



## Filing Receipt

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**DOCKET NO. 52529**

<b>PETITION OF EAST TIOGA 581 LP TO</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>AMEND MARILEE SPECIAL UTILITY</b>	<b>§</b>	
<b>DISTRICT'S CERTIFICATE OF</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CONVENIENCE AND NECESSITY IN</b>	<b>§</b>	
<b>GRAYSON COUNTY BY EXPEDITED</b>	<b>§</b>	
<b>RELEASE</b>	<b>§</b>	

**ORDER NO. 4**  
**DENYING MOTION TO DISMISS**

On September 7, 2021, East Tioga 581 LP filed a petition to amend Marilee Special Utility District's water certificate of convenience and necessity (CCN) in Grayson County by streamlined expedited release. East Tioga seeks the streamlined expedited release of a tract of land that lies within Marilee SUD's CCN number 10150.

On October 20, 2021, Marilee SUD filed a motion to dismiss the petition asserting that Grayson County is not a qualifying county under Texas Water Code (TWC) § 13.2541 and 16 Texas Administrative Code (TAC) § 24.245(h). Specifically Marilee SUD asserts, "Grayson County is not a qualifying county under 16 TAC § [24.245(h)]. . . . While Grayson County is adjacent to Collin County, Texas, which has over one million residents, Grayson County has a population of more than 47,500 and thus does not qualify under [16 TAC § 24.245(h)(2)(B)]."<sup>1</sup> Marilee SUD additionally argues that the Commission's own reference materials state that Grayson County is not a qualifying county because it is not included on the Commission's list of qualifying counties.<sup>2</sup>

On October 25, 2021, East Tioga filed a response to the motion to dismiss. Commission Staff did not respond to the motion to dismiss.

TWC § 13.2541 states:

[T]he owner of a tract of land that is at least 25 acres and that is not receiving water or sewer service may petition for expedited release of the area from a certificate of public convenience and necessity in the manner provided by this section and is entitled to that release if the landowner's property is located in a county with a population of at least one million, a county adjacent to a county with a population of at least one million, or a county with a population of more than 200,000 and less

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<sup>1</sup> Marilee Special Utility District's Motion to Dismiss Petition Under 16 TAC § 22.181 at 5 (AIS Item No. 11)

<sup>2</sup> *Id.* (citing Streamlined Expedited Release, Pub. Util. Comm'n, available at [https://interchange.puc.texas.gov/Documents/52529\\_11\\_1160798.PDF](https://interchange.puc.texas.gov/Documents/52529_11_1160798.PDF)).

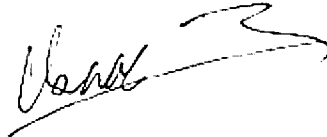
than 220,000 that does not contain a public or private university that had a total enrollment in the most recent fall semester of 40,000 or more, and not in a county that has a population of *more than 45,500 and less than 47,500*.<sup>3</sup>

In other words, a county is not a qualifying county if its population is between 45,500 and 47,500. Marilee SUD concedes that Grayson County has a population of 136,212 and adjacent Collin County has a population of at least one million. Because Grayson County's population is not between 45,500 and 47,500 and because it is adjacent to Collin County, Grayson County is a qualifying county under TWC § 13.2541. While the Commission may publish guidance documents to assist regulated entities, these documents do not have the force of law and do not supplant statutory provisions.

Accordingly, the administrative law judge denies Marilee SUD's motion to dismiss.

**Signed at Austin, Texas the 10th day of November 2021.**

**PUBLIC UTILITY COMMISSION OF TEXAS**



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**ISAAC TA  
ADMINISTRATIVE LAW JUDGE**

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<sup>3</sup> Emphasis added.