
IN COLLIN COUNTY BY EXPEDITED §
RELEASE §

PUBLIC UTILITY COMMISSION
OF TEXAS

2017 MAR 15 PM 1:26
PUBLIC UTILITY COMMISSION
FILING CLERK

**MARILEE SPECIAL UTILITY DISTRICT'S
RESPONSE TO PETITION FOR EXPEDITED DECERTIFICATION**

Marilee Special Utility District (the "District") files this Response to the Petition for Expedited Decertification dated February 17, 2017 (the "Petition") filed on behalf of Patricia Miller Deason ("Petitioner").

Overview

1. In the Petition, Petitioner requests that the Public Utility Commission of Texas (the "PUC") decertify 257.86 acres of real property (the "Property") from the certificated water service territory of the District pursuant to Texas Water Code § 13.254(a-5) and 16 Texas Administrative Code § 24.113(r).

2. The Property is not eligible for expedited decertification under TWC § 13.254(a-5) because the statute does not authorize expedited decertification of lands that receive "service." The District provides "service" to the Property, as defined by TWC § 13.002(21).

Discussion

3. The District is a political subdivision of the State of Texas and the holder of Certificate of Convenience and Necessity No. 10150 (the "CCN"). The District is the successor of the CCN and all plant, equipment and customers of the former Gunter Rural Water Supply Corporation. The District currently provides retail water service to approximately 2,409 active connections.

4. Tex. Water Code § 13.254(a-5) authorizes expedited decertification only for property “that is not receiving water or sewer service.” TWC § 13.002(21) defines “service” as follows:

Any act performed, anything furnished or supplied, and any facilities or lines committed or used by a retail public utility in the performance of its duties under this chapter. . . .(emphasis added).

The District has performed many acts in furtherance of the provision of retail water service to the Property, including without limitation, the following:

a. The District has constructed an 8-inch (8") waterline *directly on* the south side of the Property, in which an adjacent 2-inch (2") waterline serves off the 8" waterline to the Property, and a 6-inch (6") waterline adjacent to a portion of the east side of the Property for the purpose of providing retail water service to the Property;

b. In 1997, at the request of the Petitioner, the District transferred water service from J. R. McIlroy to Petitioner (Account #309) with the location of the meter at the corner of County Roads 130 and 132. *See* attached Exhibit B, at 8;

c. In 2004, at the request of the Petitioner, the District initiated water service to the 166 acres of the Property (Account #1528);

d. The District maintains two (2) active water meters¹ as shown on Exhibit A attached hereto, through which the District provides water service to the Property pursuant to Petitioner's applications for water service to a 166 acre tract. *See* Exhibit B, at 3; and

e. Water usage by the Property is reflected in the current billing statements for Accounts #309 and #1528. *See* attached Exhibit B, at 11-12. Although the current billing

¹ The Court in *Tex. Gen. Land Office v. Crystal Clear Water Supply Corp.*, 449 S.W.3d 13, 104 (Tex. App.—Austin 2014, no writ) stated that “[c]ertainly an active water tap on the Decertified Property would constitute a facility or line ‘used’ to supply water to the tract on which it was located.”

statement for Account #1528 shows a usage of "0" gallons, the amount due is the minimum due for an active water meter.

5. Attached as **Exhibit "A"** is a true and correct map that identifies the Property, the 8-inch waterline on the Property, the 6-inch waterline adjacent to the Property and two (2) active District water meters that provide water service to at least 166 acres of the Property labeled "#1528 Deason" and "#309 Thomas".

6. Attached as **Exhibit "B"** is the supporting affidavit of Donna Loiselle, the general manager of the District.

Conclusion

7. The Property is not eligible for expedited decertification under Tex. Water Code § 13.254(a-5) because the District provides "service" to the Property, as defined under TWC § 13.002(21). Specifically, the District has constructed an 8-inch waterline on the Property, has constructed a 6-inch waterline adjacent to the Property, has installed two water meters, and is providing water service to the Property through the two active water meters.

8. Since the requisite statutory criteria for decertification under TWC § 13.254(a-5) have not been met, Marilee Special Utility District respectfully requests that the Petition be denied in its entirety. If the PUC intends to proceed with processing the Petition notwithstanding the fact that the Property is not eligible for expedited decertification, then Marilee Special Utility District requests the opportunity to present evidence in an appropriate hearing.

Respectfully submitted,



John Rapier, SB# 16550500
Maria Huynh, SB# 24086968
James W. Wilson, SB #00791944
Gay, McCall, Isaacks & Roberts, P.C

777 East 15th Street
Plano, Texas 75074
Tel: (972) 424-8501
Fax: (972) 423-3116
jrapier@gmigr.com
mhuynh@gmigr.com
jwilson@gmigr.com

Anthony S. Corbett, SB# 04811760
McLean & Howard, L.L.P.
901 South MoPAC Expy., Suite 225
Austin, TX 78746
Tel: (512) 799-6405
Fax: (512) 328-2409
tcorbett@mcleanhowardlaw.com

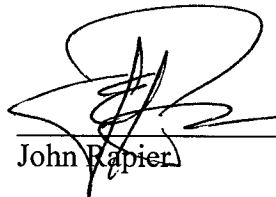
ATTORNEYS FOR MARILEE SPECIAL
UTILITY DISTRICT

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this document will be served on the following parties of record on March 14, 2017, in accordance with 16 TAC § 22.74.

Via electronic mail – mkoehne@coatsrose.com

Mindy L. Koehne
Attorney for Petitioner,
Coats Rose, P.C.
14755 Preston Road, Suite 600
Dallas, Texas 75254



John Rapier

EXHIBIT B

SUPPORTING AFFIDAVIT OF DONNA LOISELLE

STATE OF TEXAS

§

COUNTY OF COLLIN

§

§

BEFORE ME the undersigned authority on this date personally appeared Donna Loiselles who being by me first duly sworn states as follows:

"My name is Donna Loiselles. I am more than 18 years of age and I am of sound mind and qualified to make this affidavit. I have personal knowledge of all facts stated herein.

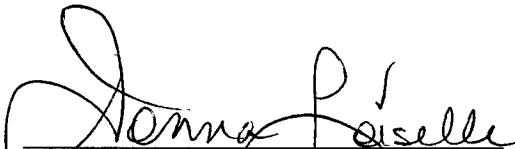
Since 1996, I have been the duly appointed general manager of Marilee Special Utility District (the "District") and I am the custodian of the records of the District. The District is the successor to Gunter Rural Water Supply Corporation a/k/a Gunter Water Supply Corporation.

I have read Marilee Special Utility District's Response to Petition for Expedited Decertification in Docket No. 46866 and each and every factual statement contained therein is true and correct.

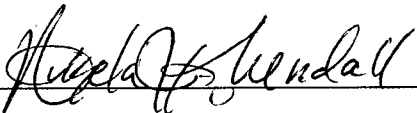
Attached to District's Response as Exhibit A is a true and correct copy of a portion of the District's water system map prepared by the District's engineer of record, Eddy Daniel, P.E. The Property that is the subject matter of Docket No. 46866 is accurately located on the map.

The District provides water service to the Property through a 8-inch waterline served off a 2-inch waterline at the corner of County Roads 130 and 132, a 6-inch waterline, and two (2) active water meters.

Attached to this Affidavit is a true and correct copy of the contents of the customer file for Patricia Miller Deason, Account #309 and #1528 (the "Records"). The Records were made at or near the time of each act, event or condition set forth. The Records were made by, or from information transmitted by, persons with knowledge of the matters set forth. The Records were kept in the course of regularly conducted business activity of the District. It is the regular practice of the District activity to make the Records."


Donna Loiselles, General Manager
Marilee Special Utility District

SUBSCRIBED AND SWORN TO before me on the 14 day of March, 2017, by Donna Loisel, personally known to me to be the general manager of Marilee Special Utility District.



Notary Public for the State of Texas



App 1528

GUNTER SPECIAL UTILITY DISTRICT SERVICE APPLICATION AND AGREEMENT

Please Print:

DATE March 29th, 2004

APPLICANT'S NAME: Patricia Deason

CO-APPLICANT'S NAME _____

CURRENT BILLING ADDRESS:

FUTURE BILLING ADDRESS:

10645 Lennox Lane
Dallas TX 75229

PHONE NUMBER - Home (214) 750-9997

Work () _____

PROOF OF OWNERSHIP PROVIDED BY Warranty Deed

DRIVER'S LICENSE NUMBER OF APPLICANT:  TX

LEGAL DESCRIPTION OF PROPERTY (Including name of road, subdivision with lot and block number): 9379 County Rd 132 Celina TX 75009

ACREAGE 166

HOUSEHOLD SIZE 2500 sq ft

NUMBER IN FAMILY 1

LIVESTOCK & NUMBER Cattle 20
Horses 3 Donkey

SPECIAL SERVICE NEEDS OF APPLICANT: _____

NOTE: FORM MUST BE COMPLETED BY APPLICANT ONLY. A MAP OF SERVICE LOCATION REQUEST AND A COPY OF DEED MUST BE ATTACHED.

THIS AGREEMENT is between Gunter Special Utility District, a political subdivision of the State Of Texas (hereinafter called the District) and Patricia Deason (hereinafter call the Applicant and/or customer).

The District shall sell and deliver water and/or wastewater service to the Applicant and the Applicant shall purchase, receive, and/or reserve service from the District in accordance with the Service Policies of the District, as amended from time to time by the Board of Directors of the District. Upon compliance with said Policies, including payment of a deposit, the Applicant shall become eligible to receive service.

The Applicant shall pay the District for service hereunder as determined by the District's Service Policies and upon the terms and conditions set forth therein, a copy of which has been provided as an information packet, for which Applicant acknowledges receipt hereof by execution of this Agreement. A copy of this Agreement shall be executed before service may be provided to the Applicant.

The Board of Directors shall have the authority to discontinue, terminate or suspend the service to any customer not complying with any policy or not paying any utility rates, fees or charges as required by the District's published Service Policies. At any time service is discontinued, terminated or suspended, the District shall not re-establish service unless it has a current, signed copy of this agreement.

All water shall be metered by meters to be furnished and installed by the District. The meter and/or wastewater connection is for the sole use of the customer and is to provide service to only one (1) dwelling or one (1) business. Extension of pipe(s) to transfer utility service from one property to another, to share, resell, or submeter water to any other persons, dwellings, businesses, or property, etc., is prohibited.

The District shall have the right to locate a water service meter and the pipe necessary to connect the meter on the Applicant's property at a point to be chosen by the District, and shall have access to its meter and equipment located upon Applicant's premises at all reasonable and necessary times for any purpose connected with or in the furtherance of its business operations, and upon discontinuance of service the District shall have the right to remove any of its equipment from the Applicant's property. The Applicant shall install, at their own expense, any necessary service lines from the District's facilities and equipment to the point of applicant's use, including any customer service isolation valves, backflow prevention devices, pressure regulators, clean-outs, and other equipment as may be specified by the District. The District shall also have access to the Applicant's property for the purpose of inspecting for possible cross-connections, potential contamination hazards, illegal lead materials, and any other violations or possible violations of state and federal statutes and regulations relating to the federal Safe Drinking Water Act or Chapter 341 of the Texas Health & Safety Code or the District's Service Policies.

The District is responsible for protecting the drinking water supply from contamination or pollution which could result from improper practices. This service agreement serves as notice to each customer of the restrictions which are in place to provide this protection. The District shall enforce these restrictions to ensure the public health and welfare. The following undesirable practices are prohibited by state regulations:

- a. No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by an air gap or an appropriate backflow prevention assembly in accordance with state regulations.

- b. No cross-connection between the public drinking water supply and a private water system is permitted. These potential threats to the public drinking water supply shall be eliminated at the service connection by the proper installation of an air gap or a reduced pressure-zone backflow prevention assembly and a service agreement must exist for annual inspection and testing by a certified backflow prevention device tester.
- c. No connection which allows condensing, cooling, or industrial process water to be returned to the public drinking water supply is permitted.
- d. No pipe or pipe fitting which contains more than 8.0 % lead may be used for the installation or repair of plumbing on or after July 1, 1988, at any connection which provides water for human consumption.
- e. No solder or flux which contains more than 0.2 % lead may be used for the installation or repair plumbing on or after July 1, 1988, at any connection which provides water for human consumption.

The District shall maintain a copy of this agreement as long as the Applicant and/or premises is connected to the public water system. The Applicant shall allow their property to be inspected for possible cross-connections, potential contamination hazards, and illegal lead materials. These inspections shall be conducted by the District or its designated agent prior to initiating service and periodically thereafter. The inspections shall be conducted during the District's normal business hours, except in emergencies.

The District shall notify the Applicant in writing of any cross-connections or other undesirable practices which have been identified during the initial or subsequent inspection. The Applicant shall immediately correct any undesirable practice on their premises. The Applicant shall, at their expense, properly install, test, and maintain any backflow prevention device required by the District. Copies of all testing and maintenance records shall be provided to the District as required. Failure to comply with the terms of this service agreement shall cause the District to terminate service or properly install, test, and maintain an appropriate backflow prevention device at the service connection. Any expenses associated with the enforcement of this agreement shall be billed to the Applicant.

In the event the total water supply is insufficient to meet the service needs of all of the District's customers, or in the event there is a shortage of water, the District may initiate the Emergency Rationing Program as specified in the District's Service Policies. By execution of this Agreement, the Applicant hereby agrees to comply with the terms of said program.

By execution hereof, the Applicant shall hold the District harmless from any and all claims for damages caused by service interruptions due to waterline breaks by utility or like contractors, tampering by other customers/users of the District, normal failures of the system, or other events beyond the District's control.

The Applicant shall grant to the District permanent recorded easement(s) dedicated to the District for the purpose of providing reasonable rights of access and use to allow the District to construct, maintain, replace, upgrade, parallel, inspect, test and operate any facilities necessary to serve that Applicant as well as the District's purposes in providing system-wide service for existing or future customers.

By execution hereof, the Applicant agrees that non-compliance with the terms of this agreement by said Applicant shall justify discontinuance, termination or suspension of service until such time as the violation is corrected to the satisfaction of the District.

Any misrepresentation of the facts by the Applicant on any of the four pages of this agreement shall result in discontinuance of service pursuant to the terms and conditions of the District's Service Policies.

(Please initial in the space below upon reading the following)

J.D. Applicant acknowledges that the District's water distribution system provides potable water for domestic consumption only and does not provide "fire flows" as defined by the Uniform Fire Code or similar code or regulation to fight structure fires.

SIGNED this the 29th day of March, 2004.



Signature of Applicant

For office use only

Accepted and Approved: _____

Printed Name: _____

Title: _____

*Pick # 25⁰²
11-8-97*

MEMBERSHIP TRANSFER AUTHORIZATION

TRANSFEROR hereby surrenders Membership in the Gunter Rural WSC by execution of the attached Stock Certificate. Water service rights granted by Membership and other qualification hereby cease contingent upon further qualification of the Transferee in accordance with the policies of the Gunter Rural WSC.

By execution hereof, the undersigned hereby acknowledges that the Membership Transfer complies with the terms of one of the following items (1) through (4), thereby qualifying for transfer of Membership in accordance with the laws of the State of Texas.

- (1) The Membership is transferred by will to a person related to the Transferor within the second degree by consanguinity; or
- (2) The Membership is transferred without compensation to a person related to the Transferor within the second degree by consanguinity; or
- (3) The Membership is transferred without compensation or by sale to the Corporation; or
- (4) The Membership is transferred as a part of the conveyance of real estate from which the Membership arose.

Transferee understands that qualification for Membership is not binding on the Corporation and does not qualify the Member for continued water service unless the following terms and conditions are met:

- (1) This Membership Transfer Authorization Form is completed by the Transferor and Transferee;
- (2) The Transferee has completed the required Application packet;
- (3) All indebtedness due the Corporation has been paid;
- (4) The Membership Certificate has been surrendered, properly endorsed, by the record Transferor;
- (5) The Transferee demonstrates satisfactory evidence of ownership of the property designated to receive service and from which the Membership arose; and
- (6) Any other terms and conditions of the Corporation's Tariff are properly met.

J. R. McIlroy

Signature of TRANSFEROR

Patricia Miller

Signature of TRANSFEEE

MEMBERSHIP TRANSFER AUTHORIZATION (CONT'D)

J. R. McIlroy
Transferor's Name

Patricia Miller
Transferee's Name

Box 385
Forwarding Address

10645 Lennox Lane
Current Address

CELINA TX 75009
City, State, Zip Code

Dallas Tex 75229
City, State, Zip Code

Phone # _____

214-750-9797
Phone#

Account Number 309

Final Reading _____ Date 10/31/97

Location of Meter: Corner of CR#130 & CR#132

A FEE OF \$25.00 IS CHARGED ON ALL TRANSFERS AND MUST ACCOMPANY THIS FORM.

YES NO (check which applies)

Transferor may request a refund of the Membership Fee (\$100.00) and Transferee understands that he/she must place on deposit a refundable Membership Fee with the Corporation. (Check appropriate space if refund is requested by Transferor). (Refund will be made once Transferee has placed on deposit Membership Fee (\$100.00)).

ACKNOWLEDGMENT

THE STATE OF TEXAS
COUNTY OF _____

This instrument was acknowledged before me on the _____ day
of _____, 19____ by _____

Notary Public, State of Texas
Commission expires: _____

STATE OF TEXAS
COUNTY OF _____

This instrument was acknowledged before me on the _____ day
of _____, 19____ by _____

Notary Public, State of Texas
Commission expires: _____

Gunter Special Utility District

April 19, 2004

Patricia Deason
10645 Lennox Lane
Dallas, TX 75229

Re: water service request - CR# 132

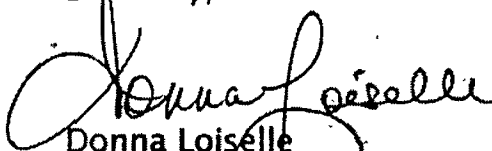
Dear Ms. Deason:

Your request for water service at 9379 CR# 132 has been approved by the engineer with the following recommendations; a county road bore with a service line crossing is necessary to establish service.

If you wish to go forward with your application please remit your payment of \$4600.00, this covers the connection fee, deposit and the road bore. You will also need to identify the meter location.

Please feel free to call me if you have any questions.

Sincerely,


Donna Loiselle
General Manager

VENDOR NO. G390 NAME GUNTER SPECIAL UTILITY DIST. DATE APR 30 04
 INVOICE DATE DESCRIPTION GROSS AMT. DISC. AMT. NET AMT.

*Water svc. Request
 9.379 C.R.#132
 Road bore & service line crossing*

TOTAL 4,600.00 0.00 4,600.00

THIS DOCUMENT HAS A COLORED BACKGROUND AND A SIMULATED WATERMARK ON THE BACK

TEXAS CAPITAL BANK
 Dallas, Texas
 30 1797 / 1119 2004

CHECK NO. 025030

DATE APR 30 04

AMOUNT \$4,600.00

***** Four Thousand Six Hundred and 00/100 *****

GUNTER SPECIAL UTILITY DIST.
 P.O. BOX 1017
 CELINA, TX

75009

AUTHORIZED SIGNATURE



MARILEE SPECIAL UTILITY DISTRICT
PO BOX 1017
CELINA TX 75009



AUTOSCH 5-DIGIT 75009 3 PSS 300380AA23-A-1
362 3 AV D-370



ALVARO ARIAS
8887 COUNTY ROAD 132
CELINA TX 75009-2517

ACCOUNT STATEMENT

Service from 01/24/2017 to 02/22/2017

ACCOUNT NUMBER	DUE DATE	AMOUNT DUE NOW
309	03/15/2017	\$60.07
BILL DATE		AMOUNT DUE AFTER 03/15/2017
02/23/2017		\$70.07
SERVICE ADDRESS		
8887 CR# 132		

QUESTIONS ABOUT YOUR STATEMENT

Customer Service 972-382-3222
Visit us online <http://marileewater.com/home>

OFFICE HOURS

Monday-Friday 8:00 a.m. - 4:30 p.m.

CURRENT CHARGE DETAIL

WATER	\$58.84
GW CON FEE	\$0.94
TAX	\$0.29
PAST DUE AMOUNT	\$0.00
TOTAL CURRENT CHARGES	\$60.07
Total amount due after 03/15/2017	\$70.07
PAY ON-TIME AND SAVE	\$10.00

SERVICE TYPE	PREVIOUS READING	CURRENT READING	METER READ DATE	USAGE
WATER	592000	601400	02/22/2017	9400

Consumption History



IMPORTANT MESSAGE

Visit <http://ccrwater.net/marileewater-17375> to download this year's Marilee-Elmont water quality report.

Visit <http://ccrwater.net/marileewater-17374> to download this year's Marilee water quality report.

- PLEASE FOLD ON PERFORATION, DETACH AND RETURN THIS PORTION WITH YOUR PAYMENT.



MARILEE SPECIAL UTILITY DISTRICT
PO BOX 1017
CELINA TX 75009

ALVARO ARIAS
8887 COUNTY ROAD 132
CELINA TX 75009-2517

COMPLETE THE FOLLOWING IF ABOVE ADDRESS IS INCORRECT:

STREET ADDRESS _____ APT NO _____
CITY _____ STATE _____ ZIP _____

ACCOUNT NUMBER	DUE DATE	AMOUNT DUE
309	03/15/2017	\$60.07

Total amount due after 03/15/2017 \$70.07

AMOUNT ENCLOSED \$

Please write account number on check and remit payment to:

MARILEE SPECIAL UTILITY DISTRICT
PO BOX 1017
CELINA TX 75009-1017



MARILEE SPECIAL UTILITY DISTRICT
PO BOX 1017
CELINA TX 75009



***AUTO**RIKED AADC 750 9 RAAD 1003A0AA23-A-3
2027 3 NO 0.420



PATRICIA DEASON
10645 LENNOX LN
DALLAS TX 75229-5480

ACCOUNT STATEMENT

Service from 01/20/2017 to 02/20/2017

ACCOUNT NUMBER	DUE DATE	AMOUNT DUE NOW
1528	03/15/2017	\$21.71
BILL DATE	AMOUNT DUE AFTER 03/15/2017	
02/23/2017	\$31.71	
SERVICE ADDRESS		
9379 CR# 132		

QUESTIONS ABOUT YOUR STATEMENT

Customer Service 972-382-3222
Visit us online <http://marileewater.com/home>

OFFICE HOURS

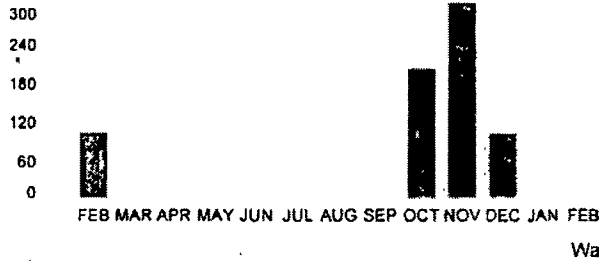
Monday-Friday 8:00 a.m. - 4:30 p.m.

CURRENT CHARGE DETAIL

WATER	\$21.60
TAX	\$0.11
PAST DUE AMOUNT	\$0.00
TOTAL CURRENT CHARGES	\$21.71
Total amount due after 03/15/2017	\$31.71
PAY ON-TIME AND SAVE	\$10.00

SERVICE TYPE	PREVIOUS READING	CURRENT READING	METER READ DATE	USAGE
WATER	176500	176500	02/20/2017	0

Consumption History



IMPORTANT MESSAGE

Visit <http://ccrwater.net/marileewater-17375> to download this year's Marilee-Elmont water quality report.
Visit <http://ccrwater.net/marileewater-17374> to download this year's Marilee water quality report.

- PLEASE FOLD ON PERFORATION, DETACH AND RETURN THIS PORTION WITH YOUR PAYMENT



MARILEE SPECIAL UTILITY DISTRICT
PO BOX 1017
CELINA TX 75009

PATRICIA DEASON
10645 LENNOX LN
DALLAS TX 75229-5480

COMPLETE THE FOLLOWING IF ABOVE ADDRESS IS INCORRECT:

STREET ADDRESS _____ APT. NO. _____
CITY _____ STATE _____ ZIP _____

ACCOUNT NUMBER	DUE DATE	AMOUNT DUE
1528	03/15/2017	\$21.71

Total amount due after 03/15/2017 \$31.71

AMOUNT ENCLOSED \$

Please write account number on check and remit payment to



MARILEE SPECIAL UTILITY DISTRICT
PO BOX 1017
CELINA TX 75009-1017

MEAT120815ML16101 - 105160423 A 1 2027 1 0 420 - www.marilee.com