

Control Number: 49180



Item Number: 1

Addendum StartPage: 0

DOCKET NO. _____

49180

RECEIVED

PETITION TO REVOKE LONG
ISLAND UTILITY DISTRICT'S
CERTIFICATES OF CONVENIENCE
AND NECESSITY PURSUANT TO
TEX. WATER CODE § 13.254 AND 16
TEXAS ADMINISTRATIVE CODE
§ 24.245

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PUBLIC UTILITY COMMISSION

2019 FEB -7 PM 12:31
PUBLIC UTILITY COMMISSION
FILING CLERK

**COMMISSION STAFF'S PETITION TO REVOKE
LONG ISLAND UTILITY DISTRICT'S
CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY
AND NOTICE OF OPPORTUNITY FOR A HEARING**

Staff of the Public Utility Commission of Texas files this petition to revoke Long Island Utility District's (LIUD) certificates of public convenience and necessity 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 water utility certificate of public convenience and necessity (CCN) No. 10547 and sewer utility CCN No. 20218 for LIUD should be revoked. Upon investigation, Commission Staff has determined that LIUD dissolved, and therefore the public water system and sewer system associated with LIUD are inactive; for this reason the CCNs should be revoked.

In the event LIUD fails to request a hearing within 30 days of service of this petition, a default order should be issued, without additional notice to LIUD, 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 Per 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 certificate that the present or future public convenience and necessity will require that installation, operation, or extension."

¹ Tex. Water Code § 13.041 (TWC).

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

In accordance with 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 30 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

LIUD provided water and sewer service to residents of Port Isabel, Cameron County, Texas. On November 1, 1979 LIUD was granted water CCN No. 10547. LIUD was also granted sewer CCN No. 20218, though Commission Staff is unable to identify the exact date on which the certification occurred. On June 6, 1979 LIUD dissolved and the water and sewer utility ceased to operate at that time. LIUD is currently listed as inactive according to Commission records. Because LIUD no longer exists, it is not providing and is incapable of providing continuous and adequate

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 § 24.205.

⁵ TWC § 13.254(a)(1) and 16 TAC 24.245(i)(1)(A).

⁶ *Id.*

⁷ Administrative Procedure Act, Tex. Gov’t Code Ann. §§ 2001.001-.902 (APA).

⁸ APA § 2001.051.

⁹ 16 TAC § 22.183.

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

service. In addition, Port Isabel is now being served by the Laguna Madre Water District for water and sewer services.

Commission Staff has attached a copy of water CCN No. 10547 to this petition. Although a review of Commission records has verified that LIUD was also granted sewer CCN No. 20218, Commission Staff was unable to locate a copy of CCN No. 20218 for the Commission's reference. There is no copy available on the Commission Interchange, in the Commission's Central Records Department, or otherwise located within Commission records to the best of Commission Staff's knowledge.

IV. RECOMMENDATION FOR REVOCATION

The Commission should revoke LIUD's water CCN No. 10547 and sewer CCN No. 20218 because the utility no longer exists, and is therefore incapable of providing continuous and adequate service.¹¹ These revocations will not negatively impact the residents of Port Isabel with respect to water and sewer services. Because it is a water district, the Laguna Madre Water District may provide these services without a CCN.¹²

For the above stated reasons, Commission Staff recommends revocation of water CCN No. 10547 and sewer CCN No. 20218 in accordance with TWC § 13.254(a)(1) and 16 TAC § 24.245(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 24.245(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 LIUD's last known address in TCEQ and Commission records:

Long Island Utility District
P.O. Box 3472, STA 1
McAllen, Texas 78501

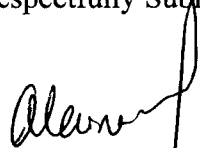
In accordance with 16 TAC § 22.183, Commission Staff hereby notifies LIUD that the factual allegations in this petition could be deemed admitted and the relief sought herein granted by default if LIUD fails to request a hearing within 30 days after service of the petition and notice of opportunity for hearing. The purpose of a hearing on the merits is to consider revocation of LIUD's water CCN No. 10547 and sewer CCN No. 20218. If LIUD fails to request a hearing, the presiding officer may issue a default order on an informal basis without a hearing on the merits in accordance with 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 grant Commission Staff's request to revoke Long Island Utility District's water CCN No. 10547 and sewer CCN No. 20218. In the event that LIUD fails to request a hearing on the merits, Commission Staff requests that the Commission issue a default final order, with no further notice to LIUD, revoking water CCN No. 10547 and sewer CCN No. 20218.

Respectfully Submitted,

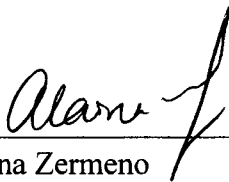


Alaina Zermeno
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Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78701-3326

CERTIFICATE OF SERVICE

I certify that on February 7, 2019, pursuant to 16 TAC § 22.183(b)(2), a copy of this document was sent certified mail, return receipt requested, to the last known address of Long Island Utility District (LIUD) in Commission records:

Long Island Utility District
P.O. Box 3472 STA 1
McAllen, Texas 78501



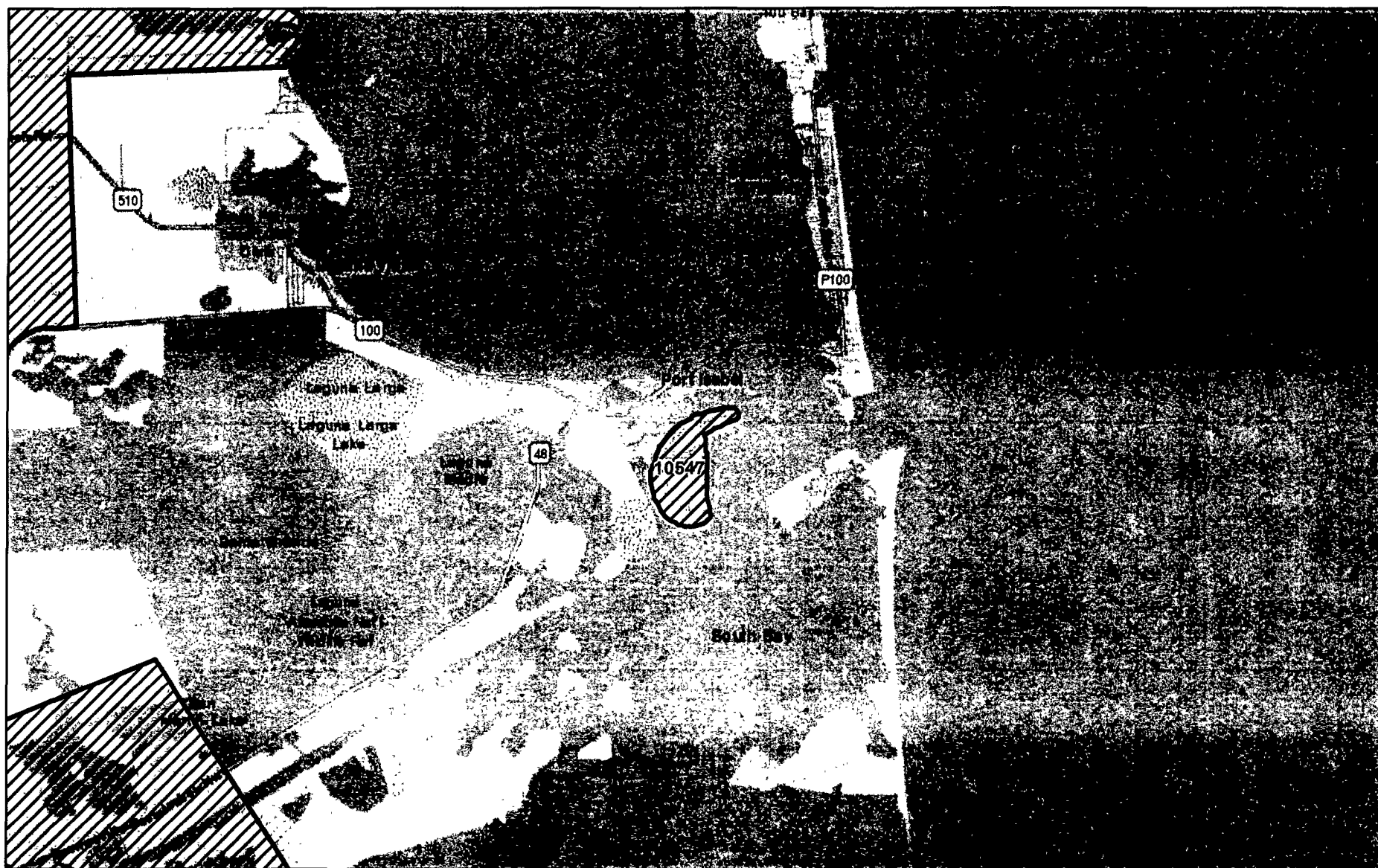
Alaina Zermeno

Attachment 1

Map of Water Service Certificate of Convenience and Necessity

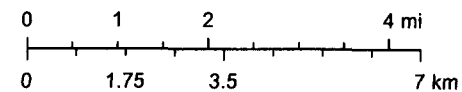
No. 10547

Long Island Utility District CCN No. 10547



January 8, 2019

1:144,448



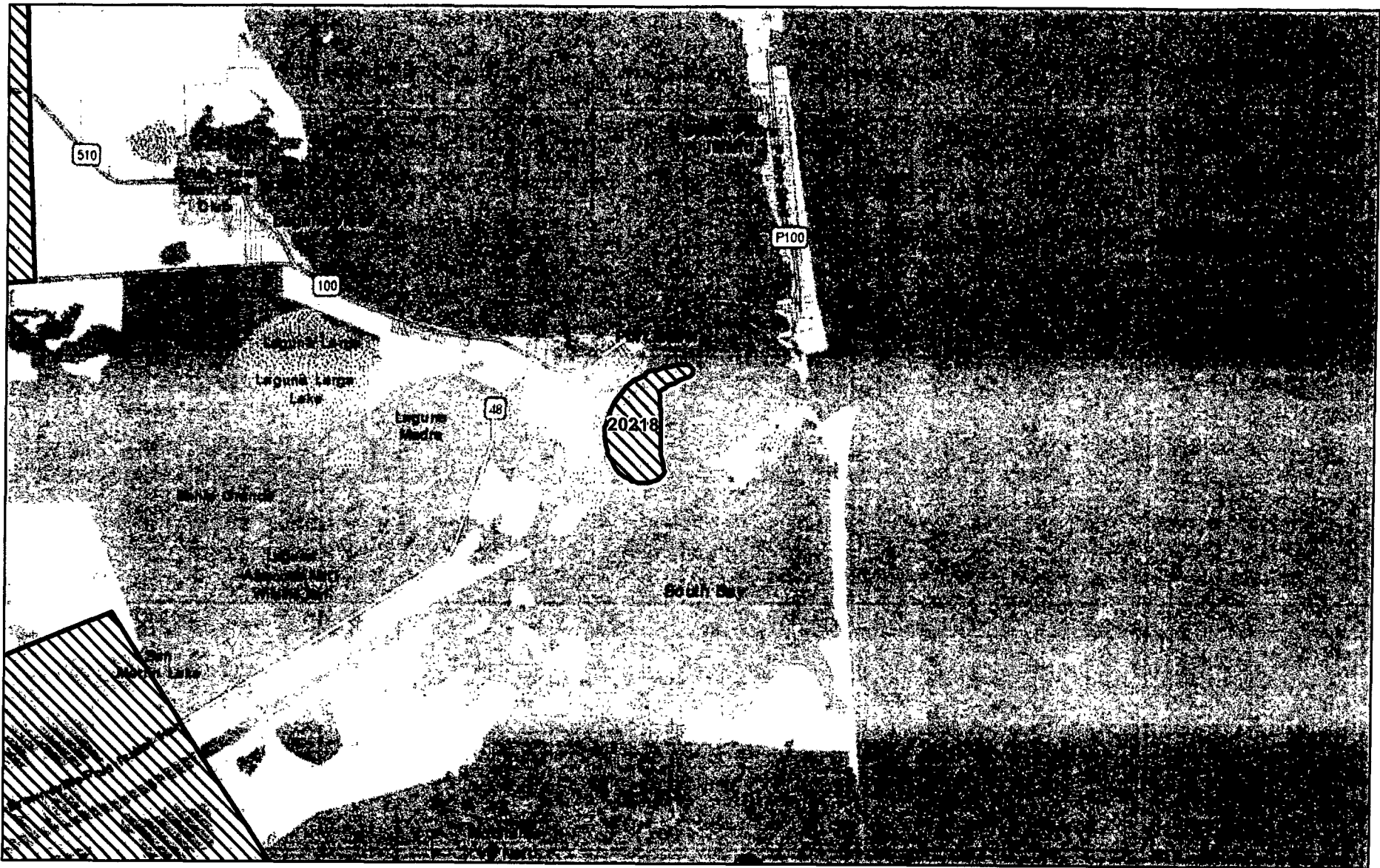
Esri, HERE, Garmin, NGA, USGS, NPS

Attachment 2

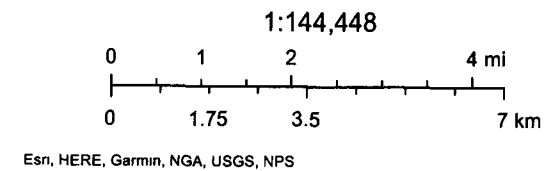
Map of Sewer Service Certificate of Convenience and Necessity

No. 20218

Long Island Utility District CCN No. 20218



January 8, 2019



Attachment 3

Water Service Certificate of Convenience and Necessity

No. 10547

Public Utility Commission of Texas

By These Presents Be It Known To All That

LONG ISLAND UTILITY DISTRICT

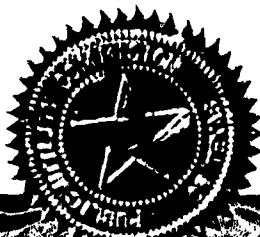
having duly applied for certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

Certificate of Convenience and Necessity

numbered 10547, to provide water utility service to that service area or those service areas designated by final Order or Orders duly entered by this Commission, which Order or Orders 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 this Grantee to provide such utility service in accordance with the laws of this State and the 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 1st day of November, 1979.



Philip F. Ricketts
Philip F. Ricketts
SECRETARY OF THE COMMISSION

