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DOCKET NO. 52529

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

**COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION ON
ADMINISTRATIVE COMPLETENESS AND NOTICE**

On September 7, 2021, East Tioga 581 LP (East Tioga) filed a petition for streamlined expedited release within Marilee Special Utility District's (Marilee SUD) water certificate of convenience and necessity (CCN) number 10150 in Grayson County, under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h). East Tioga asserts that the land to be released is at least 25 contiguous acres, is not receiving water service, and is located in Grayson County. According to the 2020 U.S. Census Data, the current population of Grayson County is 135,543¹ and thus making it a qualifying county under TWC § 13.2541(b). On October 20, 2021 and October 26, 2021, East Tioga filed supplemental information.

On October 8, 2021, the administrative law judge (ALJ) filed Order No. 2, requiring Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a supplemental recommendation on the administrative completeness, notice, and to propose a procedural schedule by December 8, 2021. Therefore, this pleading is timely filed.

I. ADMINISTRATIVE COMPLETENESS

Staff has reviewed East Tioga's petition and, as detailed in the attached memorandum from Patricia Garcia, of the Infrastructure Division, recommends that the petition be found administratively complete. Staff's recommendation on administrative completeness is not a comment on the merits of the petition.

¹ U.S. Census Bureau, Census Data for Grayson County QuickFacts Grayson County, Texas (2020) <https://www.census.gov/quickfacts/fact/table/graysoncountytexas/POP010210#POP010210>.

II. PROCEDURAL SCHEDULE

In accordance with Staff’s administrative completeness recommendation, Staff proposes the procedural schedule below. Under 16 TAC § 24.245(h)(7), there is an expedited statutory deadline of 60 days for approval that begins once the ALJ files an order finding the petition administratively complete. Therefore, Staff proposes the following procedural schedule.

| Event | Date |
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| Deadline for Marilee SUD and intervenors to file a response to the administratively complete petition | 20 days from the date of the order finding the petition administratively complete |
| Deadline for Staff’s recommendation on final disposition | 34 days from the date of the order finding the petition administratively complete |
| Deadline for petitioner to file a reply to both Marilee SUD’s response and Staff’s recommendation on final disposition | 41 days from the date of the order finding the petition administratively complete |
| Sixty-day administrative approval of streamlined expedited release | 60 days from the date of the order finding the petition administratively complete |
| <i>In the event streamlined expedited release is granted and petitioner and Marilee SUD can select an agreed-upon appraiser</i> | |
| Deadline for petitioner and Marilee SUD to make a filing stating that they have selected an agreed upon appraiser | Within 10 days after the Commission approves streamlined expedited release |
| Deadline for appraiser’s report | Within 70 days after the Commission approves streamlined expedited release |
| Deadline for Commission’s final order determining the amount of monetary compensation, if any, owed by petitioner to Marilee SUD | Within 60 days after appraiser's report |
| Deadline for petitioner to pay any compensation due to Marilee SUD | Within 90 days of the Commission’s final order on compensation |
| <i>In the event streamlined expedited release is granted and petitioner and Marilee SUD are unable to select an agreed-upon appraiser</i> | |
| Deadline for petitioner and Marilee SUD to make a filing stating that they have been unable to select an agreed upon appraiser and affirming that they will pay half of the cost of Commission Staff’s appraiser ² | Within 10 days after the Commission approves streamlined expedited release ³ |

² TWC § 13.2541(i).

³ It is critical for Staff to know as soon as possible after the Commission grants the petition whether Staff needs to secure the services of a third appraiser. If the petitioner and CCN holder are unable to agree, and fail to make this filing, Staff may need additional time to file its appraiser’s report.

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| Deadline for reports from petitioner's appraiser and Marilee SUD's appraiser | Within 70 days after the Commission approves streamlined expedited release |
| Deadline for Staff's appraiser's report | Within 100 days after the Commission approves streamlined expedited release |
| Deadline for Commission's final order determining the amount of monetary compensation, if any, owed by petitioner to Marilee SUD | Within 60 days after the Commission receives the final appraisal |
| Deadline for petitioner to pay any compensation due to Marilee SUD | Within 90 days of the Commission's final order on compensation |

III. CONCLUSION

For the reasons detailed above, Staff respectfully requests that an order be issued that finds the petition administratively complete and adopts the above proposed procedural schedule.

Dated: December 8, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

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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 December 8, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Arnett D. Caviel
Arnett D. Caviel

Public Utility Commission of Texas

Memorandum

TO: Arnett Caviel, Attorney
Legal Division

FROM: Patricia Garcia, Senior Engineering Specialist
Infrastructure Division

DATE: December 8, 2021

RE: Docket No. 52529 – *Petition of East Tioga 581 LP to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Grayson County by Expedited Release*

On September 7, 2021, East Tioga 581 LP (East Tioga) filed a petition for streamlined expedited release from Marilee Special Utility District's (Marilee SUD) water certificate of convenience and necessity (CCN) No. 10150 in Grayson County, under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h). East Tioga asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Grayson County, which is not currently on the list of qualifying counties, however due to the recent 2020 census showing that Grayson County has a population of 135,543¹, it is now a qualifying county.

East Tioga submitted a sworn affidavit attesting that the property was not receiving water service from Marilee SUD and a warranty deed confirming East Tioga’s ownership of the tract of land. Based on the mapping review by Gary Horton, of the Infrastructure Division, the maps submitted on October 20, 2021 and the digital data submitted on October 26, 2021 are sufficient for determining that the location of the tract of land considered for streamlined expedited release is located within Marilee SUD’s water CCN. The entire tract of land is approximately 581 acres. The area to be released from Marilee SUD, CCN No. 10150, is approximately 304 acres.

The petition also includes a statement indicating a copy of the petition was sent via certified mail to Marilee SUD on the date the petition was filed with the Commission. Marilee SUD submitted a motion to intervene on October 1, 2021. The administrative law judge granted the intervention on October 13, 2021.

¹ U.S. Census Bureau, Census Data for Grayson County QuickFacts Grayson County, Texas (2020) <https://www.census.gov/quickfacts/fact/table/graysoncountytexas/POP010210#POP010210>.

Based on the mapping review by Mr. Horton and my technical and managerial review of the additional information provided by East Tioga on October 20, 2021 and October 26, 2021, I recommend the petition be deemed administratively complete and accepted for filing.