

**DOCKET NO. 51870**

**APPLICATION OF FOREST GLEN §  
UTILITY COMPANY TO AMEND ITS §  
SEWER CERTIFICATE OF §  
CONVENIENCE AND NECESSITY IN §  
MEDINA COUNTY §**

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

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**COMMISSION STAFF'S RECOMMENDATION ON SUFFICIENCY OF NOTICE AND  
REQUEST FOR REFERRAL**

On March 4, 2021, Forest Glen Utility Company (Forest Glen) filed an application to amend sewer certificate of convenience and necessity (CCN) No. 21070 in Medina County. Forest Glen filed supplemental information on March 5, 2021.

On April 6, 2021, the administrative law judge (ALJ) filed Order No. 2 finding the application administratively complete, directing Forest Glen to provide notice, and establishing a deadline of May 20, 2021 for the Staff of the Public Utility Commission of Texas (Staff) to file a recommendation on sufficiency of notice. Therefore, this pleading is timely filed.

**I. RECOMMENDATION ON NOTICE SUFFICIENCY**

Order No. 2 required Forest Glen to provide proof of notice of the application as described in the April 5, 2021 memorandum of Jolie Mathis and using the forms included with Staff's filing. On May 6, 2021, Forest Glen filed a publisher's affidavit and tear sheets relating to the newspaper notice it had provided. The proof of notice provided by Forest Glen confirms that it used the forms provided by Staff in its recommendation. Although one page of the notice forms included a transcribed docket number, for the reasons discussed below, Staff has reviewed the proof of notice and recommends that Forest Glen's notice is sufficient and effective.

One of the notice forms provided by Staff to Forest Glen in its recommendation filed on April 5, 2021, inadvertently transposed this matter's docket number on the first page of the Notice for Publication. The docket number in the top right corner of the first page of the Notice for Publication reads "Docket No. 51780" instead of the correct docket number for this matter, which is "Docket No. 51870." Staff has not identified a similar transposed docket number in the notice provided to customers by Forest Glen.

Despite the transposition, the Notice for Publication provided by Staff, and later published by Forest Glen, includes a description of the docket and additional information, which provided effective notice in fulfillment of the spirit of Staff's recommendation. Staff further notes that a considerable number of requests to intervene and requests for hearing have been filed in this case, an indication that the notice has in fact been effective. In addition, Forest Glen would incur a financial and temporal cost if required to republish newspaper notice with a corrected docket number. Finally, Forest Glen submitted the Notice for Publication in good faith by using the documents as provided by Staff.

For these reasons, Staff recommends that the newspaper notice provided by Forest Glen be deemed sufficient as illustrated by the considerable number of requests for intervention filed in this case, as weighed against the financial and temporal cost should Forest Glen be required to re-issue notice with a corrected docket number.

Staff also recommends that Forest Glen's notice to customers, landowners, neighboring utilities, and affected parties is sufficient. The affidavit of Mia Natalino, Forest Glen's General Manager, indicates that notice was mailed on April 15, 2021, and the list provided with the affidavit confirms that notice was provided to all affected persons and entities identified in Staff's supplemental recommendation on administrative completeness and proposed procedural schedule filed on April 5, 2021. The copy of the map attached to the affidavit indicates that Forest Glen included the map that was deemed sufficient with the notice.

## **II. REQUEST FOR REFERRAL**

Many of the intervention requests filed in this proceeding as include a request for hearing. Therefore, Staff does not propose a procedural schedule for further processing of this docket and instead requests referral to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.

## **III. CONCLUSION**

For the reasons detailed above, Staff respectfully recommends that the notice provided by Forest Glen be deemed sufficient and that this case be referred to SOAH.

Dated: May 20, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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**CERTIFICATE OF SERVICE**

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on May 20, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Kevin R. Bartz  
Kevin R. Bartz