

Control Number: 43572



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House Bill (HB) 1600 and Senate Bill (SB) 567 83<sup>rd</sup>  
Legislature, Regular Session, transferred the functions  
relating to the economic regulation of water and sewer  
utilities from the TCEQ to the PUC effective  
September 1, 2014

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August 22, 2006

PUBLIC UTILITY COMMISSION  
FILING CLERK

Hon. Cassandra J. Church  
Hon. Henry D. Card  
Presiding Administrative Law Judges  
State Office of Administrative Hearings  
P.O. Box 13025  
Austin, Texas 78711-3025

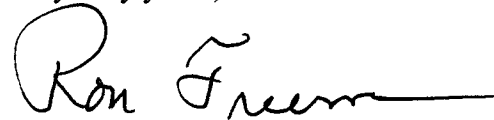
RE: State Office of Administrative Hearings Docket No. 582-03-3725  
Texas Commission on Environmental Quality Docket No. 2003-0664-UCR  
*In Re: The Application of Bexar Metropolitan Water District to Amend Water  
CCN No. 10675 in Bexar County*

State Office of Administrative Hearings Docket No. 582-06-0837  
Texas Commission on Environmental Quality Docket No. 2005-1880-UCR  
*In Re: Application from San Antonio Water System, CCN No. 10640, to Obtain  
Dual Certification with a Portion of CCN No. 10675 from Bexar Metropolitan  
Water District, to Obtain Dual Certification with a Portion of CCN No. 11157 from  
AquaSource Utility, Inc. and to Amend CCN No. 10640 in Bexar County*

Dear Judges Church and Card:

Enclosed please find Bitterblue, Inc.'s Response to Bexar Metropolitan Water District's Motion to Consolidate and Abate Proceedings. Copies are being sent to all parties of record per the attached Certificate of Service.

Very truly yours,



Ronald J. Freeman

RJF/gmm

CC: All Parties of Record per Attached Certificate of Service  
Gene Powell

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SOAH DOCKET NO. 582-03-3725  
TCEQ DOCKET NO. 2003-0664-UCR

IN RE: APPLICATION OF	§	BEFORE THE
BEXAR METROPOLITAN	§	
WATER DISTRICT TO AMEND	§	STATE OFFICE OF
WATER CCN NO. 10675	§	
IN BEXAR COUNTY	§	ADMINISTRATIVE HEARINGS

and

SOAH DOCKET NO. 582-06-0837  
TCEQ DOCKET NO. 2005-1880-UCR

APPLICATION FROM SAN ANTONIO	§	BEFORE THE
WATER SYSTEM, CCN NO. 10640, TO	§	
OBTAIN DUAL CERTIFICATION	§	
WITH A PORTION OF CCN NO. 10675	§	
FROM BEXAR METROPOLITAN	§	
WATER DISTRICT, TO OBTAIN	§	STATE OFFICE OF
DUAL CERTIFICATION WITH A	§	
PORTION OF CCN NO. 11157 FROM	§	
AQUASOURCE UTILITY, INC. AND	§	
TO AMEND CCN NO. 10640 IN	§	
BEXAR COUNTY	§	ADMINISTRATIVE HEARINGS

**BITTERBLUE, INC.'S RESPONSE TO BEXAR METROPOLITAN WATER  
DISTRICT'S MOTION TO CONSOLIDATE AND ABATE PROCEEDINGS**

To the Honorable Administrative Law Judges Church and Card:

COMES NOW, Bitterblue, Inc. ("Bitterblue") and files this its Response to Bexar Metropolitan Water District's Motion to Consolidate and Abate Proceedings and in support thereof would respectfully show as follows:

I.

Bitterblue is a party in the above-referenced Docket. This Response is being filed both in the referenced Docket and in Docket No. 582-06-0837, *In Re Application of San Antonio Water System, CCN No. 10640, to Obtain Dual Certification with a Portion of CCN No. 10675 from Bexar Metropolitan Water District, to Obtain Dual Certification with a Portion of CCN No. 11157 from AquaSource Utility, Inc. and to Amend CCN No. 10640 in Bexar County.*

## II.

Bitterblue takes no position on whether these two dockets should be consolidated. Bitterblue does not care if they are consolidated as long as the above-referenced SOAH Docket No. 582-03-3725 is not delayed.

## III.

However, Bitterblue objects to abatement of either of these dockets. Bitterblue is in the business of developing property in the area requested for certification by both San Antonio Water System ("SAWS") and Bexar Metropolitan Water District ("BexarMet") in these dockets. Bitterblue has agreements to purchase some of that property and has written authority filed in SOAH Docket No. 582-03-3725 to represent the owners of other parts of the property in the disputed area. Evidence of this has previously been provided in SOAH Docket No. 582-03-3725. The disputed area between BexarMet and SAWS involves approximately 5,400 acres. The property managed or controlled by Bitterblue in this disputed area and discussed in this response is approximately 1,486 acres.

## IV.

For some of the property in the disputed area in these two dockets, Bitterblue has a contract to acquire the tracts (Kinder and Bass I, II and III Tracts), and for those tracts, Bitterblue has a Utility Service Agreement ("USA") in effect with SAWS for SAWS to provide retail water and wastewater service to those tracts. These tracts were originally within the area requested by BexarMet (but these tracts have now been excluded from BexarMet's application by an amendment filed by BexarMet in SOAH Docket No. 582-03-3725). However, these tracts on which Bitterblue has a USA with SAWS are within the area requested by SAWS in SOAH Docket No. 582-06-0837 which BexarMet seeks to consolidate.

## V.

Further, for some of the other property in the disputed area in these two respective dockets, Bitterblue also (i) represents the owners of some of the other tracts and (ii) has a contract to purchase one other tract. On behalf of the owners of these other tracts, Bitterblue desires to obtain retail water and wastewater service from SAWS for these other tracts. Evidence of Bitterblue's authority to represent these other land owners and to purchase the other tract has been previously filed in SOAH Docket No. 582-03-3725.

## VI.

In order to efficiently develop all of these tracts for itself and the owners of the tracts, Bitterblue must expeditiously obtain reliable retail water and wastewater utility service. It is important for Bitterblue and the landowners with whom it works to have certainty regarding the substantial investment Bitterblue is making, and will continue to make, in obtaining retail water

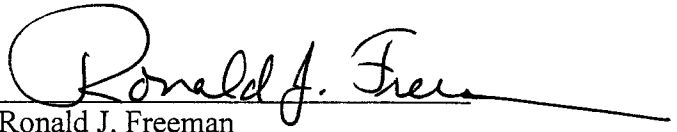
and wastewater service from SAWS for these tracts and that such service is not delayed or frustrated. Bitterblue therefore objects to any abatement of these dockets, requests that the matters proceed to hearing expeditiously and requests that the certificate of convenience and necessity be awarded to SAWS and denied to BexarMet, whether in a consolidated docket or in separate dockets.

WHEREFORE, PREMISES CONSIDERED, Bitterblue respectfully requests that any request for abatement be denied.

**Respectfully submitted,**

**Bitterblue, Inc.**

**BY: FREEMAN & CORBETT, L.L.P.**

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**ATTORNEYS FOR RESPONDENT**

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 22<sup>nd</sup> day of August 2006, a true and correct copy of Bitterblue, Inc.'s Response to Bexar Metropolitan Water District's Motion to Consolidate and Abate Proceedings was served on the parties of record by hand delivery, facsimile transmission and/or First Class Mail.

STATE OFFICE OF ADMINISTRATIVE  
HEARINGS

Hon. Cassandra J. Church  
Hon. Henry D. Card  
Presiding Administrative Law Judges  
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BSR WATER COMPANY  
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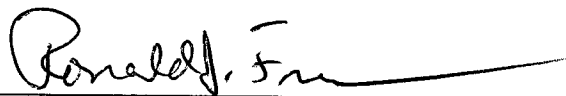
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