

Control Number: 42958



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RECEIVED

APPLICATION OF AQUA UTILITIES,  
 INC. AND AQUA TEXAS, INC. D/B/A  
 AQUA TEXAS FOR SALE, TRANSFER,  
 OR MERGER OF FACILITIES AND TO  
 AMEND CERTIFICATES OF  
 CONVENIENCE AND NECESSITY IN  
 CHAMBERS, JEFFERSON AND  
 LIBERTY COUNTIES (GRAY UTILITY  
 SERVICE WATER SYSTEM; 37943-S)

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PUBLIC UTILITY COMMISSION  
 ORDER NO. 11157  
 PUBLIC UTILITY COMMISSION  
 FILING CLERK  
 OF  
 TEXAS

### COMMISSION STAFF'S RESPONSE TO ORDER NO. 7 AND REQUEST FOR EXTENSION OF DEADLINE

Commission Staff (Staff) of the Public Utility Commission of Texas (Commission) files this Response to Order No. 7 and Request for Extension of Deadline. In support of its Response, Staff states the following:

#### I. BACKGROUND

On June 4, 2014, Aqua Texas, Inc. d/b/a Aqua Texas (Applicant) filed an application with the Texas Commission on Environmental Quality (TCEQ) regarding the sale, transfer, or merger (STM) and amendment of Certificate of Convenience and Necessity (CCN) No. 11157 in Chambers, Jefferson, and Liberty Counties, Texas pursuant to TEX. WATER CODE ANN. § 13.301 and Title 16, TEX. ADMIN. CODE (16 TAC) §§ 24.109 and 24.112.

Effective September 1, 2014, the Commission began the economic regulation of water and sewer utilities and this case formerly pending at the TCEQ was transferred to the Commission. On September 30, 2014, Order No. 2 Requiring Comments on Status was issued requiring Staff to file an update on the status of the proceeding, to file a recommendation on the need for a hearing or on final disposition of the application, or to propose a procedural schedule by October 21, 2014.

On October 21, 2014, Staff filed its Response to Order No. 2 and requested that the Administrative Law Judge extend the deadline for Staff to file its recommendation on processing the application until Friday, December 19, 2014. On December 19, 2014, Staff filed its Recommendation on the Application, in which Staff identified multiple deficiencies in the

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application and notice and requested that the Applicant be given additional time to cure the deficiencies.

On January 5, 2015, the Administrative Law Judge issued Order No. 4 directing the Applicant to file an amended application to cure the deficiencies by January 30, 2015. Additionally, Order No. 4 directed Staff to file a supplemental recommendation regarding administrative completeness of the amended application and notice along with a proposed procedural schedule within ten working days of receipt of the amended application. The Applicant file supplemental mapping information to cure the identified deficiencies on January 30, 2015, and Staff timely filed its Response to Order No. 4, Status Report, and Request for extension of deadline on February 13, 2015.<sup>1</sup> On February 19, 2015, the Administrative Law Judge issued Order No. 5 granting Staff's request and extending the deadline for Staff to file its supplemental recommendation on sufficiency of the application and notice, and a proposed procedural schedule, until March 30, 2015.

On March 30, 2015, Staff filed its Response to Order No. 5 and Recommendation on the Application in which Staff recommended that the application remained deficient and requested that the Applicant be given additional time to cure the deficiencies. On March 31, 2015, the Administrative Law Judge issued Order No. 6 directing the Applicant to file supplemental information to cure the identified mapping and notice by April 7, 2015 and directing Staff to file a second supplemental recommendation regarding administrative completeness of the application and proposed notice and to propose a procedural schedule for continued processing by May 8, 2015. On May 8, 2015, Staff filed its Response to Order No. 6 and Request for Extension of Deadline, requesting additional time to develop the proper form and substance of the notice documents. On May 13, 2015, the Administrative Law Judge issued Order No. 7 granting the extension and directing Staff to file a recommendation on administrative completeness of the amended application, including proposed notice, and to propose a procedural schedule, if appropriate by May 26, 2015. This Response is timely filed.

## **II. ADMINISTRATIVE COMPLETENESS**

With respect to procedure, the Commission's substantive rules state:

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<sup>1</sup> Ten working days from January 30, 2015 falls on Friday, February 13, 2015.

On or before the 120th day before the effective date of any sale, acquisition, lease, rental, merger or consolidation of any water or sewer system required by law to possess a certificate of public convenience and necessity, the utility or water supply or sewer service corporation shall file a written application with the commission and give public notice of the action.<sup>2</sup>

The 120-day period begins on the later of: (i) the filing of a sale, transfer, merger application; (ii) if mailed notice is required, the date that the applicant mailed notice; or (iii) if newspaper notice is required, the last date of publication of the notice.<sup>3</sup> An application is not considered filed until “a determination of administrative completeness is made.”<sup>4</sup>

Staff notes that the Commission has not yet made a determination of administrative completeness in this proceeding. Therefore, the 120-day clock pursuant to 16 TAC § 24.109(a) has not yet started.

### **III. STAFF’S REQUEST FOR EXTENSION OF DEADLINE**

Staff has reviewed additional notice information submitted by the Applicant on May 22, 2015 and is in the process of developing the proper form and substance of notice of the application. Specifically, Staff is working with the Applicant to develop a complete and adequate description of the multiple areas subject to this application for inclusion in the notice document. Therefore, Staff believes that good cause exists for Staff to request additional time to file a second supplemental recommendation regarding administrative completeness and to propose a procedural schedule for continued processing. Therefore, Staff respectfully requests that the ALJ extend the deadline for the parties to file a supplemental recommendation on the application, a proposed procedural schedule, and approved notices until **June 12, 2015**. Staff has conferred with the Applicant and the Applicant does not oppose this request.

### **IV. CONCLUSION**

For the reasons stated herein, Staff respectfully requests that the deadline for Staff to file its supplemental recommendation on sufficiency of the application and to propose a procedural schedule be extended until **June 12, 2015** and is authorized to represent that the Applicant does not oppose this request.

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<sup>2</sup> 16 TAC § 24.109(a).

<sup>3</sup> 16 TAC § 24.109(a)(1)-(3).

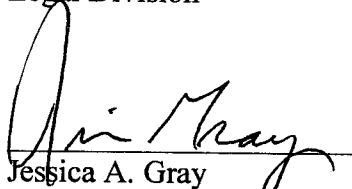
<sup>4</sup> *Id.*

**Date: May 22, 2015**

Respectfully Submitted,

Margaret Uhlig Pemberton  
Division Director  
Legal Division

Shelah J. Cisneros  
Managing Attorney  
Legal Division

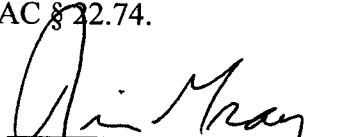


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**DOCKET NO. 42958**

**CERTIFICATE OF SERVICE**

I certify that a copy of this document was served his document was served on all parties of record on May 22, 2015 in accordance with 16 TAC § 22.74.

  
Jessica A. Gray, Attorney