

Control Number: 48749



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PETITION TO REVOKE META-GENESIS, INC.'S CERTIFICATE OF CONVENIENCE AND NECESSITY PURSUANT TO TEXAS WATER CODE § 13.254 AND 16 TEXAS ADMINISTRATIVE CODE § 24.113 §
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OF TEXAS

**COMMISSION STAFF'S PETITION TO REVOKE
META-GENESIS, INC.'S
CERTIFICATE OF CONVENIENCE AND NECESSITY AND
NOTICE OF OPPORTUNITY FOR A HEARING**

Staff of the Public Utility Commission of Texas (Commission) files this Petition to Revoke Meta-Genesis, Inc.'s Certificate of Convenience and Necessity (Petition) and hereby provides notice of the opportunity to request a hearing on the merits of this Petition.

I. INTRODUCTION

For the reasons discussed below, the sewer service Certificate of Convenience and Necessity (CCN) No. 20656 for Meta-Genesis, Inc. (Meta-Genesis) should be revoked. Upon investigation, Commission Staff has determined that the public sewer system associated with Meta-Genesis is inactive, and that the CCN should be revoked.

In the event Meta-Genesis fails to request a hearing within thirty days of service of this Petition, a default order should be issued, without additional notice to Meta-Genesis, granting all relief sought in this Petition. In support of this Petition, Commission Staff respectfully shows the following:

II. JURISDICTION AND LEGAL AUTHORITY

The Commission is authorized to regulate and supervise the business of each water and sewer utility within its jurisdiction.¹ Pursuant to Tex. Water Code Ann. § 13.242 (TWC), a "water supply or sewer service corporation may not in any way render retail water or sewer utility service directly or indirectly to the public without first having obtained from the utility commission a

¹ Tex. Water Code Ann. § 13.041 (TWC).

certificate that the present or future public convenience and necessity will require that installation, operation, or extension.”

A CCN is defined as “[a] permit issued by the commission which authorizes and obligates a retail public utility to furnish, make available, render, or extend continuous and adequate retail water or sewer service to a specified geographic area.”² A retail public utility is “[a]ny person corporation, public utility, water supply or sewer service corporation, municipality, political subdivision or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation.”³

A retail public utility that possesses a CCN is required to provide continuous and adequate service.⁴ A retail public utility that possesses a CCN and fails to provide continuous and adequate service may be subject to revocation.⁵ As part of this authority, the Commission, “after notice and hearing, may revoke or amend any” CCN if the Commission finds that the certificate holder “has never provided, is no longer providing, is incapable of providing, or has failed to provide continuous and adequate service” in the area, or part of the area, covered by the certificate.⁶

Pursuant to the contested case provisions of the Administrative Procedure Act,⁷ a party is entitled to an opportunity for a hearing after reasonable notice of not less than 10 days, where the party may respond to and present evidence and argument on each issue involved in the case.⁸ If a hearing is not requested within thirty days after service of notice of an opportunity for hearing, a default occurs.⁹ Upon default, the presiding officer may issue a default order, revoking the certificate without a hearing on an informal basis.¹⁰

III. FACTUAL ALLEGATIONS

Meta-Genesis is located in Travis County, Texas in the City of Austin. On May 16, 1986, Meta-Genesis filed an application with the Secretary of State to become a Texas corporation. On December 28, 1989, Meta-Genesis was granted CNN No. 20656. The utility has ceased to operate

² 16 Tex. Admin. Code § 24.3(14) (TAC).

³ TWC § 13.002(19) and 16 TAC § 24.3(59).

⁴ See TWC § 13.250(a) and 16 TAC § 24.114.

⁵ TWC § 13.254(a)(1) and 16 TAC 24.113(i)(1)(A).

⁶ *Id.*

⁷ Administrative Procedure Act, Tex. Gov’t Code Ann. §§ 2001.001-902 (West 2008 & Supp. 2014) (APA).

⁸ APA §§ 2001.051.

⁹ 16 TAC § 22.183.

¹⁰ APA § 2001.056(4) and 16 TAC § 22.183.

and is now listed as inactive on the Secretary of State's website. In lieu of a certificate, Commission records only contain a letter from a Cody Walton, dated July 28, 1997, indicating that Meta-Genesis "went bankrupt and caused the failure of the company" and that the City of Austin "has been servicing the area since 1974." Commission Staff's review of Commission's records indicate that Meta-Genesis is no longer in business and the facilities it used to provide continuous and adequate service are inactive. Therefore, Meta-Genesis is no longer providing and is incapable of providing continuous and adequate service.

IV. RECOMMENDATION FOR REVOCATION

The Commission should revoke Meta-Genesis's CCN No. 20656 because Meta-Genesis is no longer in business, and the facilities it used to provide continuous and adequate service are inactive.¹¹ As long as CCN No. 20656 continues to remain in effect, it may be a violation of Commission rules for another company to provide service in the certificated area.¹²

For the above stated reasons, Commission Staff recommends revocation of CCN No. 20656 pursuant to TWC § 13.254(a)(1) and 16 TAC § 24.113(i)(1)(A).

V. NOTICE OF OPPORTUNITY FOR HEARING

16 TAC §§ 22.54 and 22.55 require Commission Staff to provide reasonable notice to persons affected by a proceeding in accordance with the Administrative Procedure Act. In license revocation proceedings, APA § 2001.054 requires that notice be given "by personal service or by registered or certified mail to the license holder of facts or conduct alleged to warrant the intended action." In order to proceed on a default basis, 16 TAC § 22.183 requires Commission Staff to provide notice by certified mail, return receipt requested: (a) to a certificate holder's last known address in the Commission's records; (b) to the person's registered agent for process on file with the Secretary of State; or (3) to an address for the party identified after reasonable investigation if the first two options are not applicable.

¹¹ See TWC § 13.254(a)(1) and 16 TAC 24.113(i)(1)(A).

¹² See TWC § 13.242.

In accordance with these provisions, Commission Staff will provide a copy of this petition by certified mail, return receipt requested, to the address for the registered agent for process on file with the Secretary of State:

Richard Grice
1004 Mopac Circle, Ste.100
Austin, TX 78746

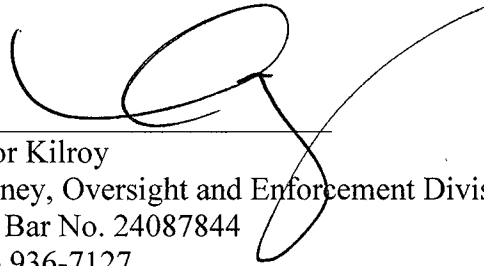
Pursuant to 16 TAC § 22.183, Commission Staff hereby notifies Meta-Genesis that the factual allegations in this petition could be deemed admitted and the relief sought herein granted by default if Meta-Genesis fails to request a hearing within 30 days after service of the Petition and Notice of Opportunity for Hearing. The purpose of a hearing on the merits is to consider revocation of Meta-Genesis's CCN No. 20656. If Meta-Genesis fails to request a hearing, the presiding officer may issue a default order on an informal basis without a hearing on the merits pursuant to APA § 2001.056(4) and 16 TAC § 22.183.

The factual allegations listed in Commission Staff's Petition and Notice of Opportunity for a Hearing could be deemed admitted and the relief sought herein could be granted by default if you fail to timely request a hearing.

VI. REQUEST

WHEREFORE, PREMISES CONSIDERED, Commission Staff respectfully requests that the Commission grants Commission Staff's request to revoke Meta-Genesis's CCN No. 20656. In the event that Meta-Genesis fails to request a hearing on the merits, Commission Staff requests that the Commission issue a default final order, with no further notice to Meta-Genesis, revoking CCN No. 20656.

Respectfully Submitted,



Taylor Kilroy
Attorney, Oversight and Enforcement Division
State Bar No. 24087844
(512) 936-7127
(512) 936-7208 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78701-3326

CERTIFICATE OF SERVICE

I certify that on October 9, 2018, pursuant to 16 TAC § 22.183(b)(2), a copy of this document was sent certified mail, return receipt requested, to the address for the registered agent for process on file with the Secretary of State:

Address for the registered agent for process on file with the Secretary of State:

Richard Grice
1004 Mopac Circle, Ste.100
Austin, TX 78746

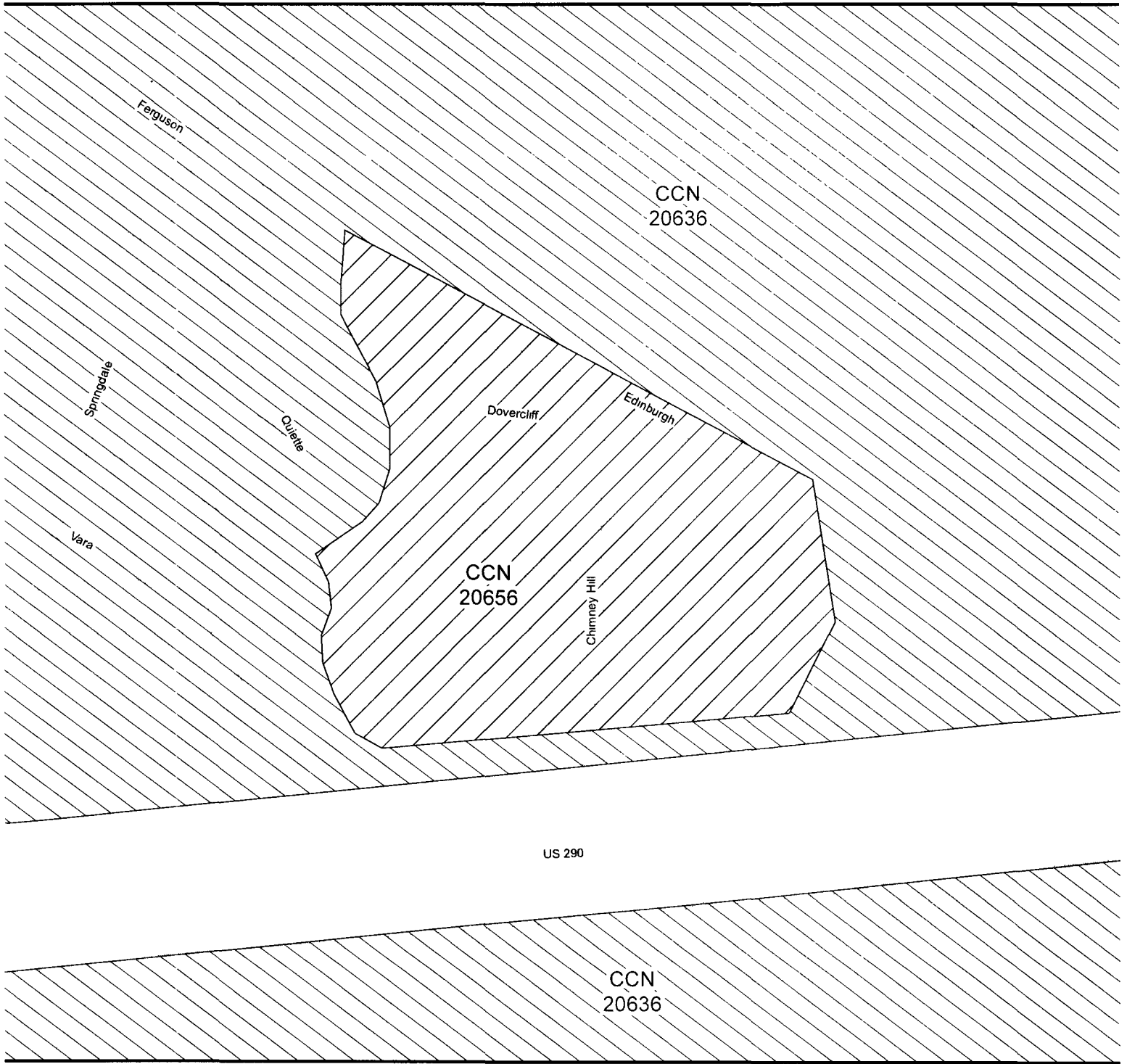

Taylor Kilroy

Attachment 1

Map of Sewer Service Certificate of Convenience and Necessity



No. 20656

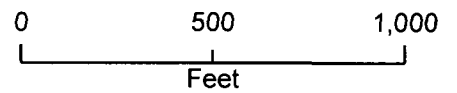
**Meta-Genesis, Inc.
Sewer CCN No. 20656 in
Travis County**



Public Utility Commission of Texas
1701 N. Congress Ave
Austin, TX 78701

Sewer CCNs

-  20656 - Meta Genesis Inc
-  20636 - City of Austin



Map by: Kristy Nguyen
Date created: June 19, 2018
Project path: n:\20656 Meta Genesis Inc

Attachment 2

Letter from Cody Walton

July 28, 1997

Meta-Genesis, Inc., CCN No. 20656, could not be contacted. Meta-Genesis' service area was mapped on our maps. The City of Austin now services water and wastewater treatment to the area otherwise known as the Chimney Hill Subdivision despite the fact there is a CCN for that area. The City of Austin has been servicing the area since 1974. The city acknowledged that a wastewater plant was built, but was abandoned. Meta-Genesis, Inc. went bankrupt and that caused the failure of the company. No other information could be found and the owner of the utility could not be contacted.

Cody Walton

