

ORDINANCE # 11-17

City of Rockwall, Texas

Attachment A

Information/Documents Required

Except as expressly limited, include information required below for each type of service made subject of the Application, for each System (or portion thereof) that connects to customers within the Area Served, and for the four-year period leading up to the date of submission of a completed Application. If the water or sewer System serving within the City also serves areas outside the City, the requested information shall include be for the entire water or sewer system in question, providing information on a system basis and for the portion that is within the City.

(1) SUMMARY INFORMATION:

- a. A complete set of proposed tariff revisions;
- b. A statement specifying in detail each proposed tariff revision, the classes and numbers of utility customers affected, and the change in gross revenues (in absolute dollar amounts and in percentage terms—each by customer class and by total) that the utility expects the revised tariffs to furnish as opposed to those furnished by existing tariffs;
- c. A schedule comparing under current tariffs the income statements of the system or division for the test year and the twelve-month period immediately previous to the test year, together with a description of all substantial changes reasonably anticipated by the utility to occur during the projected fiscal year;
- d. A schedule comparing the capital structure of the utility for the test year and the twelve-month period immediately previous to the test year, with a description of all substantial changes reasonably anticipated by the utility to occur during the projected fiscal year. [Note: If any component of the capital of the utility is not obtained primarily through its own financing, but rather is obtained primarily from a company which controls the utility ("controlling company"), then the capital structure information shall be both for the controlling company on a consolidated basis and for the utility. If the utility controls any other companies, then the capital structure information shall be both for the utility on a consolidated basis and for the utility on an unconsolidated basis];
- e. A schedule showing gross plant in service of the system or division and a breakdown by functional classification of construction work in progress for the test year;
- f. A schedule showing forecasted construction expenditures of the system or division for the five (5) years following the test year. [Note: Such schedule shall, show expenditures by year and project];
- g. A schedule showing the rates of return (on an actual and adjusted basis) for the test year on the original cost rate base of the system or division (thirteen-month average) and the book common equity of the utility (thirteen-month average), together with an explanation of the basis on which those rates of return were calculated; and

h. A schedule in the same format as reported to stockholders, setting forth the balance sheets of the utility and the system or division at the end of the test year and at the end of the twelve-month period immediately previous to the test year.

(2) **RATE BASE INFORMATION:**

a. A schedule showing for the test year the components of the system's or division's original cost rate base, current cost rate base, and adjusted value rate base calculated in accordance with those weighing factors set forth in subparagraph (2)b. below;

b. A schedule showing the weighing factors which the utility suggests should be used in determining the adjusted value rate base and setting forth the rationale for the use of such weighing factors;

c. A schedule setting forth the following elements of the system's or division's plant in service accounts:

1. The book dollar amount of plant in service classified by major accounts of the applicable uniform system of accounts, as of the beginning of the test year;
2. The book additions and reductions during the test year to such major accounts; and
3. The balances of such accounts at end of the test year;

d. A schedule showing for each of the twelve (12) months in the test year the monthly book balance of all of the system's or division's plant in service, classified by production, transmission, distribution, and general in the case of water utilities, and classified by transmission, distribution and general in the case of sewer utilities;

e. A schedule showing, for the system or division, gross plant in service and a breakdown by functional classification of construction work in progress for the test year, together with a description of all administrative and general expenses related to construction (including the methods and procedures followed in capitalizing interest during construction);

f. A schedule showing for the system or division:

1. The accumulated provisions, as of the beginning of the test year, for depreciation and amortization of plant in service classified to the extent available by production, transmission, distribution, and general in the case of water utilities, and classified by transmission, distribution and general in the case of sewer utilities;
2. The book additions and reductions to such provisions during the test year; and
3. The balance of such provisions at the end of the test year;

g. A schedule showing for each of the twelve (12) months in the test year the system's or division's monthly book balances of the accumulated provisions for depreciation and amortization of plant in service;

h. A schedule showing the determination of original and current cost of the system's or division's plant in service, (Service Life (years; Years, Months and Days in Service) including an explanation of the methods and calculations used in arriving at such costs;

i. A schedule showing the determination of the adjustment for both age and condition of the system's or division's plant in service, including an explanation of the methods and calculations used;

j. A schedule showing facilities under construction or included in the construction budget itemized by:

1. Date in service or estimated date in service;
2. Estimated total cost;
3. Cost at the beginning and end of test year;
4. Estimated annual cost from test year end until placement in service;
5. Purpose of construction (replacement or growth);

k. A schedule of planned retirements by major transmission or distribution unit over the five-year period after the test year end,

l. A schedule showing the computation of the utility's allowance for funds used during construction rate; also an explanation of the utility's policy regarding the capitalization of allowance for funds used during construction which includes limits on projects, amounts, and timing;

m. A schedule showing the utility's plant held for future use including the reason that the plant or property is being held for future use and the anticipated date such plant or property will be placed into service;

n. A schedule showing the amount of construction work in progress requested by the utility at the end of the test year; such schedule shall be itemized by major project and shall show the estimated date of placement in service, location and the estimated cost of each project at the time of placement in service;

o. A schedule showing the monthly balance of construction work in progress during the test year, the monthly balance used to calculate the charge to the allowance for funds used during construction during the test year, and the monthly charge to the allowance for funds used during construction during the test year;

p. A schedule showing the amount of construction work in progress requested by the utility that will not increase the capacity of the applicable system or division;

q. A schedule showing the computation of the working capital allowance requested by the system or division; this schedule shall include for each of the twelve (12) months in the test year the monthly book balances during the test year for materials and supplies (excluding appliances), and prepayments;

r. A schedule listing the banking and depository institutions from which records can be supplied to compute the total daily bank balances by day for the test year, including cash, special deposits, working funds, and temporary cash investments;

s. A copy of a lead-lag study and supporting workpapers which may have been performed and used by the utility in requesting its proposed working capital allowance;

t. A schedule showing the balance of the unamortized investment tax credit, showing remaining balances generated before 1971 and since 1971;

u. A schedule showing the vintage years and balance by vintage year that are included in the utility's unamortized investment tax credits;

v. A schedule showing the monthly balance of customer deposits and the associated interest for each month during the test year;

w. A schedule showing the monthly balance of contributions in aid of construction and customer advances during the test year and an explanation regarding the treatment of these items in the utility's rate application;

x. If applicable, a schedule showing the utility's annual accruals and charges against the insurance reserves for the past five (5) years, including an explanation of when and how the insurance reserves were established and how the annual accrual amount was established;

y. An explanation of the purpose of receivables from associated companies and payables to associated companies, where applicable;

z. A schedule showing the amount and details of any transactions related to property, plant and equipment between the utility and any subsidiary or any other utility; and

aa. A schedule showing the percentage overall rate of return requested by the utility on the original cost rate base, current cost rate base, and adjusted value rate base and the general reasons and justifications for the requested rate of return in narrative form.

(3) COST OF CAPITAL INFORMATION:

[Note: If any component of the capital of the utility is not obtained primarily through its own financing, but rather is obtained primarily from a company which controls the utility ("controlling company"), then the cost of capital information submitted hereunder shall be both for the controlling company on a consolidated basis and for the utility. If the utility controls any other companies, then the cost of capital information submitted hereunder shall be both for the utility on a consolidated basis and for the utility on an unconsolidated basis.]

a. A schedule showing the capitalization of the utility (and controlling company, if any) at the end of the test year and the latest date available (broken down by the following components: Short-term debt, long-term debt, preferred equity, and common equity), all pro forma adjustments to the capitalization (with supporting details), the cost of each component of capitalization, and the weighted overall cost of capital;

b. A schedule showing, for each series of the utility's (and the controlling company's, if any) long-term debt outstanding at the end of the test year and the latest date available, the following information:

1. Title of the debt issue;
2. Date of issuance and date of maturity;
3. Interest rate;
4. Principal amount of issue and gross proceeds;
5. Underwriter's discount or commission and amount;

6. Issuance expense including amount, percent gross proceeds, net proceeds and net proceeds per unit;
7. Cost of money: yield to maturity based on the interest rate and net proceeds per unit outstanding determined by reference to any generally accepted table of bond yields;
8. A description of the projects and their locations funded with the debt.
9. Current amortization schedules for all capital outlays and debt issuances.
10. If the issue is owned by an affiliate of the utility (or the controlling company, if any), state the name of the affiliate and its relationship to the utility (and the controlling company, if any); and
11. If the utility (or the controlling company, if any) has acquired at a discount or premium some part of the outstanding debt which could be used in meeting sinking fund requirements or for other reasons, it shall show the annual amortization of the discount or premium for each series of debt from the date of acquisition over the remaining life of the debt being retired and shall separately show the total remaining or unamortized discount and premium, as a result of such amortization, applicable to the test year;

c. A schedule showing the monthly balances of short-term debt, excluding the current portion of long-term debt, for the utility (or controlling company, if any), during the test year and the latest date available, including the following information:

1. Title of the issue and lender name (bank loan, commercial paper, etc.);
2. Date of issuance and maturity;
3. Interest rate;
4. Principal amount of issue;
5. Compensating balance, if any, including the supporting compensating balance agreement; and
6. Interest expense including the cost of money computed as the interest rate divided by net proceeds per unit outstanding; if the issue is owned by an affiliate of the utility (or the controlling company, if any), then the name of the affiliate, its relationship to the utility (and the controlling company, if any) and an explanation of the method of determining the interest rate shall be stated;
7. A description of the projects and their locations funded with the debt.
8. Current amortization schedules capital outlays and debt issuances.

d. A schedule showing for each class and series of preferred and preference stock of the utility (and the controlling company, if any) outstanding at the end of the test year and the latest date available, the following information:

1. Title of the stock issue;
2. Date of issuance;

3. If callable, the call price;
4. If convertible, the terms of conversion;
5. Par or stated amount of issue and gross proceeds;
6. Underwriter's discount or commission and amount;
7. Issuance expenses including amount, percent gross proceeds, net proceeds and net proceeds per unit;
8. Cost of money: dividend rate divided by net proceeds per unit;
9. Whether the issue was offered to stockholders through subscription right or to the public; and
10. If the issue is owned by the affiliate to the utility (or the controlling company, if any), state the name of the affiliate and its relationship to the utility (and the controlling company, if any);

e. A schedule showing the details of any anticipated financing of the utility (and controlling company, if any) over the twelve-month period immediately succeeding the test year, including:

1. Title of the issue;
2. Date of issuance and maturity, if applicable;
3. Interest or dividend rate, if applicable;
4. Principal amount of issue;
5. Discount, premium, and debt expense, if applicable; and
6. Cost of money, where applicable;

f. A schedule showing the utility's (or controlling company's, if any) yearly high and low common stock prices for the ten (10) years preceding the test year, where applicable;

g. A schedule showing the utility's (or controlling company's, if any) monthly high and low common stock prices during the test year, where applicable;

h. A schedule showing the computation of the utility's (and the controlling company's, if any) times interest earned ratio and fixed charge coverage ratio (by Securities and Exchange Commission method) before and after taxes for the actual test year and for the test year adjusted to take into account all pro forma adjustments and the requested revenue increase; and

i. A schedule providing a summary of the utility's (and the controlling company's, if any) debt instrument fixed charge requirements plus any other pertinent information (such as restrictions) pertaining to the issuance of the debt.

(4) INCOME INFORMATION:

a. A schedule setting forth for the utility and the relevant system or division, the test year income statement, all pro forma adjustments to the test year income statement, and an adjusted test year income statement taking into account such pro forma adjustments;

b. A schedule showing the details of all pro forma adjustments to the test year income statements referred to in (4)a above, with a full explanation of the methods and calculations on which said pro forma adjustments are based:

c. A schedule setting forth monthly detailed net income statements of the utility, and the relevant system or division, for the test year, showing revenues by customer class and showing detailed operating expenses;

d. An annual schedule of detailed operating expenses, by line item, for the system, for the test year.

e. A schedule showing actual sales by month (1,000/gal and revenue) of the utility by customer classification for the twelve (12) months during the test year and projected annual sales (units and dollars) for the next three (3) years subsequent to the test year end;

f. A schedule showing the number of active customer accounts by customer classification of the utility by month during the test year and the projected annual number of customers by customer classification for the period subsequent to the test year end during which the requested rates are to be in effect;

g. A schedule showing utility personnel, by department for the utility for the three (3) years prior to the test year end, during the test year, and budgeted for the period subsequent to the test year end during which the requested rates are to be in effect; total compensation levels for all employees who operate or administer the System and an estimate of the amount of each employee's professional time that is devoted to servicing the System.

h. The utility's current and proposed wage contracts, where applicable;

i. A schedule showing rate case expenses incurred at the time of the filing and estimated rate case expenses for the utility and outside expert witnesses; the schedule should itemize:

1. The salary, expenses and allocations thereof to the filing for each expert retained (other than a regular salaried employee of the utility), whether such person is expected to testify upon the hearing of the rate case or not;
2. All materials and supplies cost;
3. Any other costs associated with the filing preparation and hearings;

j. A schedule reconciling book net income of the utility with taxable net income as reported to the Internal Revenue Service for the most recent year for which a tax return was filed and the previous three (3) years;

k. A schedule showing the tax computation for the relevant system or division of the utility during the test year and all supporting workpapers;

l. A schedule showing the computation of consolidated income taxes for the utility and for the controlling company, if any, during test year operations;

m. A schedule showing a reconciliation of the treatment of allowance for funds used during construction (AFUDC) for both book and tax purposes for the utility during the test year; this schedule shall be accompanied by a narrative explanation;

n. A schedule showing the depreciation rates used by the utility in its filing classified by major plant accounts;

o. A schedule indicating for the utility the date of the most recent change in depreciation lives and studies supporting such a change in depreciable asset lives and corresponding depreciation rates;

p. A schedule showing the computation of the incremental gross revenue conversion factor for the relevant system or division;

q. A schedule showing the amounts expended by or allocated to the utility and the relevant system or division during the test year, with the corresponding amount for: business gifts, entertainment, charitable or civic contributions, membership in social, recreational, fraternal or religious clubs or organizations, institutional advertising, conversational advertising, consumption-inducing advertising, and other advertising;

r. A schedule showing the amounts expended by or allocated to the utility and the relevant system or division (other than salary or wages subject to withholding of federal income tax) for:

1. Legal representation in Texas;
2. Representation before the Texas Legislature,
3. Representation before any other governmental agency or body in Texas;
4. Representation before any federal governmental agency or body;

[Note: This statement shall include the actual expense for the test year, with any adjustments for known changes, and the actual expenses for the last odd-numbered calendar year]; and

s. A schedule showing the net income or loss resulting from the sale or lease by the utility, and the relevant system or division, of appliances, fixtures, equipment, or other merchandise.

(5) RATE DESIGN INFORMATION:

a. A schedule showing for the utility, and the relevant system or division, the following test year information for each customer class:

1. The designation of the class;
2. The total number of customers of the class by month,
3. The total consumption in 1,000 gal of the customer class by month; and
4. The total revenues derived from customers of the class by month;

b. A schedule showing for the relevant system or division and for the test year a bill frequency or other analysis showing consumption and number of bills at each rate and for each customer class for which the utility maintains such records in the normal course of business;

c. A schedule showing the utility's current and proposed rates of return by customer class under the allocation methods proposed by the company; provided, however, if the utility has a cost of service study on file with the City, then this schedule may be omitted; [Note: the utility shall make available to the City Manager all relevant workpapers used to derive such rates];

d. A schedule showing all regional pass-thru mandatory costs incurred by the utility specific to the System, including but not limited to purchase water charges, pumping fees or groundwater assessment fees that are assessed by governmental authorities or other third-parties.

e. A schedule showing the following utility statistics for the past five (5) years from the test year end and subsequent period during which the requested rates are to be in effect:

1. Consumptions (1,000 gal) by class by month;

2. Number of customers by month by class;
3. Number of customers by class by meter size;
3. System demand by month;
4. Water pumped by month for any and all wells serving the system.
5. Water purchased to serve the system including monthly volumes, monthly total cost and cost/1,000 gal for each identified seller.
6. Water losses with break outs of percentages flushed, leaked, stolen or any other source of water loss by month.
7. Where applicable, cooling and heating degree days by month, both normal and actual;
8. Actual peak per year by class;

(6) EXPERT TESTIMONY:

The utility shall submit two (2) copies of the testimony and reports, if any, of company representatives and outside expert witnesses used to support such filing.

(7) ADDITIONAL INFORMATION UPON REQUEST:

An Applicant shall make available any or all of the following information to the City Manager or his/her designee for inspection or copying upon written request therefor:

- (1) Current and detailed system maps of facilities that, in whole or in part, serve the Area Served.
- (2) Annual inspection reports filed by Applicant to the TCEQ (or other regulatory body) addressing the Area Served.
- (3) Any deficiencies reports produced for the Area Served and Applicant's responses to same.
- (4) Customer complaints about any aspect of Applicant's service within the Area Served.
- (5) Total actual dollars of un-collectable accounts for customers within the Area Served, by customer class.
- (6) Documents detailing the acquisition/price paid by Applicant (or any of predecessor) for the System(s) within the Area Served, the associated number of accounts acquired, the date(s) of closing and the seller(s) of the System(s).
- (7) Supporting studies, workpapers, or documentation relied upon by each representative or witness in the presentation of his testimony;
- (8) The utility's books of original entry including the general ledger, subledgers, journals, balance sheets, operating income statements, and monthly trial balances by primary account number, for each month during the test year;
- (9) All workpapers used to derive the utility's adjusted value of invested capital which were not included in the filing package; and

- (10) All workpapers used to derive the utility's test year adjusted operating income which were not included in the filing package.

Applicant shall also make its plants, equipment and other properties or any portion thereof available for inspection by the City Manager or his/her representative.

To: Administrative Reviewer

Date Complete: August 16, 2011

From: Cartographer-Utilities & Districts Section

Subject: Overlap & Notice Check for Administrative Review No. A-081-11/37110&11-C
Petition by Residents of Rockwall Estates to revoke a portion of Aqua Development (11157 & 20453) in Rockwall county.


1. No new overlap of service areas exists.
2. An overlap:
3. Dual certification:
4. An overlap exists with the city limits of:
5. If this is a Sale, Transfer, or Merger, is additional area being requested?

7. Map submitted is digital request digital data.

9. Utility notice was sufficient.
10. Utility notice was insufficient. In addition to those systems listed in the application, they will also need to notify:

TWO MILES:

- X 11. Notice: **DO NOT NOTICE**
- X 12. Other comments: **Maps do not meet requirements. Please submit original and copies of the following. (no maps)**
- A. A general location map delineating the proposed area with enough detail to locate in the county
 - B. A map showing only the proposed area by:
 - (1) Metes and bounds survey certified by a licensed state or register professional land surveyor ; or
 - (2) Projectable digital data with metadata (proposed areas should be in a single record and clearly labeled for each utility) ; or
 - (3) Following verifiable natural and man-made landmarks; or
 - (4) Copy of recorded plat map with metes and bounds



Kent Steelman

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July 22, 2011

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Via Certified Mail / RRR: 7011-0470-0002-1544-6013

Ms. Tammy Benter
Texas Commission on Environmental Quality
Utilities and Districts Section
MC 153
P.O. Box 13087
Austin, Texas 78711

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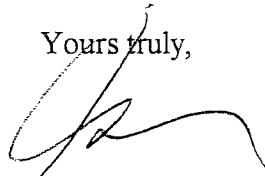
Re: Petition to Revoke and/or Refuse Continuation of Certificate of Convenience and Necessity

Dear Ms. Benter:

Enclosed please find a Petition to Revoke and/or Refuse Continuation of Certificate of Convenience and Necessity for filing with the TCEQ. I have enclosed a copy of the petition along with a self-addressed, stamped envelope for the return of a file-stamped copy to my office.

Please contact me if you have any questions or need additional information.

Yours truly,



G. David Smith

GDS/dlm
enc.
cc: Clients

No. _____

RESIDENTS OF LAKE ROCKWALL ESTATES	§	BEFORE THE TEXAS
V.	§	COMMISSION ON
AQUA UTILITIES, INC./AQUA	§	ENVIRONMENTAL
DEVELOPMENT, INC. D/B/A	§	QUALITY
AQUA TEXAS, INC.	§	

PETITION TO REVOKE AND/OR REFUSE CONTINUATION OF THE CERTIFICATE OF CONVENIENCE AND NECESSITY HELD BY AQUA UTILITIES, INC./AQUA DEVELOPMENT, INC. D/B/A AQUA TEXAS, INC.¹

TO THE HONORABLE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

This Petition is brought by Residents of Lake Rockwall Estates² who are customers and users of the water and sewer services provided to them by Aqua Utilities, Inc./Aqua Development, Inc. d/b/a Aqua Texas, Inc. ("Aqua") pursuant to a Certificate of Convenience and Necessity ("CCN") previously granted to Aqua by this Commission. In support thereof, Petitioners respectfully show as follows:

I.

BASIS OF PETITION

This Petition is brought pursuant to *Tex. Water Code* § 13.254 and 13.246 as well as *Tex. Admin. Code* §291.113.

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¹ An application is pending to transfer the facilities in question in this petition to Aqua Texas, Inc. in Application Nos. 36875-S and 36876-S.

² The Petitioners are identified by name and address on Exhibit A.

II.

FACTUAL BACKGROUND

Lake Rockwall Estates ("LRE") is a subdivision that was constructed in the 1960's in Rockwall County, Texas. At that time, it was outside the city limits of the City of Rockwall and had no utility service. The developer of the subdivision provided water and sewer services. The utility system was sold and eventually acquired by Aqua, an Investor Owned Utility (IOU). Aqua exists as a profit centered business.

In 2009, the City of Rockwall annexed LRE. LRE is currently home to approximately 2,800 residents. Their income is low and their ability to pay for utility services is compromised.

Currently, water service is provided through one 4" meter for all residents. The Aqua facility has no pumping capacity and no water pumps. There is no ground storage facility or elevated storage. There is no fire flow for the subdivision. Sewer service in the subdivision is not available to all residents. Where sewer service is available, the system has deteriorated to such a condition that lines are not providing adequate service and backups into residences have occurred.

LRE residents pay nearly five times what sewer, water and trash services costs for other residents of the City of Rockwall. Residents have met arbitrary collection efforts, such as being required to pay delinquent bills of former tenants of residences before getting service provided. Hispanic residents have met discriminatory tactics in being assessed deposits. An application by Aqua is imminent, as it attempted to seek an increase earlier this year, but was thwarted by the 12 month rule which prohibited it from seeking subsequent increases within a 12 month period.

The City of Rockwall is ready, willing and able to provide water and sewer services to LRE, but is not able to do so because of the existing CCN held by Aqua. Attempts have been made to

purchase the system, but Aqua has been unwilling to sell its facilities. The facilities provide gross income of approximately \$70,000.00 per month to Aqua. Aqua has failed and refused to provide upgrades or improvements to the facilities, even though the need for repairs and upgrades is urgent and necessary. Much of the equipment in place was installed when the subdivision was created. Thus, the income received is largely net profit to the corporation which fulfills the stated purpose of Aqua's existence, to make a good return on its investors' money.

III.

GROUNDS FOR REVOCATION AND REUSAL OF CONTINUATION OF THE AQUA

CCN

There simply is no "convenience" or "necessity" that justifies continuing the monopoly enjoyed by Aqua at the expense of the Petitioners. *Tex. Water Code § 13.254(a) and TAC §291.113(a) (1)* provide that this Commission may, after notice and hearing, revoke the CCN held by Aqua if it finds that Aqua has never provided, is no longer providing, is incapable of providing, or has failed to provide continuous and adequate service in the area, or part of the area, covered by the certificate. The Petitioners would show that more than ample evidence exists to support such a finding. Specifically, the Petitioners show as follows:

1. Continuous service is not being provided to LRE due to the numerous breakdowns and inadequacy of the system;
2. There is no service available to provide water flow for fire protection;
3. The sewer service is not provided to parts of LRE;
4. Sewer service is not continuous in that the system fails, causing backups into residences and raw sewage to flow into the residences;

5. The sewer treatment facility is not maintained in accordance with TCEQ guidelines and requirements;
6. The minimum system requirements of the TCEQ are not being met by the facilities at LRE; and
7. The service is not adequate in that it is provided at a cost so prohibitive that it constitutes a denial of service to the LRE residents who do not have the ability to pay the fees assessed by Aqua.

Additionally, the very purpose for the existence of the Aqua CCN no longer exists. Continuation of the grant of the CCN should not be allowed. IOU's are allowed a monopoly on utility service within an area when no feasible alternative exists to provision of necessary services. CCN applications are granted when such action is necessary for services, convenience, accommodation, and safety of the public. *See Tex. Water Code § 13.246(b)*. The reasons for issuance, refusal or amendment to the CCN are set forth in *Tex. Water Code § 13.246(c) 1-9*. Those reasons no longer exist within LRE because the City of Rockwall is ready, willing and able to supply not only the services provided by Aqua, but better and more affordable services. Most notably, the statutory factors weighing against continuation of the Aqua monopoly as applied to the justification for its existence are as follows:

1. Aqua's services are inadequate to meet the needs of LRE residents;
2. Additional services not provided by Aqua can be provided by the City in a much more cost effective manner;
3. The effect of revoking the Aqua CCN on the landowners in the area would be positive in light of the annexation that has occurred and the willingness of the City

- to provide better and more cost effective service;
4. The needs of LRE have exceeded the capacity of existing Aqua facilities;
 5. It is entirely feasible for LRE to obtain service from the City when it was not when the CCN was granted;
 6. While Aqua apparently is financially capable of providing adequate facilities to service LRE, it has not invested in existing facilities to provide adequate services for the current and future needs of LRE residents and businesses;
 7. The waste treatment facility used by Aqua in LRE is environmentally undesirable and could now be eliminated;
 8. There is no probability at this time that costs of services will ever be lowered with Aqua; in fact, a rate increase request is before the Commission at this time. The City of Rockwall is willing to provide services at a much lower rate and in a much more cost effective manner;
 9. The impact on the land in LRE would be of a beneficial nature if the CCN is revoked and the City provides services.

Given that Aqua is not providing adequate and continuous service to LRE and that the very reason for the existence the Aqua CCN no longer exists in light of the annexation of LRE by the City of Rockwall, this petition should be granted and the CCN issued to Aqua for LRE should be revoked.

IV.

SUMMARY

The Aqua CCN for Lake Rockwall Estates is an antiquated grant of monopoly that has no justification for continuation. The services provided by Aqua are inadequate and present a real safety

concern for the residents of LRE. A far superior alternative exists that would result in better service and lower costs to the residents. The true goal of safe and adequate utility services will be best met by the granting of this Petition and the end of the Aqua monopoly in LRE.

Petitioners request that after notice and hearing, this Commission grant their petition and revoke the Certificate of Convenience and Necessity held by Aqua Texas for Lake Rockwall Estates or refuse to continue the grant of the CCN.

Respectfully submitted,

LAW OFFICES OF G. DAVID SMITH P.C.
Attorneys for Petitioners

By: 

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Texas Bar #24070129
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(972) 771-0513 (Fax)

EXHIBIT A

LAKE ROCKWALL ESTATES RESIDENT LIST

ACOSTA, JUVENTINO
251 Bass Road
Rockwall, Texas 75032-6107

ACOSTA, LAURA
451 Bass Road
Rockwall, Texas 75032-6338

ACOSTA, PENTRENILO
227 Trout Street
Rockwall, Texas 75032-6326

ADAY, ELIZABETH
500 Trout Street
Rockwall, Texas 75032-6331

ALMARAZ, MARIA
505 Bass Road
Rockwall, Texas 75032-6300

ALVIZO, LORENA
388 Bass Road
Rockwall, Texas 75032

AVILES, FRANCISCO
304 Chris Drive
Rockwall, Texas 75032-6372

AYALA, ARLAE
535 Blanche Drive
Rockwall, Texas 75032

BAMFO, GEORGE A.
173 Trout Street
Rockwall, Texas 75032-6191

BARRIOS, JUAN GERMAN
185 Blanche Drive
Rockwall, Texas 75032-6363

BETHAL, SELENA A.
759A Eva
Rockwall, Texas 75032

CALLES, JULIO
356 Perch Road
Rockwall, Texas 75032-6166

CARMONA, EVELIA
249 Lynne Drive
Rockwall, Texas 75032-6145

CARMONA, JOSE R.
397 Chris Road
Rockwall, Texas 75032

CARMONA, MARIA
201 Yvonne Drive
Rockwall, Texas 75032-5684

CARMONA, MARTIN
235 Lynn Drive
Rockwall, Texas 75032

CARMONA, ROBERTO C.
532 Blanche Drive
Rockwall, Texas 75032-6370

CARRILLO, GERADO
397 Perch Road
Rockwall, Texas 75032-6322

CARRILLO, MARGORITA
254 Lynne Drive
Rockwall, Texas 75032

CARRILLO, MIGUEL
291 Bass Road
Rockwall, Texas 75032

CASAS, PABLO H.
163 Trout Street
Rockwall, Texas 75032-6191

CASTELL, LETICIA
115 Eva Place
Rockwall, Texas 75032

CERVANTES, EISA
251 Wayne
Rockwall, Texas 75032

CHANTACA, MAURICIO
261 Tubbs Road
Rockwall, Texas 75032-6195

CHAVEZ, LAURENCE A.
510 Blanche Road
Rockwall, Texas 75032

CORODANO, MARIA
513 Chris Drive
Rockwall, Texas 75032-6383

CORTEZ, MANUEL
328 Bass Road
Rockwall, Texas 75032

CRUZ, MARIA L.
212 Lynne Drive
Rockwall, Texas 75032

CRUZ, MARIO
461 Yvonne Drive
Rockwall Texas 75032

DELGADO, JUAN E.
541 Evans Road
Rockwall, Texas 75032-6127

DIAZ, JUAN U.
147 Chris Drive
Rockwall, Texas 75032-6373

DOMINGUEZ, GUADALUPE H.
419 Tubbs Road
Rockwall, Texas 75032-6334

ESCOBAR, AURELIO
274 Eva A
Rockwall, Texas 75032

ESPARZA, MARCO
275 Wayne Drive
Rockwall, Texas 75032

ESQUIVEL, DOLOROS
402 Russell Drive
Rockwall, Texas 75032

ESTRADA, GERARDO
495 Trout Street (1195 Trout Street)?
Rockwall, Texas 75032

FLORES, MARIA L.
503 Lynne Drive
Rockwall, Texas 75032

FORTUNA, FRANCISCO
354 Yvonne Drive
Rockwall, Texas 75032-5685

FULLINGTON, SHARON
247 Blanche Drive
Rockwall, Texas 75032

GALLEGOS, JOSE GUADALUPE
296 Russell
Rockwall, Texas 75032

GALLEGOS, OCTAVIO
225 Lynne Drive
Rockwall, Texas 75032-6145

GAMEZ, FRANCISCO
163 Perch Road
Rockwall, Texas 75032-6162

GARCIA, JOSE
213 Chris Drive
Rockwall, Texas 75032

GONZALEZ, BENJAMIN
589 Lakeside Drive
Rockwall, Texas 75032

GUTIERREZ, FLORINA
594 Eva Place
Rockwall, Texas 75032-6118

GUTTIERREZ, JAVIER
379 Bass Road
Rockwall, Texas 75032-6108

HAYES, MARILYN K.
303 Tubbs Road
Rockwall, Texas 75032

HAYES, JOSEPH S.
303 Tubbs Road
Rockwall, Texas 75032

HERNANDEZ, CARMELITA
500 Yvonne Drive
Rockwall, Texas 75032

HERNANDEZ, JOSE
251 Lynne
Rockwall, Texas 75032

HERNANDEZ, ROSA V.
484 Perch Road
Rockwall, Texas 75032-6323

HERREROS, BERTOLDO
180 Evans Road
Rockwall, Texas 75032

HERREROS, JOSE
342 Wayne Drive
Rockwall, Texas 75032-5675

JACKSON, LARI
281 Blanche
Rockwall, Texas 75032

JENKINS, FELICIA
430 Trout Street
Rockwall, Texas 75032-6191

LOMAS ANDREA
534 Trout
Rockwall, Texas 75032

LOPEZ, JOSE
208 Texas Avenue
Rockwall, Texas 75032-6348

LOPEZ, RAMON VAZQUEZ
156 Blanche Drive
Rockwall, Texas 75032

LOREDO, SUSANA
166 Chris Drive
Rockwall, Texas 75032-6372

LOZANO, IGNACIO
601 Bass Road
Rockwall, Texas 75032-6310

MALDONADO, CARLOS
370 Bass
Rockwall, Texas 75032

MARQUEZ, JORGE L.
159 Valerie Place
Rockwall, Texas 75032

MARQUEZ, JUAN
201 Bass
Rockwall, Texas 75032

MARTINEZ, PEDRO
478 Perch Road
Rockwall, Texas 75032-6323

MARTINEZ, JOSE
285 Tubbs Road
Rockwall, Texas 75032

MAZARIEGOS, ESTELA
224 Yvonne
Rockwall, Texas 75032

MAZARIEGOS, ROMULO
224 Yvonne
Rockwall, Texas 75032

MEDRANO, JOSE
505 Eva Place
Rockwall, Texas 75032-6111

MENDEZ, GLORIA
402 Trout Road
Rockwall, Texas 75032-6329

MOLINA, MARLIN
340 Yvonne Drive
Rockwall, Texas 75032

MONGELLI, ROBERT
194 Diana Drive
Rockwall, Texas 75032

MORENO, FRANCISCO
571 Bass Road
Rockwall, Texas 75032

MORENO, IGNACIO
241 Trout
Rockwall, Texas 75032

NEVAREZ, LUIS E.
476 Perch Road
Rockwall, Texas 75032-6321

NEVAREZ, GODOFREDO
589 Trout Street
Rockwall, Texas 75032-6332

NINO, JOSE (JESUS) M.
480 Perch Road
Rockwall, Texas 75032-6323

ODOM, DEBORA
141 Yvonne Drive
Rockwall, Texas 75032

OGAN, LOCKLIN
526 Bass Road
Rockwall, Texas 75032

ORTEGA, NORAELIA
202 Valeria Place
Rockwall, Texas 75032-6198

ORTEGA, RUBEN
187 Eva Place, Lot 807
Rockwall, Texas 75032-6111

ORTIZ, RIGOBERTO
474 Wayne Drive
Rockwall, Texas 75032-5677

PENA, MARISELA
510 Bass Road
Rockwall, Texas 75032

PERALES, OSCAR
106 Evans Road
Rockwall, Texas 75032-6122

PERDOMO, WILFREDO
100 Evans Road
Rockwall, Texas 75032-6122

PEREZ, JOSE D.
152 Perch Road
Rockwall, Texas 75032-6321

RAMIREZ, JOE
251 Lakeside
Rockwall, Texas 75032

RAMIREZ, RUTH
135 Chris Drive
Rockwall, Texas 75032-6372

RENOVA-LIMON, ROSIE
493 Bass Road
Rockwall, Texas 75032

RENTERIA, MARIA
683 Tubbs Road
Rockwall, Texas 75032-6195

RICO, MARIA
212 Valerie Place
Rockwall, Texas 75032-6198

RIVERA, SELIA
138 Eva Place
Rockwall, Texas 75032

RODRIGUEZ, ANA
352 Lynne Drive
Rockwall, Texas 75032-6146

RODRIGUEZ, MARIA v.
529 Bass Road
Rockwall, Texas 75032

RODRIGUEZ, ROMAN
540 Chris Drive
Rockwall, Texas 75032-6382

ROSALO, MARIA M.
416 Blanche Drive
Rockwall, Texas 75032

RUIZ, JOSE C.
219 Valerie Place
Rockwall, Texas 75032-6199

SANCHEZ, JESUS
293 Yvonne Drive
Rockwall, Texas 75032-5684

SANCHEZ, JULIO
400 Chris Drive
Rockwall, Texas 75032-6380

SANCHEZ, MIGUEL
216 Chris Drive
Rockwall, Texas 75032-6376

SANCHEZ, PABLO
250 Nicole Street
Rockwall, Texas 75032

SANCHEZ, ROSA
140 Chris Drive
Rockwall, Texas 75032-6372

SANCHEZ, SANTIAGO
387 Chris Drive
Rockwall, Texas 75032-6379

SANDOVAL, MARIO
154 Diana Drive
Rockwall Texas 75032

SERNA, SONIA T.
109 Diana Drive
Rockwall, Texas 75032

SERVIN, SAUL
552 Russell Drive
Rockwall, Texas 75032

SIERRA, PETRA
384 County Line Road
Rockwall, Texas 75032-6111

SILVA, BERTHA
346 Perch Road
Rockwall, Texas 75032-6166

SILVA, JOSE
315 Bass Road
Rockwall, Texas 75032

SILVA, MARIA
186 Eva Place
Rockwall, Texas 75032-6110

SOTO, CARLOS P.
364 Yvonne Drive
Rockwall, Texas 75032-5685

TAMAZ, CLARA
188 Bass Road
Rockwall, Texas 75032-6104

TARCICIO, GUADARRAMA
346 Yvonne Drive
Rockwall, Texas 75032

TOVA, MICELA
723 Lakeside
Rockwall, Texas 75032

TOVAR, JOSE
723 Lakeside Drive
Rockwall, Texas 75032-6139

VALDEZ, MARGARITO
525 Wayne
Rockwall, Texas 75032

VALDEZ, TERESA
422 Trout Street
Rockwall, Texas 75032-6191

WILSON, ROBERTA
203 Lynne Drive
Rockwall, Texas 75032-6145

WILSON-UNDERWOOD, TAMMY
215 Lynne Drive
Rockwall, Texas 75032-6145

CCN/11157/
582-13-0757/SO
20140325/pleadings

SOAH DOCKET NO. 582-13-0757
TCEQ DOCKET NO. 2012-2006-UCR

APPEAL OF AQUA TEXAS, INC., AQUA § BEFORE THE STATE OFFICE
UTILITIES, INC., AQUA §
DEVELOPMENT, INC., KERRVILLE §
SOUTH WATER COMPANY, INC., AND § OF
HARPER WATER COMPANY, INC. §
DBA AQUA TEXAS OF CITY OF §
BRAZOS BEND'S RATEMAKING §
ACTION § ADMINISTRATIVE HEARINGS

ORDER NO. 12
GRANTING MOTION FOR REMAND

On March 24, 2014, Aqua Texas, Inc., Aqua Utilities, Inc., Aqua Development, Inc., Kerrville South Water Company, Inc., and Harper Water Company, Inc. d/b/a Aqua Texas (Aqua), filed a motion stating that it had reached settlement with the City of Brazos Bend, and that all the parties to this proceeding agree that this case should be remanded pursuant to 30 Texas Administrative Code § 80.101.

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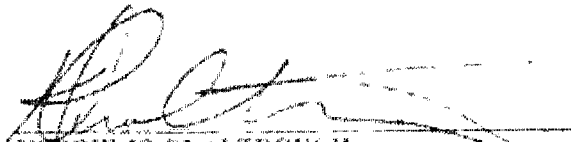
AUG 06 2014

TCEQ
CENTRAL FILE ROOM

Therefore, it is ORDERED:

1. The March 24, 2014 Joint Motion for Remand is GRANTED.
2. Aqua's appeal, SOAH Docket No. 582-13-0757, TCEQ Docket No. 2012-2006-UCR, is REMANDED to the ED.
4. Aqua's appeal, SOAH Docket No. 582-13-0757, TCEQ Docket No. 2012-2006-UCR, is DISMISSED from the docket of the State Office Administrative Hearings.

SIGNED March 25, 2014.


KERRIE JO QUALTROUGH
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

STATE OFFICE OF ADMINISTRATIVE HEARINGS

AUSTIN OFFICE
300 West 15th Street Suite 502
Austin, Texas 78701
Phone: (512) 475-4993
Fax: (512) 322-2061

SERVICE LIST

AGENCY: Environmental Quality, Texas Commission on (TCEQ)
STYLE/CASE: AQUA TEXAS INC. AQUA UTILITIES INC
SOAH DOCKET NUMBER: 582-13-0757
REFERRING AGENCY CASE: 2012-2006-UCR

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

ADMINISTRATIVE LAW JUDGE
ALJ KERRIE QUALTROUGH

REPRESENTATIVE / ADDRESS

PARTIES

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AQUA UTILITIES, INC.

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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(512) 233-0801 (FAX)
jhaley@txcityattorney.com

CITY OF BRAZOS BEND

Note: THIS CASE HAS BEEN CONSOLIDATED WITH DOCKET NO. 582-12-6658 AND 582-13-0755 FOR PURPOSE OF HEARING

SOAH DOCKET NO. 582-13-0757
TCEQ DOCKET NO. 2012-2006-UCR

APPEAL OF AQUA TEXAS, INC.,	§	BEFORE THE STATE
AQUA UTILITIES, INC., AQUA	§	
DEVELOPMENT, INC., HARPER	§	
WATER CO. INC., AND	§	
KERRVILLE SOUTH WATER CO.	§	OFFICE OF
INC., DBA AQUA TEXAS OF CITY	§	
OF BRAZOS BEND'S	§	
RATEMAKING ACTION	§	ADMINISTRATIVE HEARINGS

JOINT MOTION FOR REMAND

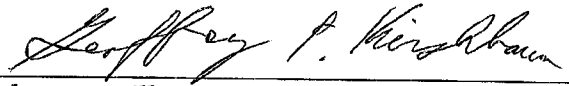
Background

On December 22, 2011, Aqua Texas filed a rate/tariff application for the North Region with the TCEQ (Application No. 37235-R) and with the City of Brazos Bend n/k/a Stockton Bend ("City" or "Brazos Bend"). The City denied the application and Aqua Texas appealed the City's decision to the TCEQ (Application No. 37414-A) ("Brazos Bend Appeal"). Jurisdiction over both matters was taken by SOAH and the matters were consolidated. Mediation between the Applicant, the City of Brazos Bend, the ED and OPIC occurred on August 21, 2013. The Applicant and the City submitted a signed settlement agreement to the Executive Director which included rates and tariff provisions agreed upon by the City. The City approved the settlement agreement on October 26, 2013. Aqua Texas also implemented a regional pass-through gallonage charge increase pursuant to the agreed upon tariff provisions and settlement terms effective March 15, 2014 applicable within its North Region and the City. This motion relates only to Aqua Texas' Brazos Bend Appeal pending in this docket and not Aqua Texas application issues related to environs water rates.

Motion and Prayer

The Applicant, Executive Director, City of Brazos Bend n/k/a Stockton Bend, and OPIC have conferred regarding this motion. In weighing all the factors, including the potential costs of having a hearing on the merits, the Executive Director has approved the rate schedule attached as **Exhibit A**, effective September 1, 2013, applicable within Brazos Bend's corporate limits. Upon the Brazos Bend Appeal being remanded to the Executive Director, a final Order on Aqua Texas' Brazos Bend Appeal pending in this docket will be issued by the Executive Director adopting and approving same. After the Executive Director's order is issued and final, Brazos Bend and Aqua Texas agree to jointly prepare an Aqua Texas "Water Utility Tariff for North Region - Brazos Bend Only" applicable within the City of Brazos Bend n/k/a Stockton Bend's corporate limits that incorporates the approved rate schedule found in **Exhibit A**, together with other approved tariff provisions, and file a copy with TCEQ. There are no substantive issues remaining. The Brazos Bend Appeal is now "uncontested" and the parties seek remand of same in accordance with this motion pursuant to Section 80.101 of the Commission's rules so that the Executive Director can issue a final Order approving the attached **Exhibit A** rate schedule.

Respectfully submitted,



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State Bar No. 24029665
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810 West 10th Street
Austin, Texas 78701
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Law Offices of Mark H. Zeppa, PC

Mark H. Zeppa
State Bar No. 22260100
Law Offices of Mark H. Zeppa, PC
4833 Spicewood Springs Rd #202
Austin, Texas 78759-8435
(512) 346-4011; Fax: (512) 346-6847

**Attorneys for Aqua Texas, Inc., Aqua Utilities,
Inc., Aqua Development, Inc., Harper Water
Company, Inc., and Kerrville South Water
Company, Inc. d/b/a Aqua Texas ("Aqua
Texas")**

EXHIBIT A
SECTION 1.0 -- RATE SCHEDULE

MINIMUM MONTHLY CHARGES: *

Monthly Minimum Charge by Meter Size (Includes 0 Gallons)

Meter Size	Year 1 beginning 9/1/2013	Year 2 beginning 9/1/2014 until changed
5/8" x 3/4"	41.00	45.06
1"	102.50	112.65
1 1/2"	205.00	225.30
2"	328.00	360.48
3"	656.00	720.96
4"	1,025.00	1,126.50
6"	2,050.00	2,253.00
8"	3,280.00	3,604.80
10"	4,715.00	5,181.90
12"	8,815.00	9,687.90

* Monthly Minimum Charge for any meter size larger than 12" will be calculated using American Water Works Association ("AWWA") approved meter equivalency factors.

CHARGES PER 1,000 GALLONS USED:

Gallonage Charge	Year 1 beginning 9/1/2013	Year 2 beginning 9/1/2014 until changed
1-20,000 gallons	3.66	3.66
20,001-30,000 gallons	4.20	4.20
Over 30,000 gallons	4.75	4.75

Regional Pass-Through Gallonage Charge

September 1, 2013 through March 14, 2014	\$0.2384
March 15, 2014 until changed	\$0.4005

FORM OF PAYMENT: The utility will accept the following forms of payment:

Cash X (if in person at designated locations), Check X, Money Order X, Credit Card X,

Other (Specify) Electronic Billing & Payment (See Section 2.06 Billing)

THE UTILITY MAY REQUIRE EXACT CHANGE FOR PAYMENTS AND MAY REFUSE TO ACCEPT PAYMENTS MADE USING MORE THAN \$1.00 IN SMALL COINS. A WRITTEN RECEIPT WILL BE GIVEN FOR CASH PAYMENTS.

UNAFFILIATED THIRD PARTIES WHO ACCEPT AND PROCESS CASH, CREDIT CARD, OR ELECTRONIC PAYMENTS FOR UTILITY BILLS MAY REQUIRE PAYMENT OF AN ADDITIONAL CONVENIENCE CHARGE FOR THIS SERVICE.

REGULATORY ASSESSMENT FEE..... 1.0%
TCEQ RULES REQUIRE THE UTILITY TO COLLECT A FEE OF ONE PERCENT OF THE RETAIL MONTHLY BILL

Section 1.02 - Miscellaneous Fees

TAP FEE..... \$1,100.00
THE TAP FEE COVERS THE UTILITY'S COSTS FOR MATERIALS AND LABOR TO INSTALL A STANDARD RESIDENTIAL 5/8" x 3/4" METER. AN ADDITIONAL FEE TO COVER UNIQUE COSTS IS PERMITTED AS LISTED ON THIS TARIFF.

TAP FEE (Unique Costs) ACTUAL COST
FOR EXAMPLE, A ROAD BORE FOR CUSTOMERS OUTSIDE A SUBDIVISION IS A UNIQUE COST. UNIQUE COSTS WILL BE DETERMINED ON A CASE-BY-CASE BASIS.

TAP FEE (Larger Meter)..... ACTUAL COST
THIS TAP FEE IS BASED ON THE UTILITY'S ACTUAL COST FOR MATERIALS AND LABOR FOR METERS LARGER THAN STANDARD 5/8" x 3/4" METERS. UNIQUE COSTS, SUCH AS ROAD BORES, WILL BE CHARGED IN ADDITION TO THIS TAP FEE AT THEIR ACTUAL COST OF INSTALLATION.

RECONNECTION FEE

THE RECONNECTION FEE MUST BE PAID BEFORE SERVICE CAN BE RESTORED TO A CUSTOMER WHO HAS BEEN DISCONNECTED FOR THE FOLLOWING REASONS (OR OTHER REASONS LISTED UNDER SECTION 2.0 OF THIS TARIFF):

- a) Non-payment of bill (Maximum \$25.00)..... \$25.00
- b) Customer's request that service be disconnected \$75.00

TRANSFER FEE..... \$50.00
THE TRANSFER FEE WILL BE CHARGED FOR CHANGING AN ACCOUNT NAME AT THE SAME SERVICE LOCATION WHERE THE SERVICE IS NOT DISCONNECTED

LATE CHARGE..... 10% of BILL
TCEQ RULES ALLOW A ONE-TIME PENALTY TO BE CHARGED ON DELINQUENT

BILLS. A LATE CHARGE MAY NOT BE APPLIED TO ANY BALANCE TO WHICH THE PENALTY WAS APPLIED IN A PREVIOUS BILLING.

RETURNED CHECK CHARGE \$25.00
RETURNED CHECK CHARGES MUST BE BASED ON THE UTILITY'S DOCUMENTABLE COST.

CUSTOMER DEPOSIT - RESIDENTIAL \$50.00

CUSTOMER DEPOSIT - COMMERCIAL & NON-RESIDENTIAL 1/6TH OF ESTIMATED ANNUAL BILL

METER TEST FEE \$25.00
THIS FEE, WHICH SHOULD REFLECT THE UTILITY'S COST, MAY BE CHARGED IF A CUSTOMER REQUESTS A SECOND METER TEST WITHIN A TWO YEAR PERIOD AND THE TEST INDICATES THAT THE METER IS RECORDING ACCURATELY. THE FEE MAY NOT EXCEED \$25.

METER/SERVICE RELOCATION FEE (Customer's Request) ACTUAL COST
THIS FEE MAY BE CHARGED IF A CUSTOMER REQUESTS THAT AN EXISTING METER BE RELOCATED.

STANDARD METER INSTALLATION FEE \$150.00
TO BE CHARGED WHEN UNMETERED SERVICE EXISTS ON THE SYSTEM THAT SHOULD BE METERED TO BE IN COMPLIANCE WITH THE UTILITY'S TARIFF BUT THE CONVERSION OF THE SERVICE WOULD NOT REQUIRE A FULL TAP AND ALL OF ITS COSTS. THIS FEE WILL BE A SHARING OF COSTS BETWEEN THE CUSTOMER AND THE UTILITY. THE CUSTOMER MAY HAVE THE OPTION OF PAYING THE FEE OVER NO MORE THAN THREE (3) MONTHS.

CUSTOMER SERVICE INSPECTION FEE \$100.00
SERVICE APPLICANTS MAY CHOOSE TO HAVE CUSTOMER SERVICE INSPECTIONS REQUIRED BY TCEQ RULE 290.46(j) PERFORMED BY ANY STATE-LICENSED INSPECTOR OF THEIR CHOICE. UNLESS THE SERVICE APPLICANT CHOOSES TO ARRANGE FOR AND PAY FOR THE INSPECTION INDEPENDENTLY, THE UTILITY MAY CHARGE SERVICE APPLICANTS THE CUSTOMER SERVICE INSPECTION FEE AT THE TIME THEY APPLY FOR SERVICE. IF A RE-INSPECTION IS REQUIRED TO BRING PLUMBING INTO COMPLIANCE WITH APPLICABLE REQUIREMENTS OR IF AN EXTRA INSPECTION APPOINTMENT IS REQUIRED BECAUSE A CUSTOMER DOES NOT PERMIT PERFORMANCE OF AN INSPECTION AT A PREVIOUSLY AGREED UPON APPOINTMENT TIME, THE CUSTOMER MAY CHOOSE TO HAVE ANY STATE-LICENSED INSPECTOR OF THEIR CHOICE PERFORM THE INSPECTION. IF THE CUSTOMER CHOOSES TO HAVE THE UTILITY PERFORM THE INSPECTION OR RE-INSPECTION, THE CUSTOMER WILL BE CHARGED \$100.00 FOR EACH REQUIRED INSPECTION, RE-INSPECTION OR AGREED UPON INSPECTION APPOINTMENT AND WILL PAY THE UTILITY THE TOTAL AMOUNT OWED AT THE TIME AN INSPECTION OR

RE-INSPECTION IS PERFORMED. THE UTILITY MAY, AT ITS OPTION, INCLUDE THE ADDITIONAL CHARGE OR CHARGES ON THE NEXT MONTH'S UTILITY BILL RATHER THAN REQUIRING PAYMENT AT THE TIME OF THE INSPECTION OR RE-INSPECTION. THE UTILITY MAY USE UTILITY EMPLOYEES OR MAY HAVE THE INSPECTION PERFORMED BY A LICENSED THIRD PARTY CONTRACTOR.

ILLEGAL RECONNECTION, LOCK REMOVAL OR DAMAGE FEE..... \$85.00
IN ORDER TO REIMBURSE THE UTILITY WITHOUT BURDENING OTHER CUSTOMERS WITH HIGHER RATES FOR THE ADDITIONAL COST OF SERVICE TRIPS TO DISCONNECT A CUSTOMER/ACCOUNT HOLDER WHO HAS BEEN DISCONNECTED FOR NONPAYMENT AND TO PAY FOR THE COST OF BROKEN OR CUT LOCKS AND SERVICE TIME, THIS FEE SHALL BE ASSESSED TO THE ACCOUNT HOLDER OF ANY DELINQUENT ACCOUNT THAT HAS BEEN DISCONNECTED FOR NONPAYMENT BY VALVING OFF, LOCKING OR REMOVING THE METER WHEN SERVICE TO THE PREMISES IS SUBSEQUENTLY RECONNECTED BY NON-UTILITY PERSONNEL BY CUTTING OR REMOVING THE LOCK, REOPENING THE VALVE, OR REMOVING OR BYPASSING THE METER WITHOUT AUTHORIZATION BY THE UTILITY. THIS FEE MAY BE CHARGED EACH TIME AN EVENT OCCURS AND SERVICE WILL NOT BE RECONNECTED UNTIL THIS FEE IS PAID IN ADDITION TO ANY OTHER BALANCES AND RECONNECT FEES. THIS FEE SHALL NOT BE CHARGED IF A FEE FOR A DAMAGED METER IS CHARGED OR IF THE ACCOUNT HOLDER OR HIS/HER REPRESENTATIVE INFORMS THE UTILITY WITHIN 24 HOURS AFTER DISCOVERING THAT SERVICE HAS BEEN RESTORED WITHOUT AUTHORIZATION OF THE UTILITY: (1) THAT SERVICE WAS RECONNECTED WITHOUT THE ACCOUNT HOLDER'S PERMISSION; AND (2) THE ACCOUNT HOLDER AGREES TO PAY FOR ALL WATER USED.

DAMAGED METER AND APPURTENANCES FEE..... ACTUAL COST
THIS FEE SHALL BE ASSESSED TO THE ACCOUNT HOLDER OF ANY DELINQUENT ACCOUNT THAT HAS BEEN DISCONNECTED FOR NONPAYMENT BY VALVING OFF OR LOCKING THE METER WHEN THE METER AND/OR METER APPURTENANCES, SUCH AS AN AMR UNIT OR CURB STOP, ARE DAMAGED IN ORDER TO RESTORE WATER SERVICE TO THE ACCOUNT HOLDER'S ORIGINAL PLACE OF SERVICE REQUIRING THE UTILITY TO REPAIR OR REPLACE THEM. THE ACCOUNT HOLDER SHALL BE CHARGED THE FULL COST OF REPAIRING AND/OR REPLACING ALL DAMAGED PARTS AS THE UTILITY DEEMS NECESSARY, INCLUDING LABOR AND VEHICLE COSTS. THIS WILL INCLUDE REPLACEMENT OF VALVES OR CURB STOPS THAT HAVE HAD THEIR LOCKING EYES BROKEN OFF THE FLANGES.

GOVERNMENTAL TESTING, INSPECTION, AND COSTS SURCHARGE:

WHEN AUTHORIZED IN WRITING BY TCEQ AND AFTER NOTICE TO CUSTOMERS, THE UTILITY MAY INCREASE RATES TO RECOVER INCREASED COSTS FOR INSPECTION FEES AND WATER TESTING. [30 TAC § 291.21(k)(2)].

LINE EXTENSION AND CONSTRUCTION CHARGES:

REFER TO SECTION 3.0--EXTENSION POLICY FOR TERMS, CONDITIONS, AND CHARGES WHEN NEW CONSTRUCTION IS NECESSARY TO PROVIDE SERVICE.

REGIONAL TEMPORARY WATER RATE:

UNLESS OTHERWISE SUPERSEDED BY TCEQ ORDER OR RULE, IF AQUA TEXAS IS ORDERED BY A COURT OR GOVERNMENTAL BODY OF COMPETENT JURISDICTION TO REDUCE ITS PUMPAGE, PRODUCTION, OR WATER SALES, AQUA TEXAS SHALL BE AUTHORIZED TO INCREASE ITS APPROVED LINE ITEM CHARGES PER 1,000 GALLONS USED (GALLONAGE CHARGE & REGIONAL PASS-THROUGH GALLONAGE CHARGE) BY THE AMOUNT OF THE REGIONAL TEMPORARY WATER RATE INCREASE ("RTWR") CALCULATED ACCORDING TO THE FORMULA:

$$RTWR = (((PRR)(CGC)(R))/(1-R))*((APV)/(RPV))$$

Where:

RTWR= Regional Temporary Water Rate Increase per 1,000 gallons;

R = water use reduction expressed as a decimal fraction (the pumping restriction);

CGC = current total volume charge per 1,000 gallons used (Gallonage Charge + Regional Pass-Through Gallonage Charge);

PRR = percentage of revenues to be recovered expressed as a decimal fraction; for this tariff PRR shall equal 0.5;

APV = Annual Pumped and/or Purchased Volume from the most recent rate application for the system or systems where the temporary restrictions are imposed; or the most recent 12 months if more than 3 years have passed since the most recent rate application was filed; and

RPV = Annual Pumped and Purchased Volume for Region from the most recent rate application; or the most recent 12 months if more than 3 years have passed since the most recent rate application was filed.

To implement the Regional Temporary Water Rate, Aqua Texas must comply with all notice and other requirements of 30 T.A.C. § 291.21(l).

REGIONAL PASS-THROUGH GALLONAGE CHARGE ADJUSTMENT:

SEE APPENDIX B ATTACHED TO TARIFF

APPENDIX- B

Water Utility Tariff for Aqua Texas North Region – City of Brazos Bend n/k/a Stockton Bend Only

Regional Pass-Through Gallonage Charge True- up/Adjustment

Provision and Report

The purpose of this true-up/adjustment provision is to true-up and adjust Aqua Texas' authorized Regional Pass-Through Gallonage Charge each year in an effort to provide the best opportunity for regional revenue collected from the charge to align with certain types and amounts of pass-through costs Aqua Texas has incurred in the preceding year for the region using a process that does not require the expense of a full rate proceeding. Additionally, this process is intended to ensure that Aqua Texas balances the collections versus the pass-through costs annually. The types of pass-through costs that form the basis for the Regional Pass-Through Gallonage Charge may be regional costs, fees, rates and charges imposed by governmental entities, water authorities or districts having jurisdiction over Aqua Texas or its operations or by non-affiliated third party water suppliers or water rights holders selling water or water rights to Aqua Texas.

- 1) Regional Pass-Through Gallonage Charge true-up and adjustment calculations shall use historic, actual gallons billed to all regional retail water customers in the previous completed calendar year.
- 2) Amounts referred to in gallons shall be per 1,000 gallons, unless otherwise specified.
- 3) Aqua Texas has provided a list of all expenses (see attached) to be included in the regional pass through costs. The Executive Director has approved the attached list.
- 4) Aqua Texas shall only collect costs directly associated with the production of water in the pass-through and specifically shall not include impact fees and other fees associated with plant and equipment.
- 5) Normalization shall not be used in any pass through calculations.
- 6) No charges by affiliates (as defined by the Texas Water Code) of Aqua Texas shall be included in the pass through.
- 7) True-up Report to the regulatory authority ("Report"): Between the end of each calendar year and the following February 28, Aqua Texas shall provide a Report that reconciles the total Regional Pass-Through Gallonage Charge revenues billed during the previous completed calendar year within the North Region to the total amount of all regional passed-through costs incurred during that year as reflected in the general ledger. The Report shall include the amount paid to each entity for allowed passed through costs, the names of the entities paid by Aqua Texas, and the total of costs incurred requested for the purpose of an adjusted Regional Pass-Through Gallonage Charge. Any supporting documentation shall be attached to the Report. Aqua Texas may submit information regarding new district charges in the Report (other than fines or penalties - see 4 above). New district charges associated with newly acquired systems shall not be included unless otherwise approved in a rate determination or proceeding. Aqua Texas will not include new purchase water agreements unless approved in a rate proceeding.
- 8) The true-up calculation for a completed calendar year Report shall be as follows:
 - a) Regional Pass-Through Gallonage Charge revenues billed during completed calendar year \$XXXX

- b) Regional passed-through costs actually incurred during completed calendar year \$XXXX
- c) Difference between a) and b) \$XXXX

where, **a) - b) = c)**

Annual Regional Pass-Through Gallonage Charge recalculations shall follow the following formula:

- b) Same as b) above. \$XXXX
- c) Same difference as c) above \$XXXX
- d) Total adjusted regional pass-through costs subject to adjusted Regional Pass-Through Gallonage Charge \$XXXX

where, **b) - c) = d)**

Divided by:

- e) Actual historic gallons billed to all regional customers in completed calendar year \$XXXX

Equals:

- f) Regional Pass-Through Gallonage Charge as adjusted \$X.XX

where **d) ÷ e) = f)**

Notice of any adjustments to the pass-through will be sent to the Executive Director of the regulatory authority and to the affected customers. Notice to the customers may be in the form of a billing insert and must track the language required in 30 TAC § 291.21(h)(4)(B).

- 9) With the Report Aqua Texas files on February 28 setting forth its calculation and supporting documentation for its adjusted Regional Pass-Through Gallonage Charge in accordance with 5) and 6) above, Aqua Texas shall include a tariff page that incorporates the adjusted Regional Pass-Through Gallonage Charge reflected in the Report. Aqua Texas shall implement the adjusted filed rate as follows.
 - a) Aqua Texas will bill the adjusted Regional Pass-Through Gallonage Charge for service rendered on or after March 1 each year and thereafter until the rate is modified.
 - b) The first bill received each year incorporating the adjusted Regional Pass-Through Gallonage Charge will be prorated to apply the adjusted charge to service during those days in the billing cycle on or after March 1.
 - c) The Executive Director of TCEQ or a successor agency with authority to regulate investor-owned utility rates (regulatory authority) shall review the Report and provide the results of its review to Aqua Texas in writing within 45 days after Aqua Texas submits the Report. If no written response is provided to Aqua Texas during that time, the adjusted Regional Pass-Through Gallonage Charge filed with the Report shall stand until modified.

- d) The regulatory authority's Executive Director may dispute the calculation or supporting documentation as presented in the Report. If so, Aqua Texas and the regulatory authority's Executive Director shall work in good faith to attempt resolution of the dispute.
- e) The process of implementing the Regional Pass-Through Gallonage Charge True-up/Adjustment and the regulatory authority's review of same is an informal proceeding and not a contested case hearing. However, if a dispute between Aqua Texas and the regulatory authority cannot be resolved through negotiation, only the regulatory authority, Executive Director of the regulatory authority, or Aqua Texas may request a hearing on Regional Pass-Through Gallonage Charge true-ups/adjustments. It shall not be considered a rate case under the Texas Water Code or TCEQ (or other regulatory authority) rules, and Texas Water Code § 13.187 shall not apply.
- f) In the event of a dispute or hearing concerning the Regional Pass-Through Gallonage Charge reflected in the tariff page filed with the Report, the filed rate shall be considered effective on an interim basis and previous charges will be adjusted in the next annual true-up, except that adjustments to the pass-through exceeding 50 percent may require immediate refunds or credits as directed by the regulatory authority. If the filed rate is modified pursuant to dispute or hearing resolution, a replacement tariff page shall be filed with the regulatory authority reflecting the modified rate.
- g) Notwithstanding the procedures outlined herein, if the Report indicates an increase to Aqua Texas' Regional Pass-through Gallonage Charge is appropriate for the calendar year assessed, Aqua Texas may elect not to implement the increase. Aqua Texas will submit a written notification of such an election with the Report, indicating the amount of foregone pass through revenues. Foregone pass through revenues due to such election shall not be collected.
- h) This pass through provision is not intended to negate any authority granted to the regulatory authority.
- i) True-up/adjustment procedures described in this Appendix B, permitting review by the regulatory authority as defined herein, shall be sufficient for Aqua Texas to apply Regional Pass-Through Gallonage Charge adjustments within the City of Brazos Bend n/k/a Stockton Bend. No separate City of Brazos Bend n/k/a Stockton Bend procedures are required.

Aqua Texas regional pass-through approved entity list

Entities on the list as of 4/5/2013

The regulating commission approved the pass through of costs per contract or permit, existing as of 12/31/2010, for base rates and gallonage charges made by the following entities.

North Region - Water:

Bethesda Water Supply
Cash Special Utility District
Fort Worth, City of
Granbury, City of
Kilgore, City of
Longview, City of
MacBee SUD
Palestine, City of
Waco, City of
Walnut Creek SUD
Lakes Cities MUA
Southern Trinity GCD
Upper Trinity GCD
Neches and Trinity Valley GCD

SOAH DOCKET NO. 582-13-0757
TCEQ DOCKET NO. 2012-2006-UCR

APPEAL OF AQUA TEXAS, INC., § BEFORE THE STATE OFFICE
AQUA UTILITIES, INC., AQUA §
DEVELOPMENT INC., HARPER §
WATER CO. INC., AND KERRVILLE § OF
SOUTH WATER CO. INC., DBA §
AQUA TEXAS OF CITY OF BRAZOS §
BEND'S RATEMAKING ACTION § ADMINISTRATIVE HEARINGS

EXECUTIVE DIRECTOR'S NOTICE OF SUBSTITUTION OF COUNSEL

The Executive Director's attorney of record in the above-styled matter, Ross Henderson, is no longer employed by the Texas Commission on Environmental Quality. Therefore, the Executive Director (ED) respectfully requests that the Court and parties note that Dinniah Tadema has been substituted as counsel for the ED and further requests that all mailing and service lists be revised to reflect the following contact information:


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Respectfully submitted,

Texas Commission on Environmental Quality

Richard A. Hyde, P.E.
Executive Director

Robert Martinez, Director
Environmental Law Division

By: 
Dinniah C. Tadema, Attorney
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Representing the Executive Director of the
Texas Commission on Environmental Quality

CERTIFICATE OF SERVICE

I hereby certify that on February 14, 2014, the "Executive Director's Notice of Substitution of Counsel" was served on the below-named parties to this proceeding via electronic mail.



Dinniah Tadema, Staff Attorney
Environmental Law Division
State Bar No. 24050400

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SOAH Docket No. 582-13-0757
TCEQ Docket No. 2012-2006-UCR

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SOAH DOCKET NO. 582-13-0757
TCEQ DOCKET NO. 2012-2006-UCR

APPEAL BY AQUA TEXAS, INC., AQUA § BEFORE THE STATE OFFICE
UTILITIES, INC., AQUA §
DEVELOPMENT, INC., HARPER §
WATER COMPANY, INC., AND §
KERRVILLE SOUTH WATER § OF
COMPANY, INC., DBA AQUA TEXAS §
(AQUA TEXAS) OF THE CITY OF §
BRAZOS BEND'S RATEMAKING §
ACTION § ADMINISTRATIVE HEARINGS

MEDIATOR'S REPORT ON MEDIATION

On August 21, 2013, the remaining parties in this proceeding participated in mediation at the State Office of Administrative Hearings (SOAH) in Austin, Texas. The parties reached an agreement during the mediation. The settlement agreement will be presented to the Texas Commission on Environmental Quality (TCEQ) for approval. If the TCEQ approves the agreement, the parties will promptly file a motion to dismiss this case from SOAH's docket. This file is being returned at this time to the presiding Administrative Law Judges.

SIGNED August 22, 2013.


HUNTER BURKHALTER
ADMINISTRATIVE LAW JUDGE/MEDIATOR
STATE OFFICE OF ADMINISTRATIVE HEARINGS

cc: Renee M. Rusch, ALJ ADR Team Leader
Kerrie Qualtrough and Craig Bennett, Presiding ALJs

STATE OFFICE OF ADMINISTRATIVE HEARINGS

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AGENCY: Environmental Quality, Texas Commission on (TCEQ)
STYLE/CASE: AQUA TEXAS INC. AQUA UTILITIES INC
SOAH DOCKET NUMBER: 582-13-0757
REFERRING AGENCY CASE: 2012-2006-UCR

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

ADMINISTRATIVE LAW JUDGE
ALJ HUNTER BURKHALTER

REPRESENTATIVE / ADDRESS

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CITY OF BRAZOS BEND

Note: THIS CASE HAS BEEN CONSOLIDATED WITH DOCKET NO. 582-12-6658 AND 582-13-0755 FOR PURPOSE OF HEARING