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DOCKET NO. 54488

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

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**BEFORE THE

PUBLIC UTILITY COMMISSION

OF TEXAS**

RESPONSE TO ORDER NO. 6

COMES NOW Forest Glen Utility Company (Applicant or Forest Glen) and files this Response to Order No. 6 Finding Notice Deficient and Providing Opportunity to Cure. In support thereof, Applicant would show the following:

I. BACKGROUND

On December 16, 2022, Forest Glen filed an application to amend its sewer certificate of convenience and necessity (CCN) No. 21070 in Medina County. On June 27, 2023, staff of the Public Utility Commission of Texas (Commission Staff) filed a recommendation on the sufficiency of notice alleging that Applicant published newspaper notice utilizing the wrong maps. The Commission Administrative Law Judge (ALJ) issued Order No. 6 finding notice deficient and establishing a deadline of July 28, 2023 to cure the deficiency. On July 27, 2023, Applicant filed an unopposed request for extension because the newspaper of general circulation in Medina County, the Hondo Anvil Herald, failed to run the second week's publication of its notice in accordance with title 16 Tex. Admin. Code ("TAC") § 24.235(c). The Commission ALJ issued Order No. 7 on July 31, 2023 establishing a new deadline to cure notice deficiencies of August 28, 2023. Therefore this pleading is timely filed.

II. REPUBLISHED NOTICE

Applicant republished notice of the CCN with the administratively complete maps included in AIS number 9 on August 3 and 10, 2023. Proof of the reissued notice is attached hereto as Exhibit A.

As previously stated in its unopposed request for extension, the failure to publish newspaper notice within two consecutive weeks as required by 16 TAC § 24.235(c) was entirely

out of Applicant's hands. Although The Hondo Anvil Herald had been paid to publish notice on July 17 and July 27, 2023, it simply overlooked the second publication on July 27. Applicant then requested re-publication on August 3 and 10, 2023 which The Hondo Anvil Herald published timely and correctly.

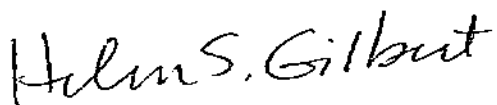
Applicant requests a waiver of the timing requirement under 16 TAC § 24.235(c) which is supported by good cause because the requested CCN area has no current customers, three newspaper notices have now been published to include administratively complete maps in addition to mailed notice and notice to the Office of Public Interest Counsel, and the failure to publish the second notice on July 27, 2023 was inadvertent, outside of Applicant's control and results in harmless error.

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, Forest Glen respectfully prays that the Commission ALJ issue an Order finding notice sufficient, and for all other relief to which it is entitled.

Respectfully submitted,

Randall B. Wilburn
State Bar No. 24033342
Helen S. Gilbert
State Bar No. 00786263
BARTON BENSON JONES PLLC
7000 N. MoPac Expwy, Suite 200
Austin, Texas 78731
Telephone: (210) 640-9174
Telecopier: (210) 600-9796
hgilbert@bartonbensonjones.com

By: 

Helen S. Gilbert

**ATTORNEYS FOR FOREST GLEN
UTILITY COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that I have or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail, or Certified Mail Return Receipt Requested on all parties on the 28th of August 2023.

Helen S. Gilbert

PUBLIC UTILITY COMMISSION OF TEXAS

PUBLISHER'S AFFIDAVIT
DOCKET NO. 54488

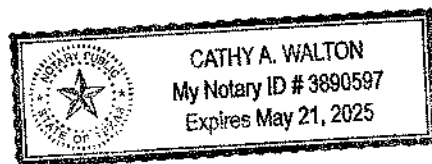
STATE OF TEXAS

COUNTY OF MedinaBefore me, the undersigned authority, on this day personally appeared Jeff Berger
who being by me duly sworn, deposes and that (s)he is thePublisher of the Hondo Area Herald
(TITLE) (NAME OF NEWSPAPER)that said newspaper is regularly published in Medina
(COUNTY/COUNTIES)and generally circulated in Medina, Texas;
(COUNTY/COUNTIES)

and that the attached notice was published in said newspaper on the following dates, to wit:

8/3/23 8/10/23
(DATES)Jeff Berger
(SIGNATURE OF NEWSPAPER REPRESENTATIVE)Subscribed and sworn to before me this 10 day of August, 2023
to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Cathy A Walton
Print or Type Name of Notary PublicCommission Expires 5/21/25

Notice for Publication

Notice Of Application Of Forest Glen Utility Company To Amend Its Certificate Of Convenience And Necessity To Provide Sewer Utility Service In Medina County, Texas

Forest Glen Utility Company has filed an application with the Public Utility Commission of Texas to amend its sewer Certificate of Convenience and Necessity (CCN) No. 21070 for the provision of retail sewer utility service in Medina County, Texas.

Requested Area 1 — Medina Estates, Megan’s Landing, and Microsoft Data Center:

The **requested area** includes 0 customer connections, is located approximately 4.6 miles north of downtown Castroville, Texas, and is generally bounded on the north by Farm to Market 1957; on the east by the intersection of Farm to Market 1957 and Stone Loop; on the south by County Road 472; and on the west by Farm to Market 471.

The **requested area 1** includes approximately 496.5 acres, comprised of uncertificated area.

Requested Area 2 — Potranco West Subdivision:

The requested area includes 0 customer connections, is located approximately 5.7 miles northeast of downtown Castroville, Texas, and is generally bounded on the north by Farm to Market 1957; on the east by Sittre Drive; on the south by Renee Creek; and on the west by the intersection of Farm to Market 1957 and Stone Loop.

The **requested area 2** includes approximately 41.3 acres, comprised of uncertificated area.

Requested Area 3 — Potranco Oaks 2 Subdivision:

The requested area includes 0 customer connections, is located approximately 5.4 miles northeast of downtown Castroville, Texas, and is generally bounded on the north by Farm to Market 1957 and Potranco Road; on the east by the intersection of Farm to Market 1957 and County Road 388; on the south by Big Bend Path; and on the west by Barden Parkway.

The **requested area 3** includes approximately 218.8 acres, comprised of uncertificated area.

Requested Area 4 — Stinson Property Subdivision:

The requested area includes 0 customer connections, is located approximately 4.1 miles northeast of downtown Castroville, Texas, and is generally bounded on the north by Big Bend Path; on the east by county line of Medina and Bexar counties; on the south by a parallel line east of the intersection of Farm to Market 471 and County Road 473; and on the west by Farm to Market 471.

The **requested area 4** includes approximately 293.7 acres, comprised of uncertificated area.

The **total requested area** includes 0 customer connections and includes approximately 1,050.3 acres, comprised of uncertificated area.

The application proposes the addition of approximately 1 050.3 acres to CCN No. 21070.

A copy of the maps showing the requested area are available at: 503 E Ramsey Rd, Suite 201, San Antonio, TX 78216

Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date. The letter must include the person’s name, address, email address and fax number if applicable.

If a valid public hearing is requested, the Commission will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for a final decision. An evidentiary hearing is a legal proceeding similar to a civil trial in state district court.

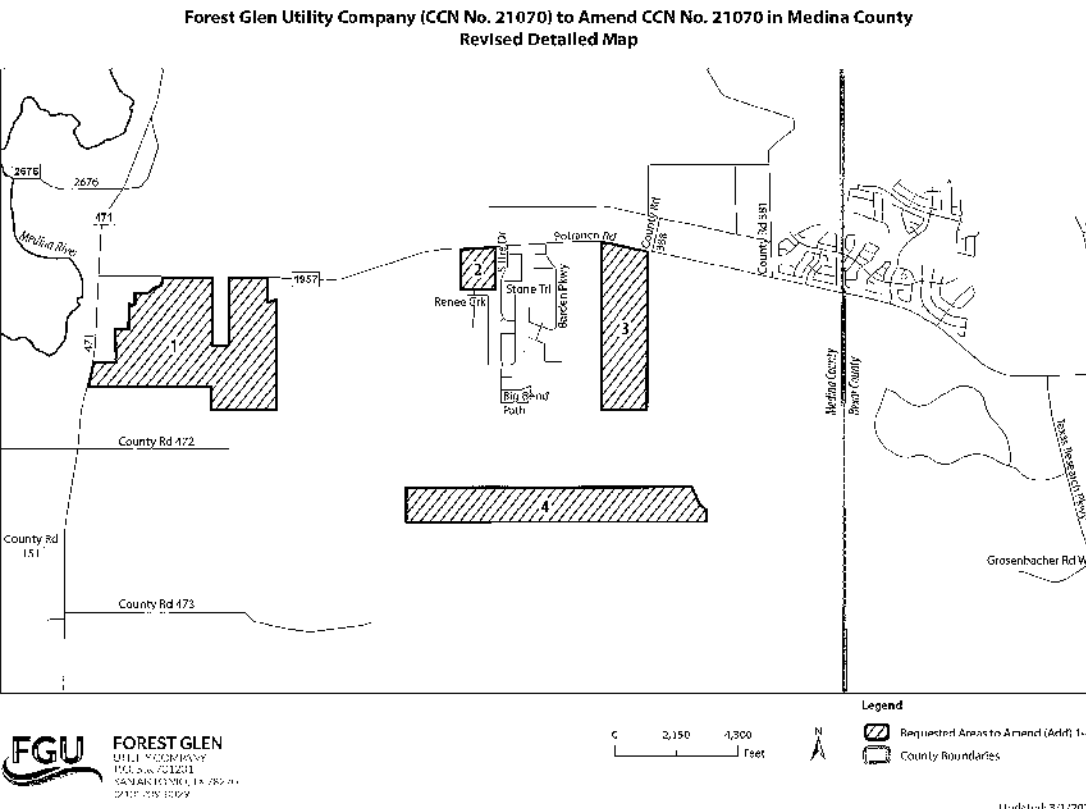
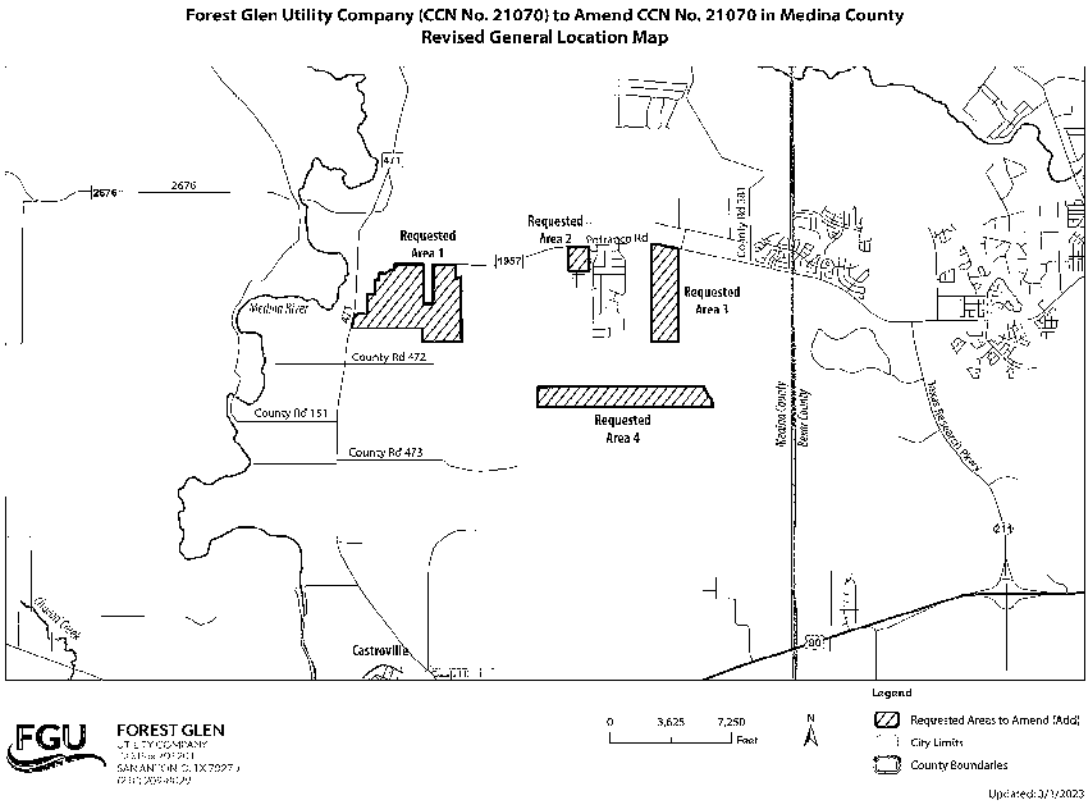
A landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the requested area, may file a written request with the Commission to be excluded from the requested area (“opt out”) within (30) days from the date that notice was provided by the Utility. All opt out requests must include a large-scale map, a metes and bounds description of the landowner’s tract of land, landowner’s name, address, email address and fax number, if applicable.

Persons who wish to request this option should file the required documents with the:

Public Utility Commission of Texas
Central Records
1701 N. Congress, P. O. Box 13326
Austin, TX 78711-3326

In addition, the landowner must also send a copy of the opt out request to the Utility. Staff may request additional information regarding your request.

Si desea informacion en espariol, puede llamar al 1-888-782-8477.



Notice for Publication

Notice Of Application Of Forest Glen Utility Company To Amend Its Certificate Of Convenience And Necessity To Provide Sewer Utility Service In Medina County, Texas

Forest Glen Utility Company has filed an application with the Public Utility Commission of Texas to amend its sewer Certificate of Convenience and Necessity (CCN) No. 21070 for the provision of retail sewer utility service in Medina County, Texas.

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The **requested area 1** includes approximately 196.5 acres, comprised of uncertificated area.

Requested Area 2 — Potranco West Subdivision:

The requested area includes 0 customer connections, is located approximately 5.7 miles northeast of downtown Castroville, Texas, and is generally bounded on the north by Farm to Market 1957; on the east by Sittre Drive; on the south by Renee Creek; and on the west by the intersection of Farm to Market 1957 and Stone Loop.

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Requested Area 3 — Potranco Oaks 2 Subdivision:

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The **requested area 3** includes approximately 218.8 acres, comprised of uncertificated area.

Requested Area 4 — Stinson Property Subdivision:

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The **requested area 4** includes approximately 293.7 acres, comprised of uncertificated area.

The **total requested area** includes 0 customer connections and includes approximately 1,050.3 acres, comprised of uncertificated area.

The application proposes the addition of approximately 1 050.3 acres to CCN No. 21070.

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Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136. The deadline for intervention in the proceeding is (30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). You must send a letter requesting intervention to the commission which is received by that date. The letter must include the person’s name, address, email address and fax number if applicable.

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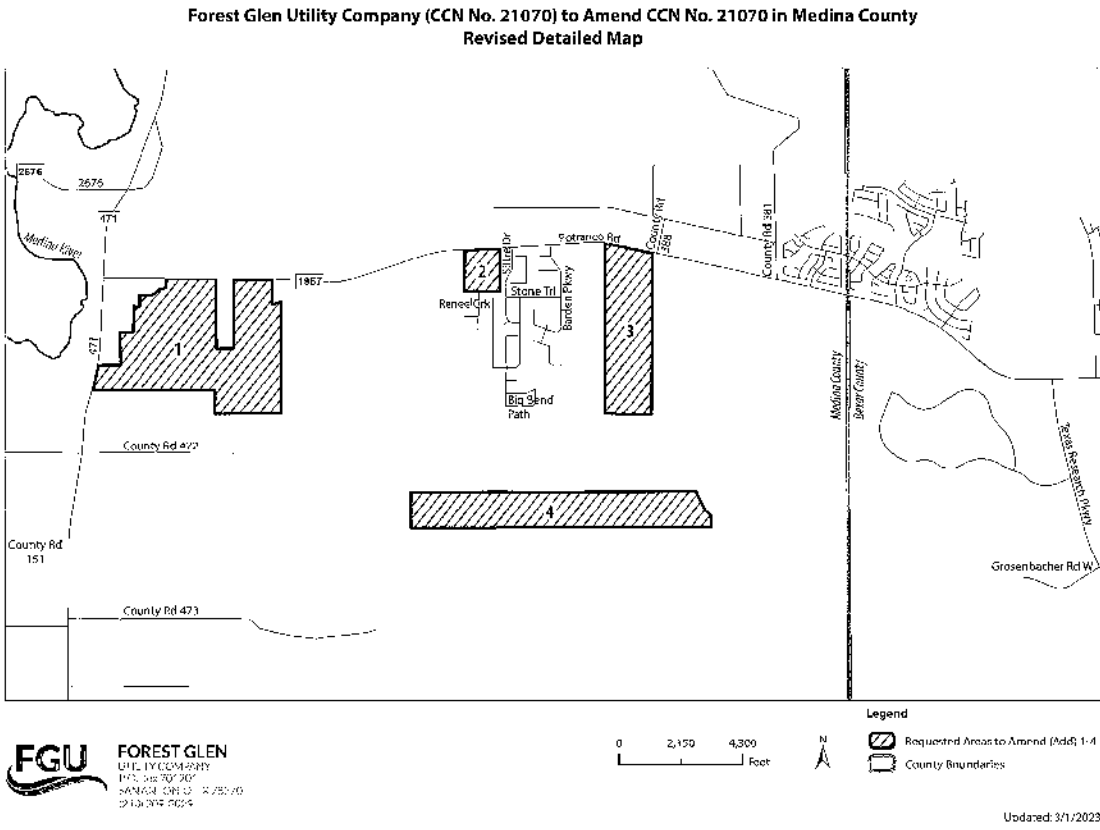
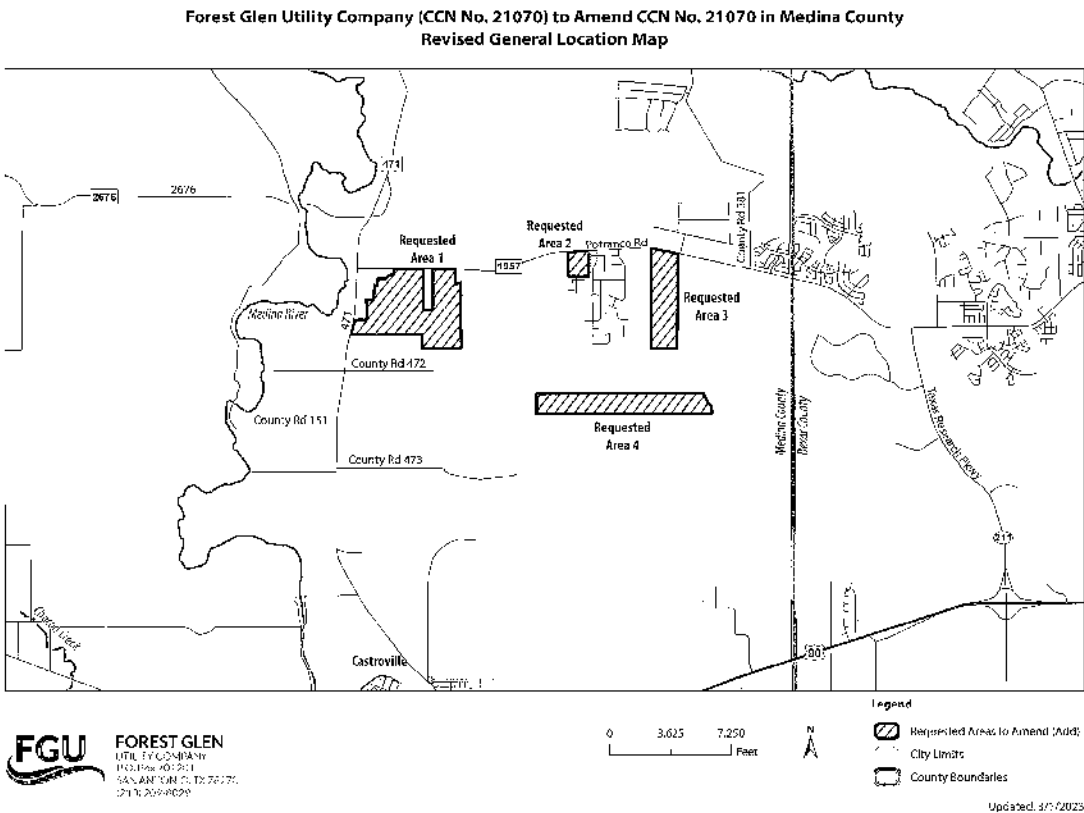
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Subject: PUC Docket No. 54488
Date: Monday, August 28, 2023 at 2:31:43 PM Central Daylight Time
From: Helen Gilbert
To: opuc_customer@opuc.texas.gov
CC: Randall Wilburn
Priority: High
Attachments: image001.png, Response to Order No 6 with att..pdf

Dear Office of Public Utility Counsel,

Attached please find newspaper notice of the proposed CCN amendment in Medina County, published in the Hondo Anvil Herald on Aug. 3 and 10, 2023.

Please confirm receipt by return email. In the meantime, if you have any questions about this notice, please do not hesitate to contact me, thanks,

Helen



HELEN GILBERT

Partner | Barton Benson Jones PLLC

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Direct: [\(210\) 640-9174](tel:2106409174)
Cell: [\(512\) 565-4995](tel:5125654995)
bartonbenjones.com

[7000 N. Mopac Expy, Suite 200 | Austin, Texas 78731](#)