

Complete request received by SOAH:

Proceeding date set by SOAH:

SOAH Docket Number & type of case:

REQUEST TO DOCKET CASE (Please type or print)

PLEASE CHECK ACTION REQUESTED:\*\*

X SETTING OF HEARING [ ] ASSIGNMENT OF ALJ \* [ ] ALTERNATIVE DISPUTE RESOLUTION (ADR)/MEDIATION\*

REFERRING AGENCY NAME: TCEQ AGENCY NO.: FILE/CASE NO.: 2012-2006-UCR

NAME/STYLE OF THE CASE: AQUA TEXAS, INC., AQUA UTILITIES, INC.

DATE APPLICATION FILED AT AGENCY: DOCKET NO. SUFFIX, if applicable: UCR

PROCEEDING DATE(S) REQUESTED (Include range of dates if possible): DECEMBER 10, 2012

EXPECTED NUMBER OF HOURS (If less than a day) OR DAYS NEEDED FOR PROCEEDING: HOURS 1 DAYS

[ ] ADMIN. FINE [ ] GRIEVANCE [ ] ENFORCEMENT [ ] CONTRACT CLAIM (Gov't Code 2260) [ ] OTHER

SPECIAL NEEDS OR ACCOMMODATIONS: HEARING IN AUSTIN, TEXAS, SEATING FOR 20 PEOPLE (Request same date, time and location as separate docket request for TCEQ Docket Nos. 2012-1989-UCR & 2012-1990-UCR)

IF ADR REQUESTED PLEASE DESCRIBE PROCESS NEEDED:

[ ] PREHEARING CONFERENCE REQUESTED [ ] INTERPRETER NEEDED(See 1 TAC 155.43(g))

[ ] CASE FILE and/or [ ] HEARING IS CONFIDENTIAL (Specify applicable statute):

NAME OF INDIVIDUAL SENDING REQUEST FORM: KATHA ANDERSON PHONE NO.: 239-3316 FAX NO.: 239-3311

PARTIES AND REPRESENTATIVES

PARTY REPRESENTED BY: [ ] SELF [ ] ATTORNEY [ ] OTHER, If so, relationship:

REPRESENTATIVE'S NAME: ROSS HENDERSON PARTY'S NAME:

ADDRESS:

PHONE No.: (512) 239-6257 (Direct Phone Number Please)

Email Address: ross.henderson@tceq.texas.gov

FAX No.:

PARTY REPRESENTED BY: [ ] SELF [ ] ATTORNEY [ ] OTHER, If so, relationship:

REPRESENTATIVE'S NAME:

PARTY'S NAME:

ADDRESS:

PHONE No.: (Direct Phone Number Please)

Email Address:

FAX No.:

PLEASE LIST ADDITIONAL PARTIES AND/OR REPRESENTATIVES ON EXTRA FORM PROVIDED.

SEND TO: STATE OFFICE OF ADMINISTRATIVE HEARINGS ATTN.: Deputy Clerk William P. Clements Building 300 West 15th Street, Suite 504 Austin, Texas 78701

OR Post Office Box 13025 Austin, Texas 78711-3025 Docketing Phone No. (512) 475-3445 Fax No. (512) 475-4994

\*PLEASE FORWARD A COPY OF THE APPLICATION, APPEAL, OR COMPLAINT WITH THIS REQUEST FORM, AS WELL AS ANY OTHER PLEADING FILED IN THE CASE TO DATE IF REQUESTING ASSIGNMENT OF ALJ or ALTERNATIVE DISPUTE RESOLUTION (ADR)/MEDIATION. A COPY OF THE NOTICE OF PROCEEDING MUST BE FORWARDED TO SOAH AT THE SAME TIME IT IS MAILED TO THE PARTIES.

**Katha Anderson**

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**From:** Microsoft Outlook  
**To:** [docketing@soah.state.tx.us](mailto:docketing@soah.state.tx.us)  
**Sent:** Wednesday, October 24, 2012 11:07 AM  
**Subject:** Relayed: 2012-2006-UCR dkt request.doc

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

[docketing@soah.state.tx.us](mailto:docketing@soah.state.tx.us) ([docketing@soah.state.tx.us](mailto:docketing@soah.state.tx.us))

Subject: 2012-2006-UCR dkt request.doc

**Katha Anderson**

---

**From:** Monica Luna <Monica.Luna@soah.state.tx.us>  
**Sent:** Wednesday, October 24, 2012 12:27 PM  
**To:** Katha Anderson  
**Cc:** Anna Benitez  
**Subject:** CONFIRMATION

**SETTING OF HEARING(S)**


<u>Docket Number</u>	<u>Case</u>	<u>Date</u>	<u>Time/Duration</u>
582-13-0753 2012-1781-UCR	BEXAR-MEDINA	1/07/13	10:00AM / 1 DAY
582-13-0754 2012-1727-UCR	MAXWELL WATER	12/03/12	10:00AM / 1 DAY
582-13-0755 2012-1989-UCR	AQUA TEXAS INC,	12/10/12	10:00AM / 1 DAY
582-13-0756 2012-1990-UCR	AQUA TEXAS INC.	12/10/12	10:00AM / 1 DAY
582-13-0757 2012-2006-UCR	AQUA TEXAS INC	12/10/12	10:00AM / 1 DAY


**Hearing Location**  
**State Office of Administrative Hearing**  
**W.P. Clements Building**  
**300 West 15<sup>th</sup> Street, 4<sup>th</sup> Floor**  
**Austin, TX 78701**

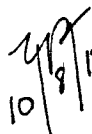
All parties will be notified in the event of a change of location of the hearing.  
Please remember that you are responsible for providing the court reporter as required by your agency.  
If you have any questions regarding any of the information herein, please contact me.


# TCEQ Interoffice Memorandum

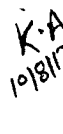
TO: Bridget C. Bohac, Chief Clerk

THRU:  Tammy Benter, Manager  
Utilities & Districts Section  
Water Supply Division

 Lisa Fuentes, Team Leader  
Utilities Financial Review Team  
Water Supply Division

 Vera Poe, P.E., Team Leader  
Utilities Technical Review Team  
Water Supply Division

FROM:  Debi Loockerman, C.P.A., Auditor  
Utilities Financial Review Team  
Water Supply Division

 K.A. Kamal Adhikari, E.I.T., Staff Engineer  
Utilities Technical Review Team  
Water Supply Division

DATE: October 12, 2012

SUBJECT: TCEQ Docket No. 2012-2006-UCR; Appeal filed by Aqua Texas, Inc.,  
Aqua Utilities, Inc. of the Ratemaking Actions of the City of Brazos  
Bend ("City") and Motion for Interim Rate Relief in Hood County;  
Application No. 37414-A

CN: 602787509

RN: 102674215

We hereby transfer the official file for the above-referenced application to the Office of the Chief Clerk. Please refer this application to the State Office of Administrative Hearings (SOAH) and request that a hearing be scheduled.

Interim Rates and Interim Orders are Requested by Aqua Texas and motion to implead the City in this appeal.

Staff requests that this appeal be consolidated with TCEQ Docket No. 2012-1058-UCR. A preliminary hearing at SOAH has been conducted in that docket, therefore, a preliminary hearing will need to be held for this appeal to establish jurisdiction and a unique docket number be assigned in the case of settlement.

This petition was received by the Utilities and Districts Section of the Texas

2012 OCT 15 PM 4:09  
CHIEF CLERKS OFFICE

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Commission on Environmental Quality ("TCEQ") on August 13, 2012, and the 1<sup>st</sup> amended appeal on August 15, 2012. The petitioner is an investor-owned retail public water utility. The petition affects only 63 connections within the City's corporate limits inside the Bentwater of Lake Granbury Peninsula Addition water system, PWS #1110116 in Hood County. On December 27, 2011, Aqua Texas filed identical regional water rate change applications with the TCEQ and the City for Aqua Texas' North and Southwest Regions. Aqua Texas' in-City water ratepayers are located within Aqua Texas' North Region. On May 17, 2012, the City passed a Resolution denying Aqua Texas' Rate Increase. We estimate 20 people will attend the preliminary hearing in this matter. Attached is a mailing list.

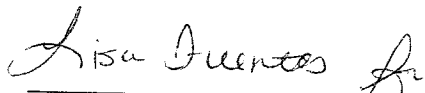
The staff assigned to this case are

Technical - Kamal Adhikari, E.I.T.

Financial - Debi Loockerman, C.P.A.

Legal -

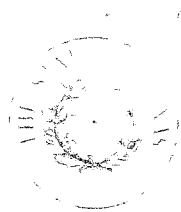
If we may be of further service regarding this matter, please call.



Tammy Benter, Manager

TB/LG/mmg

Bryan W. Shaw, Ph.D., *Chairman*  
Carlos Rubinstein, *Commissioner*  
Toby Baker, *Commissioner*  
Zak Covar, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

October 12, 2012

Mr. Paul M. Terrill III, Attorney  
The Terrill Firm, P.C.  
810 West 10<sup>th</sup> Street  
Austin, TX 78701

Re: TCEQ Docket No. 2012-2006-UCR;  
Appeal filed by Aqua Texas, Inc. of the Ratemaking Actions of the City of Brazos  
Bend in Hood County, Application No. 37414-A

CN: 602787509

RN: 102674215

Dear Mr. Terrill:

The above-referenced petition, which was received by the Texas Commission on Environmental Quality on August 13, 2012, has been accepted for filing. The petition has been assigned TCEQ Docket No. 2012-2006-UCR and Application No. 37414-A. Please refer all further communications regarding this appeal to this docket number. We understand that the petition affects the Bentwater of Lake Granbury Peninsula Addition Water System only.

The petition is being forwarded to the State Office of Administrative Hearings (SOAH). A date for a preliminary hearing on this matter will be scheduled. When a hearing has been scheduled, you will receive a notice of hearing which explains when and where the hearing will be held.

At this preliminary hearing, the SOAH Judge will first establish jurisdiction. An attempt to reach an agreed settlement in this case may be made. If a settlement is not possible, then a schedule for discovery, prefiled testimony, and other hearing dates will be set.

If you have any questions, please contact Ms. Debi Loockerman, C.P.A. at (512) 239-4714 or Mr. Kamal Adhikari, E.I.T. at (512) 239-0680 or by fax at (512) 239-6972. If by correspondence, include MC153 in the letterhead address.

Sincerely,

Handwritten signature of Lisa Fuentes in cursive script.

Tammy Benter, Manager  
Utilities and Districts Section  
Water Supply Division

TB/LG/mmg

cc: Attached Mailing List

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2012 OCT 15 PM 2:50  
CHIEF CLERKS OFFICE

Mailing List  
TCEQ Docket No. 2012-2006-UCR  
(Application Nos. 37414-A)

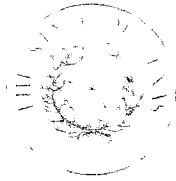
Mr. Paul M. Terrill III  
Mr. Geoffrey P. Kirshbaum  
The Terrill Firm, P.C.  
810 West 10<sup>th</sup> Street  
Austin, TX 78701

Representing: Aqua Texas

Mr. Robert L. Laughman, President  
Aqua Texas, Inc.  
1100 Clayton Lane, Suite 400W  
Austin, TX 78723

Mayor Vernon Oechsle  
City of Brazos Bend  
1905 Canaveral Ct  
Brazos Bend, TX 76048

Bryan W. Shaw, Ph.D., *Chairman*  
Carlos Rubinstein, *Commissioner*  
Toby Baker, *Commissioner*  
Zak Covar, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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The petition is being forwarded to the State Office of Administrative Hearings (SOAH). A date for a preliminary hearing on this matter will be scheduled. When a hearing has been scheduled, you will receive a notice of hearing which explains when and where the hearing will be held.

At this preliminary hearing, the SOAH Judge will first establish jurisdiction. An attempt to reach an agreed settlement in this case may be made. If a settlement is not possible, then a schedule for discovery, prefiled testimony, and other hearing dates will be set.

If you have any questions, please contact Ms. Debi Loockerman, C.P.A. at (512) 239-4714 or Mr. Kamal Adhikari, E.I.T. at (512) 239-0680 or by fax at (512) 239-6972. If by correspondence, include MC153 in the letterhead address.

Sincerely,

A handwritten signature in cursive script that reads "Lisa Fuentes".

Tammy Benter, Manager  
Utilities and Districts Section  
Water Supply Division

TB/LG/mmg

cc: Attached Mailing List



Mailing List  
TCEQ Docket No. 2012-2006-UCR  
(Application Nos. 37414-A)

Mr. Paul M. Terrill III  
Mr. Geoffrey P. Kirshbaum  
The Terrill Firm, P.C.  
810 West 10<sup>th</sup> Street  
Austin, TX 78701

Representing: Aqua Texas

Mr. Robert L. Laughman, President  
Aqua Texas, Inc.  
1100 Clayton Lane, Suite 400W  
Austin, TX 78723

Mayor Vernon Oechsle  
City of Brazos Bend  
1905 Canaveral Ct  
Brazos Bend, TX 76048

TCEQ DOCKET NO. \_\_\_\_\_

APPEAL OF AQUA TEXAS, INC., §  
AQUA UTILITIES, INC., AQUA §  
DEVELOPMENT, INC., KERRVILLE §  
SOUTH WATER COMPANY, INC., and §  
HARPER WATER COMPANY, INC. §  
d/b/a AQUA TEXAS, CCN NOS. 11157, §  
11424, 11484, 12902, & 13201, OF CITY §  
OF BRAZOS BEND RATEMAKING §  
ACTIONS §

BEFORE THE TEXAS  
COMMISSION ON  
ENVIRONMENTAL QUALITY

RECEIVED  
TCEQ  
FEB 22 2012

**1<sup>st</sup> AMENDED APPEAL OF AQUA TEXAS, AND MOTION FOR IMMEDIATE INTERIM RATE RELIEF AND IMPLEADER**

COMES NOW, Aqua Texas, Inc., Aqua Utilities, Inc., Aqua Development, Inc., Kerrville South Water Company, Inc., and Harper Water Company, Inc. d/b/a Aqua Texas (collectively “Aqua Texas”) appealing the ratemaking actions of the City of Brazos Bend (“City”) denying Aqua Texas a water rate/tariff change inside the City. Aqua Texas requests the Texas Commission on Environmental Quality (“TCEQ” or “Commission”) grant Aqua Texas immediate interim rate relief pending final resolution of this appeal, and further requests that TCEQ implead the City in this appeal. In support thereof, Aqua Texas would show the following:

**I. IDENTIFICATION OF AQUA TEXAS**

1. Aqua Texas is an investor-owned, retail public water and sewer utility operating under state-issued certificates of convenience and necessity. On or before December 22, 2011, Aqua Texas filed identical regional water rate/tariff change applications with the TCEQ and the City for Aqua Texas’ North and Southwest Regions.<sup>1</sup> Aqua Texas’ in-City water ratepayers are located within Aqua Texas’ North Region.

<sup>1</sup> In a letter dated February 15, 2012, the TCEQ informed Aqua Texas of a few minor alleged application “deficiencies” and propounded requests for information. **Exhibit A** (all exhibits are attached and incorporated by reference). After Aqua Texas filed a response with TCEQ addressing same in short order on February 22, 2012, which was shared with North and Southwest Region municipalities including the City, TCEQ declared Aqua Texas’ application administratively complete on March 14, 2012, allowing Aqua Texas’ environs rates to take effect on February 21, 2012 as proposed. **Exhibit B**.

2. The City has original ratemaking jurisdiction over Aqua Texas' retail water service to customers inside the City. The TCEQ has original ratemaking jurisdiction over retail water service to all Aqua Texas' North and Southwest Region water customers outside of municipalities. The TCEQ has appellate ratemaking jurisdiction over Aqua Texas' retail water service to customers inside the City and within other North and Southwest Region municipalities. Both the City and the TCEQ rate/tariff change applications propose to implement identical regional rate and tariff changes effective as of February 21, 2012. Aqua Texas has approximately 63 retail water customers served by its Bentwater of Lake Granbury Peninsula Addition water system within the City's corporate limits in Hood County, Texas.

## II. IDENTIFICATION OF THE CITY

3. The City is a political subdivision of the state that, to Aqua Texas' knowledge and belief, was incorporated in 2004 under the laws of the State of Texas. Brazos Bend's city type is unknown to Aqua Texas.

4. The City is the "regulatory authority" with original ratemaking jurisdiction over Aqua Texas' rates and services within the City's corporate limits. TEX. WATER CODE § 13.042(a).

## III. JURISDICTION AND VENUE

5. After initially suspending Aqua Texas' rate increase for 90 days in a City resolution passed on January 26, 2012, **Exhibit C**, the City denied Aqua Texas' rate application on May 17, 2012 in a second City resolution. **Exhibit D** is a true and correct copy of the City's denial resolution passed on May 17, 2012 ("Resolution").<sup>2</sup>

6. The City's May 17, 2012 Resolution represents a final City decision on Aqua Texas' rate application. This appeal is being filed with the TCEQ within 90 days of the date of notice of

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<sup>2</sup> Both resolutions were passed by the City's Board of Aldermen and signed by the City's Mayor and Secretary. The Resolutions represent that the Board of Aldermen of the City of Brazos Bend is the "regulatory authority" for ratemaking purposes within the City's corporate limits under Water Code, Chapter 13.

the City's Resolution, denying Aqua Texas' rate application, pursuant to TEX. WATER CODE § 13.043(a) and 30 TEX. ADMIN. CODE § 291.41(a). Aqua Texas' understanding is that filing fee requirements that would have applied to a petition under TEX. WATER CODE § 13.043(a) were removed effective September 1, 2011.<sup>3</sup>

#### IV. DEFECTS IN THE CITY'S RATEMAKING

7. Aqua Texas alleges that the City's water ratemaking action is improper and must be vacated by the Commission for the following reasons:

- A. Rejection of Aqua Texas' requested rates denies the utility (*i.e.*, Aqua Texas) the opportunity to collect revenues that will recover a reasonable return on invested capital over and above reasonable and necessary operating expenses with the total revenue collection being sufficient to preserve Aqua Texas' financial integrity.
- B. Rejection of Aqua Texas' requested rates denies the utility (*i.e.*, Aqua Texas) the opportunity to charge uniform region-wide rates thus resulting in preferential and discriminatory rates to customers of the same class based solely upon geographic location; and
- C. The City's ratemaking action results in rates violating TEX. WATER CODE §§ 13.084, 13.182, 13.183, 13.185, and 13.189.

8. The full extent of the City's violations of the Water Code cannot be determined until discovery is conducted. Aqua Texas reserves the right to amend its pleadings to identify other irregularities or illegalities in the City's ratemaking action.

#### V. RATEMAKING RESOLUTION VOID AS A MATTER OF LAW

9. The City's ratemaking Resolution requires Aqua Texas to "reimburse the City for reasonable rate case expenses and in a timely manner". The Resolution, however, includes no facts

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<sup>3</sup> Aqua Texas bases this understanding on correspondence with Lisa Fuentes, Utilities Financial Review Team Leader for the TCEQ Executive Director's Water Utilities and Districts Section and information on the TCEQ's web site that may be found at: <http://www.tceq.texas.gov/utilities/publist.html>. If this is not the case, Aqua Texas respectfully requests that the TCEQ Executive Director inform Aqua Texas immediately and Aqua Texas will thereby submit any required fee.

to support a finding under TEX. WATER CODE § 13.084 that it has incurred “reasonable rate case expenses” which require reimbursement from Aqua Texas.

10. In the exercise of its role as a regulatory authority under TEX. WATER CODE § 13.042(a), a municipality may retain certain outside professionals and seek reimbursement from the utility for costs associated with their employment. There are significant constraints and conditions on that cost recovery, which are conditions precedent to a municipality recovering allowed expenses.

11. TEX. WATER CODE § 13.084 governs the City’s ability to recover allowed expenses and provides:

The governing body of any municipality . . . shall have the right to select and engage rate consultants, accountants, auditors, attorneys, engineers, or any combination of these experts to conduct investigations, present evidence, advise and represent the governing body, and assist with litigation on water and sewer utility ratemaking proceedings. The water and sewer utility engaged in those proceedings shall be required to reimburse the governing body . . . for the *reasonable costs* of those services and *shall be allowed to recover those expenses through its rates with interest* . . . (emphasis added).

12. The individuals that the City may employ and whose expenses it may recover are limited to professionals identified in the Water Code. The City’s “reasonable costs” that may be reimbursed must directly relate to that specific rate case and must be limited to the identified tasks being performed for that municipality only.

13. In this case, Aqua Texas has not been presented with any evidence or facts that indicate the City has incurred rate case expenses, much less whether those expenses may be *reasonable* as required by TEX. WATER CODE § 13.084. The City’s Resolution merely declares the City entitled to reimbursement from Aqua Texas for its “reasonable rate case expenses”, but makes no evidentiary findings identifying those expenses or addressing their reasonableness. The City has not shared any evidence or information concerning such expenses with Aqua Texas.

14. Aqua Texas was not presented with any documentation of the City's rate case expense costs, which it could analyze or rebut, prior to the City adoption of the Resolution. Further, there is no provision within the Resolution allowing Aqua Texas to recover such expenses through rates so that it can "timely" reimburse the City as described in TEX. WATER CODE § 13.084. Finally, the Resolution is vague as to what might be considered "timely" reimbursement. For all these reasons, with respect to the Resolution's direction to reimburse the City for its "reasonable rate case expenses", the Resolution violates the Water Code and is void.

#### **VI. NEED FOR INTERIM RATE RELIEF**

15. The TCEQ has jurisdiction to establish interim rates and issue necessary interim orders in this appeal pursuant to TEX. WATER CODE § 13.043(h) and 30 TEX. ADMIN. CODE § 291.29. The City's actions have prevented Aqua Texas from receiving authority to charge its proposed rates within the City's corporate limits as proposed in the application. This action inequitably distributes the recovery of Aqua Texas' North Region water revenue requirement from other same-classed environs customers. The loss of incremental increased revenues from inside City customers has an immediate economic impact on Aqua Texas. This revenue loss cannot equitably and legally be passed on to environs customers. Thus, Aqua Texas and its shareholders face an immediate and potentially irrevocable unreasonable economic hardship.

16. This economic loss can only be remedied during the pendency of this appeal by authorizing Aqua Texas to charge its proposed North Region water rates inside the City as of their originally proposed effective date. In-city customers' interests will be protected since such interim rates may be made subject to reconciliation and refund/surcharge upon final resolution of this appeal.

17. Failure to establish an interim rate in this case could result in a financially burdensome "catch up" surcharge levied on in-city customers when the TCEQ ultimately raises in-

city rates to the level they should have been raised to by the Board of Aldermen of Brazos Bend, Texas. In Aqua Texas' last rate case, it took nearly 4 ½ years to receive a Commission final order after the application was originally filed. The Water Code provides that the Commission shall allow the utility to surcharge customers for lost revenues.

18. If a lost-revenue surcharge is allowed instead of an interim rate, customers will pay the surcharge at the same time they will be paying higher rates *and* the litigation expenses incurred in prosecuting this appeal. An interim order would prevent this from occurring.

#### VII. NECESSARY PARTIES

19. The necessary parties to this appeal are:

A. AQUA TEXAS, by and through its attorneys of record:

Paul M. Terrill  
Geoffrey P. Kirshbaum  
THE TERRILL FIRM, P.C.  
810 W. 10th St.  
Austin, TX 78701  
(512) 474-9100  
(512) 474-9888 (fax)

B. AQUA TEXAS, by and through its president:

Robert Laughman  
Aqua Texas, Inc.  
1100 Clayton Lane, Suite 400W  
Austin, TX 78723  
(512) 990-4400  
(512) 990-4410 (fax)

C. CITY OF BRAZOS BEND, by and through its mayor:

Mayor Vernon Oechsle  
City of Brazos Bend  
1905 Canaveral Ct.  
Brazos Bend, Texas 76048  
(817) 573-5212

E. TCEQ EXECUTIVE DIRECTOR:

Zac Covar, Executive Director  
Texas Commission on Environmental Quality  
c/o Legal Services Division and  
Water Supply Division

P. O. Box 13087, MC 173 and 153  
Austin, TX 78711-3087  
(512) 239-0606 (fax), (512) 239-6972 (fax)

F. TCEQ PUBLIC INTEREST COUNSEL:  
Blas Coy, Jr., Public Interest Counsel  
Texas Commission on Environmental Quality  
P. O. Box 13087, MC 103  
Austin, TX 78711-3087  
(512) 239-6377 (fax)

20. Aqua Texas has no knowledge of any other parties before the City who would have standing in this appeal. Aqua Texas was not invited to participate in the City meeting at which the Resolution was purportedly considered. The Resolution contains no record of any separate or third parties who may have participated in that meeting other than City officials.

#### **VIII. MOTION TO IMPEAD THE CITY AS A NECESSARY PARTY**

21. Aqua Texas requests that the City be made a party to this appeal. The Water Code requires the production of the record before the City containing copies of all "information that was available to the governing body at the time the governing body made its decision." TEX. WATER CODE § 13.043(a). With this information, the Commission will have a complete record as required by TEX. WATER CODE § 13.043(a). Aqua Texas requests that the City be made a party and subject to all lawful discovery through this motion of impleader so that it may produce this appellate record.

22. Aqua Texas will waive this motion if the City will provide (to Aqua Texas, the TCEQ Executive Director and the TCEQ Public Interest Counsel — the statutory parties to this appeal) copies of all documents before the City Board of Aldermen or considered by the City Board of Aldermen, jointly and severally, during each of their deliberations on the rate/tariff change application. It will not be necessary to provide copies of the rate/tariff change application filed by Aqua Texas, Aqua Texas' February 22, 2012 response to the TCEQ's Notice of Deficiency, or other documents provided by Aqua Texas to the City as reflected in Aqua Texas' January 6, 2012 and



February 2, 2012 letters to the City and other municipalities. It is sufficient to merely list those documents in a summary of documents if no changes were made to those documents as submitted to the City. If changes were made to those documents, copies of those changes should be provided under certification by the City Secretary or other custodian of public records for the City.

**PRAYER**

Aqua Texas prays that the TCEQ:

- A. take jurisdiction over this appeal;
- B. immediately set interim rates as specified above effective February 21, 2012, the date the City should have granted Aqua Texas full and complete rate relief;
- C. issue interim orders suspending all obligations to pay municipal rate case expenses until such expenses can be found “reasonable” based upon an evidentiary record and that upon such finding and such reimbursement, Aqua Texas be allowed to surcharge those expenses to customers in the City or, alternatively, as part of regional rate case expense surcharges;
- D. implead the City as a party to this proceeding, or, in the alternative, require the City to provide copies of the record considered by the City in its deliberations on this rate change application; and
- E. after hearing, set such fair and equitable rates for each distinct customer class that the Commission finds are just and reasonable under the ratemaking criteria of the Water Code, and allow Aqua Texas to recover its reasonable and necessary expenses associated with this appeal.

Respectfully submitted,

THE TERRILL FIRM, P.C.

By: Geoffrey P. Kirshbaum

Paul M. Terrill III

State Bar No. 00785094

Geoffrey P. Kirshbaum

State Bar No. 24029665

810 West 10<sup>th</sup> Street

Austin, Texas 78701

Tel: (512) 474-9100

Fax: (512) 474-9888

**ATTORNEYS FOR AQUA TEXAS, INC., AQUA  
UTILITIES, INC., AQUA DEVELOPMENT, INC.  
KERRVILLE SOUTH WATER COMPANY, INC.  
and HARPER WATER COMPANY, INC. d/b/a  
AQUA TEXAS**

CERTIFICATE OF SERVICE

I hereby certify on August 15, 2012 that true and correct copies of the foregoing appeal were served on the following parties as indicated.

Mayor Vernon Oechsle  
1905 Canaveral Ct.  
Brazos Bend, TX 76048  
(817) 573-5212

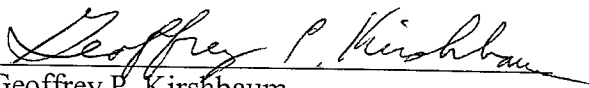
*via CM/RRR# 7108 1853 1570 0010 4434*

Zac Covar  
Executive Director - TCEQ  
c/o Legal Services Division and  
Water Supply Division  
P. O. Box 13087, MC 173 and 153  
Austin, TX 78711-3087

*via CM/RRR# 7108 1853 1570 0010 4403*

Blas Coy, Jr.  
Public Interest Counsel - TCEQ  
P. O. Box 13087, MC 103  
Austin, TX 78711-3087

*via CM/RRR# 7108 1853 1570 0010 4410*

  
Geoffrey P. Kirshbaum

Bryan W. Shaw, Ph.D., *Chairman*  
Buddy Garcia, *Commissioner*  
Carlos Rubinstein, *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

February 15, 2012

Mr. Paul Terrill, Attorney  
The Terrill Firm, PC  
810 West 10<sup>th</sup> Street  
Austin, Texas 78701

**Fax No. (512) 474-9888**

### **Notice of Deficiency**

Re: Water Rate/Tariff Change Application of Aqua Texas, Inc., Aqua Development, Inc., Kerrville South Water Company, Inc., and Harper Water Company, Inc. dba Aqua Texas ("Aqua Texas") – North Region Water and Southwest Region Water only; Application Nos. 37234-R and 37235-R

Certificate of Convenience and Necessity (CCN) Nos. 11157, 12902, 13201, 11421 and 11484

Counties: Anderson, Bosque, Camp, Cherokee, Cooke, Denton, Erath, Grayson, Gregg, Henderson, Hood, Hunt, Johnson, McLennan, Marion, Parker, Smith, Somervell, Tarrant, Taylor, Wise, Wood, Bandera, Bexar, Burnet, Comal, Gillespie, Hays, Kendall, Kerr, Kimble, Live Oak, Llano, Medina, Nueces, Travis, Victoria, Williamson, and Wilson Counties

CN: 602787509, 600336077, 600649172, 600789705, 602787509, 601570773,  
RN: 102674215, 101217842, 102672128,

Dear Mr. Terrill:

Your rate applications received on December 27, 2011, have been assigned Application Nos. 37234-R and 37235-R, but have not been accepted for filing. Please refer to these numbers in future correspondence.

Based on an administrative review of your applications, it appears the notice to customers and the applications contain deficiencies. To continue processing the applications, you must complete and/or revise the following:

- 1) The summary page of the study and the pages attached to the applications are not consistent with the composite remaining life and some of the annual accrual rate. Please clarify and provide documentation in a simple format with the formulas so that staff can verify the numbers.

- 2) The application for the North Region (page NT-20) indicated "SW share of Texas Corp Plant". Please clarify if this is a typographical error, and if so, please provide a corrected page for the North region.
- 3) The Annual Depreciation amount on page NT-20 does not match with the amount indicated on page NT- 26. Please explain the difference and/or provide a spreadsheet to support the annual depreciation of \$4,504,248.
- 4) The total gallons indicated for the First Block Under 20k and the 2<sup>nd</sup> Block Over 20k on page NT-34 are different from the gallonage presented on Attachment "NT-2, WP-Adj17 Bills & Vols Summary". Please explain the discrepancy and/or submit a corrected page.
- 5) The Annual Depreciation amount on page SW-20 does not match with the amount shown on page SW- 26. Please explain the difference and/or provide a spreadsheet to support the annual depreciation of \$2,829,601.
- 6) The formula used to compute the water loss for the North Region on page NT-31, Section VII-Production & Consumption Information-Water, is different from the formula used to compute the water loss for the Southwest Region on Page SW-31. Please clarify why the number of gallons for flushing, leaked and stolen water, were added to the number of gallons pumped, raw water purchased and treated for the Southwest Region on Page SW-31. Please submit a corrected page for Section VIII-Production & Consumption information-Water, Southwest Region.
- 7) The total gallons indicated for First Block Under 20k and the 2<sup>nd</sup> Block Over 20k on page SW-34 are different from the gallons presented on Attachment "SW-2, WP-Adj17 Bills & Vols Summary". Please clarify the discrepancy and/or submit a corrected page.
- 8) Please explain the relationship of the list of Water Assets on "Attachment NT/SW-5" with the depreciation schedules for the North Region on pages NT 19 and 20 and for the Southwest Region on pages SW 19 and 20.
- 9) Please reconcile the rate base as requested on the applications to the depreciation study. For the two regions excluded from this rate case, please provide the plant and equipment balances included in the rate base as of the end of the test year, so that the sum of the individual region plant and equipment numbers equals the total plant and equipment number on the depreciation study. A table similar to the following would be a sufficient response to this request.

	(A)Region 1	(B)Region 2	(C)Region 3	Depreciation Study
Plant & Equip.	\$	\$	\$	(Total of (A), (B), (C))
Accum Depr.	\$	\$	\$	(Total)

Reconciling items:

+

-

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Plant and equip. applications.	\$	\$	\$	Rate/tariff change
--------------------------------	----	----	----	--------------------

Please provide an explanation and calculations for all differences, if any.

10) Please reconcile the depreciation study (plant in service, accumulated depreciation) with the Plant and Equipment included in the rate base for TCEQ Docket Nos. 2004-1120-UCR; 2004-1671-UCR; 2004-2122-UCR; 2005-0113-UCR; 2005-0114-UCR, and 2005-0112-UCR in which rate base was set. Please explain all changes and/or differences.

11) Please reconcile the depreciation study to the NARUC general ledger account balances included in Aqua's general ledger. Please provide totals and amounts by regions.

12) Please clarify your intent for including the "RATE CASE NOTICE ADDENDUM" in your notice to customers.

The Notice to Customers sent to the following subdivisions/systems contains deficiencies and should be corrected as follows:

a) **Briarcreek (North Region)**: The TCEQ approved tariff shows that the "Late Charge" fee is 10%, not \$5.00. The Customer Service Inspection Fee is \$75.00 and Lock Removal or Damage Fee is \$10; however, both fees were not shown on the notice to customers. Please show the correct amounts on the revised notice.

b) **Spring Hill/Stony Hill (North Region)**: The TCEQ approved tariff for a 4" meter is \$417.00; however, your notice to customers shows \$417.50 for a 4" meter.

c) **V L S Water Corporation (North Region)**:

	TCEQ approved tariff dated 1/27/2011	Per Notice to Customers
Tap Fee (Unique Cost)	Actual	
Tap Fee (Larger Meter)	Actual	
Late Charge	10%	None
Return Check Charge	\$25.00	None
Customer Deposit- Residential	\$50.00	None
Meter Test Fee	\$25.00	None

Mr. Paul Terrill, Attorney

Page 4

February 15, 2012

d) Saddle Club Estates (North Region):

Late Charge Fee	\$5.00	\$5.00 or 10%
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**The effective date of your rate change for the North and Southwest Region is hereby suspended until the deficiencies are corrected and your customers are re-noticed.** Your new effective date must be at least 60 days following the date the completed application is mailed to us, and correct notice is mailed or delivered to the customers. It must also be the first day of a billing period. If you have collected the new proposed rates, you are required to refund the excess amount collected.

Please respond in writing to each of these items separately and provide supporting documentation for each response. An original and three (3) copies of the customer notice, notarized affidavit, and other documents referenced above must be submitted to our office by **March 15, 2012**. If these items are not received by this date, the application will be returned for failure to prosecute.

Thank you for your attention to this matter. If you have any questions, please contact Ms. Elsie Pascua at (512)239-5367, e-mail at [Elsie.Pascua@tceq.texas.gov](mailto:Elsie.Pascua@tceq.texas.gov), Mr. Kamal Adhikari at (512)239-0680, e-mail [Kamal.Adhikari@tceq.texas.gov](mailto:Kamal.Adhikari@tceq.texas.gov) or Ms. Leila Guerrero at (512)239-2286, by e-mail at [Leila.Guerrero-Gantioqui@tceq.texas.gov](mailto:Leila.Guerrero-Gantioqui@tceq.texas.gov). If you contact TCEQ by correspondence include MC 153 in the address.

Sincerely,

Tammy Benter, Manager  
Utilities & Districts Section  
Water Supply Division  
Texas Commission on Environmental Quality

TB/EP/KA/LG/lm

cc: Mr. Robert L. Laughman, President

Mr. Paul Terrill, Attorney

Page 4

February 15, 2012

d) Saddle Club Estates (North Region):

Late Charge Fee            \$5.00                            \$5.00 or 10%

**The effective date of your rate change for the North and Southwest Region is hereby suspended until the deficiencies are corrected and your customers are re-noticed.** Your new effective date must be at least 60 days following the date the completed application is mailed to us, and correct notice is mailed or delivered to the customers. It must also be the first day of a billing period. If you have collected the new proposed rates, you are required to refund the excess amount collected.

Please respond in writing to each of these items separately and provide supporting documentation for each response. An original and three (3) copies of the customer notice, notarized affidavit, and other documents referenced above must be submitted to our office by **March 15, 2012**. If these items are not received by this date, the application will be returned for failure to prosecute.

Thank you for your attention to this matter. If you have any questions, please contact Ms. Elsie Pascua at (512)239-5367, e-mail at [Elsie.Pascua@tceq.texas.gov](mailto:Elsie.Pascua@tceq.texas.gov); Mr. Kamal Adhikari at (512)239-0680, e-mail [Kamal.Adhikari@tceq.texas.gov](mailto:Kamal.Adhikari@tceq.texas.gov) or Ms. Leila Guerrero at (512)239-2286, by e-mail at [Leila.Guerrero-Gantioqui@tceq.texas.gov](mailto:Leila.Guerrero-Gantioqui@tceq.texas.gov). If you contact TCEQ by correspondence include MC 153 in the address.

Sincerely,

Tammy Benter, Manager  
Utilities & Districts Section  
Water Supply Division  
Texas Commission on Environmental Quality

TB/EP/KA/LG/ln

cc: Mr. Robert L. Laughman, President



**SECTION VIII - PRODUCTION & CONSUMPTION INFORMATION - WATER**

Please provide the following information regarding water utility operations over your selected twelve month "test year".

Table VIII

Total number of gallons pumped (total master meter reading for the year)	[A]		gallons
Total number of gallons purchased from another source for sale to customers (if any)	[B]		gallons
Total number of gallons provided to customers [C]=[A]+[B].	[C]		gallons
Total number of gallons billed to your customers (total customer consumption)	[D]	①	gallons
System losses: $\frac{[C] - [D]}{[C]} \times 100\% = [E]$	[E]		%
Source of Purchased water			

① To Table IX. A., Line [B] and Table X. A., Line [B]

PLEASE MOVE THE FOLLOWING TO THE NEXT PAGE BEFORE YOU FINALIZE  
THE LETTER: THANKS.

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Address for: Mr. Robert L. Laughman, President, Aqua Texas, 1106 Clayton Lane, Suite 400W,  
Austin, Texas 78723

bc: Ms. Elsie Pascua, MC 153  
Kamal Adhikari, MC 159  
TCEQ Region 12 Office

Bryan W. Shaw, Ph.D., *Chairman*  
Buddy Garcia, *Commissioner*  
Carlos Rubinstein, *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

March 14, 2012

Mr. Paul Terrill, Attorney  
The Terrill Firm, PC  
810 West 10<sup>th</sup> Street  
Austin, Texas 78701

**Fax No. (512) 474-9888**

Re: Water Rate/Tariff Change Applications of Aqua Texas, Inc., Aqua Development, Inc., Kerrville South Water Company, Inc., and Harper Water Company, Inc. dba Aqua Texas ("Aqua Texas") – North Region Water and Southwest Region Water only;  
Application Nos. 37234-R and 37235-R

Certificate of Convenience and Necessity (CCN) Nos. 11157, 12902, 13201, 11421 and 11484

Counties: Anderson, Bosque, Camp, Cherokee, Cooke, Denton, Erath, Grayson, Gregg, Henderson, Hood, Hunt, Johnson, McLennan, Marion, Parker, Smith, Somervell, Tarrant, Taylor, Wise, Wood, Bandera, Bexar, Burnet, Comal, Gillespie, Hays, Kendall, Kerr, Kimble, Live Oak, Llano, Medina, Nueces, Travis, Victoria, Williamson, and Wilson Counties

CN: 602787509, 600336077, 600649172, 600789705, 602787509, 601570773,

RN: 102674215, 101217842, 102672128,

Dear Mr. Terrill:

Thank you for your response received on February 22, 2012, regarding the above referenced applications. Your applications have been accepted for filing and assigned Application Nos. 37234-R and 37235-R. Please refer to these numbers in future correspondence.

**Your new rates may go into effect on February 21, 2012, for the affected ratepayers in North and Southwest Region water only.** Your new effective date must be at least 60 days following the date your completed applications were mailed to us and correct notice is mailed or delivered to the customers. The effective date of the new rates must be the first day of the billing period, and the new rates may not apply to service provided before the effective date of the new rates.

Mr. Paul Terrill, Attorney  
Page 2  
March 14, 2012

The applications will be scheduled for a hearing if:

- the Texas Commission on Environmental Quality (TCEQ) receives complaints from at least 1,000 or 10% of the ratepayers, whichever is lesser within 90 days of the effective date of the rate increase, or
- TCEQ staff protests the applications on its own motion.

You will be notified if a hearing is scheduled. If, during the course of a hearing, rates are set which are different from the rates charged by Utility, you may be required to refund or credit future bills. The refund or credit will include all sums collected during the pendency of the rate proceeding in excess of the rate finally ordered, plus interest, as determined by the TCEQ.

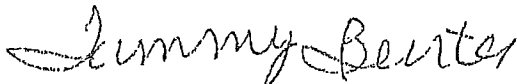
If TCEQ does not receive the required number of complaints within 90 days of the effective date, and the staff does not require a hearing, you will receive another letter or notification from TCEQ so informing you, along with your approved tariff.

Please contact the staff listed below if you have any questions. Include MC-153 in the address if you contact TCEQ by correspondence.

Ms. Elsie Pascua at (512)239-5367 or by email at [Elsie.Pascua@tceq.texas.gov](mailto:Elsie.Pascua@tceq.texas.gov).

Mr. Kamal Adhikari at (512)239-0680 or by email at [Kamal.Adhikari@tceq.texas.gov](mailto:Kamal.Adhikari@tceq.texas.gov).

Sincerely,



Tammy Benter, Manager  
Utilities and Districts Section  
Water Supply Division  
Texas Commission on Environmental Quality

TB/LG/ln

cc: Mr. Robert L. Laughman, President

AQUA TEXAS, INC. RATE INCREASE REQUEST (2012)

## A RESOLUTION

OF THE BOARD OF ALDERMEN OF BRAZOS BEND, TEXAS ("CITY") AUTHORIZING A SUSPENSION OF THE EFFECTIVE DATE OF THE AQUA TEXAS' RATE INCREASE AND THE CITY TO CONTEST SUCH RATE INCREASE BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; AUTHORIZING PROVISION OF RATE CONSULTANTS, EXPERTS AND LEGAL REPRESENTATION; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING SUCH OTHER FINDINGS AS ARE RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

**WHEREAS**, the Board of Aldermen of the City of Brazos Bend is the "regulatory authority," as defined by and used in Texas Water Code, chapter 13, relating to the regulation of public utilities providing retail water or retail sewer service within the corporate limits of the City of Brazos Bend; and

**WHEREAS**, by notice dated December 22, 2011, Aqua Texas, Inc., Aqua Utilities and/or Aqua Development, Inc. ("Aqua Texas") filed a statement of intent to change rates and an application to change rates for its retail water ratepayers located within all of the City of Brazos Bend; and

**WHEREAS**, based upon such notice, it is anticipated that on or about February 21, 2012 Aqua Texas proposes to increase its water rates; and

**WHEREAS**, Aqua Texas' requested rate will result in a major increase in rates for Brazos Bend, Texas, including increases in rates for residential customers, small commercial customers and other classes of customers; and

**WHEREAS**, Aqua Texas' application to increase rates will be comprised of a voluminous amount of pages, including testimony, schedules and work papers; and

**WHEREAS**, due to the complexity of Aqua Texas' rate filing it is not possible to review the requested increase in rates unless the effective date is suspended for ninety days as permitted by law; and

**WHEREAS**, the proposed rate increase requires the specialized expertise of lawyers and other experts who have experience analyzing utility rate requests;

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF BRAZOS BEND, TEXAS THAT;**

**Section 1.** The findings set out in the preamble to this resolution are in all things approved and adopted.

**Section 2.** The City of Brazos Bend ("City") does hereby suspend the proposed effective date for Aqua Texas' request for an increase in rates, for a period of 90 days from the date proposed by Aqua Texas in its application

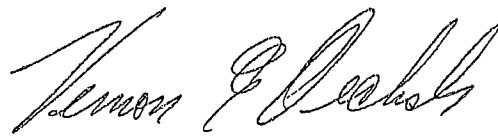
**Section 3.** The City is hereby empowered to employ a law firm and rate consultants or other experts to represent and act in the best interests of the City in the Aqua Texas rate case, and any other related proceeding before the Texas Commission on Environmental Quality or in the courts. Such law firm shall be fully empowered to act on behalf of the City with respect to such proceedings. Should a coalition of cities be formed to participate in the rate case, the City of Brazos Bend shall be authorized to join such coalition.

**Section 4.** Aqua Texas shall reimburse the City for reasonable rate case expenses and in a timely manner.

**Section 5.** The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

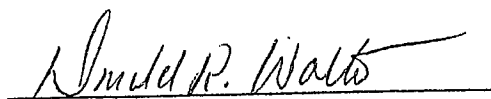
**Section 6.** This resolution shall become effective from and after its passage.

**PASSED AND APPROVED** this 26<sup>th</sup> day of January, 2012.



Vernon E. Oechsle, Mayor

ATTEST:



Donald R. Walton, Secretary



## AQUA TEXAS, INC. RATE INCREASE DENIAL - 2012

### A RESOLUTION

OF THE BOARD OF ALDERMEN OF BRAZOS BEND, TEXAS ("CITY") DENYING THE AQUA TEXAS, INC.'S STATEMENT OF INTENT TO CHANGE THE WATER RATES IN THE CITY; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR NOTICE HEREOF TO AQUA TEXAS, INC.; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

**WHEREAS**, the Board of Aldermen of the City of Brazos Bend ("City") is the "regulatory authority," as defined by and used in Texas Water Code, chapter 13, relating to the regulation of public utilities providing retail water or retail sewer service within the corporate limits of the City; and

**WHEREAS**, by notice dated December 22, 2011, Aqua Texas, Inc., Aqua Utilities and/or Aqua Development, Inc. ("Aqua Texas") filed a Statement of Intent to change rates and an application to change rates for its retail water ratepayers located within all of the City effective on or about February 21, 2012; and

**WHEREAS**, the City passed a resolution on January 26, 2012 suspending the proposed effective date for Aqua Texas' request for an increase in rates, for a period of 90 days from the date proposed by Aqua Texas in its application; and

**WHEREAS**, the Texas Water Code provides that costs incurred by the Governing Body of the City in ratemaking activities are to be reimbursed by the regulated utility.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF BRAZOS BEND, TEXAS THAT;**

**Section 1.** The findings set out in the preamble to this resolution are in all things approved and adopted.

**Section 2.** The Statement of Intent to change water rates within the City of Brazos Bend, Texas ("City") by Aqua Texas, Inc., Aqua Utilities and/or Aqua Development, Inc. ("Aqua Texas"), is hereby denied in all respects.

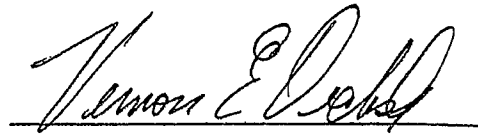
**Section 3.** The Secretary of the City is hereby directed to deliver a copy of this resolution, as executed, to Aqua Texas, Inc., 1106 Clayton Lane, Suite 400W, Austin, Texas 78723 and to The Terrill Firm, 810 West 10<sup>th</sup> Street, Austin, Texas 78701.

**Section 4.** Aqua Texas shall reimburse the City for reasonable rate case expenses and in a timely manner.

**Section 5.** The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

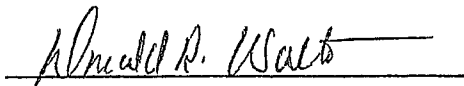
**Section 6.** This resolution shall become effective from and after its passage.

PASSED AND APPROVED this 17<sup>th</sup> day of May, 2012.



Vernon E. Oechsle, Mayor

ATTEST:



Donald R. Walton, Secretary



TCEQ DOCKET NO. \_\_\_\_\_

APPEAL OF AQUA TEXAS, INC.,	§	BEFORE THE TEXAS
AQUA UTILITIES, INC., AQUA	§	
DEVELOPMENT, INC., KERRVILLE	§	
SOUTH WATER COMPANY, INC., and	§	COMMISSION ON
HARPER WATER COMPANY, INC.	§	
d/b/a AQUA TEXAS, CCN NOS. 11157,	§	
12902, & 13201, OF CITY OF BRAZOS	§	
BEND RATEMAKING ACTIONS	§	ENVIRONMENTAL QUALITY

**APPEAL OF AQUA TEXAS, AND MOTION FOR IMMEDIATE INTERIM RATE RELIEF AND IMPLEADER**

COMES NOW, Aqua Texas, Inc., Aqua Utilities, Inc., Aqua Development, Inc., Kerrville South Water Company, Inc., and Harper Water Company, Inc. d/b/a Aqua Texas (collectively "Aqua Texas") appealing the ratemaking actions of the City of Brazos Bend ("City") denying Aqua Texas a water rate/tariff change inside the City. Aqua Texas requests the Texas Commission on Environmental Quality ("TCEQ" or "Commission") grant Aqua Texas immediate interim rate relief pending final resolution of this appeal, and further requests that TCEQ implead the City in this appeal. In support thereof, Aqua Texas would show the following:

**I. IDENTIFICATION OF AQUA TEXAS**

1. Aqua Texas is an investor-owned, retail public water and sewer utility operating under state-issued certificates of convenience and necessity. On or before December 22, 2011, Aqua Texas filed identical regional water rate/tariff change applications with the TCEQ and the City for Aqua Texas' North and Southwest Regions.<sup>1</sup> Aqua Texas' in-City water ratepayers are located within Aqua Texas' North Region.

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<sup>1</sup> In a letter dated February 15, 2012, the TCEQ informed Aqua Texas of a few minor alleged application "deficiencies" and propounded requests for information. **Exhibit A** (all exhibits are attached and incorporated by reference). After Aqua Texas filed a response with TCEQ addressing same in short order on February 22, 2012, which was shared with North and Southwest Region municipalities including the City, TCEQ declared Aqua Texas' application administratively complete on March 14, 2012, allowing Aqua Texas' environs rates to take effect on February 21, 2012 as proposed. **Exhibit B.**

2. The City has original ratemaking jurisdiction over Aqua Texas' retail water service to customers inside the City. The TCEQ has original ratemaking jurisdiction over retail water service to all Aqua Texas' North and Southwest Region water customers outside of municipalities. The TCEQ has appellate ratemaking jurisdiction over Aqua Texas' retail water service to customers inside the City and within other North and Southwest Region municipalities. Both the City and the TCEQ rate/tariff change applications propose to implement identical regional rate and tariff changes effective as of February 21, 2012. Aqua Texas has approximately 63 retail water customers served by its Bentwater of Lake Granbury Peninsula Addition water system within the City's corporate limits in Hood County, Texas.

## II. IDENTIFICATION OF THE CITY

3. The City is a political subdivision of the state that, to Aqua Texas' knowledge and belief, was incorporated in 2004 under the laws of the State of Texas. Brazos Bend's city type is unknown to Aqua Texas.

4. The City is the "regulatory authority" with original ratemaking jurisdiction over Aqua Texas' rates and services within the City's corporate limits. TEX. WATER CODE § 13.042(a).

## III. JURISDICTION AND VENUE

5. After initially suspending Aqua Texas' rate increase for 90 days in a City resolution passed on January 26, 2012, **Exhibit C**, the City denied Aqua Texas' rate application on May 17, 2012 in a second City resolution. **Exhibit D** is a true and correct copy of the City's denial resolution passed on May 17, 2012 ("Resolution").<sup>2</sup>

6. The City's May 17, 2012 Resolution represents a final City decision on Aqua Texas' rate application. This appeal is being filed with the TCEQ within 90 days of the date of notice of

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<sup>2</sup> Both resolutions were passed by the City's Board of Aldermen and signed by the City's Mayor and Secretary. The Resolutions represent that the Board of Aldermen of the City of Brazos Bend is the "regulatory authority" for ratemaking purposes within the City's corporate limits under Water Code, Chapter 13.

the City's Resolution, denying Aqua Texas' rate application, pursuant to TEX. WATER CODE § 13.043(a) and 30 TEX. ADMIN. CODE § 291.41(a). Aqua Texas' understanding is that filing fee requirements that would have applied to a petition under TEX. WATER CODE § 13.043(a) were removed effective September 1, 2011.<sup>3</sup>

#### IV. DEFECTS IN THE CITY'S RATEMAKING

7. Aqua Texas alleges that the City's water ratemaking action is improper and must be vacated by the Commission for the following reasons:

- A. Rejection of Aqua Texas' requested rates denies the utility (*i.e.*, Aqua Texas) the opportunity to collect revenues that will recover a reasonable return on invested capital over and above reasonable and necessary operating expenses with the total revenue collection being sufficient to preserve Aqua Texas' financial integrity.
- B. Rejection of Aqua Texas' requested rates denies the utility (*i.e.*, Aqua Texas) the opportunity to charge uniform region-wide rates thus resulting in preferential and discriminatory rates to customers of the same class based solely upon geographic location; and
- C. The City's ratemaking action results in rates violating TEX. WATER CODE §§ 13.084, 13.182, 13.183, 13.185, and 13.189.

8. The full extent of the City's violations of the Water Code cannot be determined until discovery is conducted. Aqua Texas reserves the right to amend its pleadings to identify other irregularities or illegalities in the City's ratemaking action.

#### V. RATEMAKING RESOLUTION VOID AS A MATTER OF LAW

9. The City's ratemaking Resolution requires Aqua Texas to "reimburse the City for reasonable rate case expenses and in a timely manner". The Resolution, however, includes no facts

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<sup>3</sup> Aqua Texas bases this understanding on correspondence with Lisa Fuentes, Utilities Financial Review Team Leader for the TCEQ Executive Director's Water Utilities and Districts Section and information on the TCEQ's web site that may be found at: <http://www.tceq.texas.gov/utilities/publist.html>. If this is not the case, Aqua Texas respectfully requests that the TCEQ Executive Director inform Aqua Texas immediately and Aqua Texas will thereby submit any required fee.

to support a finding under TEX. WATER CODE § 13.084 that it has incurred “reasonable rate case expenses” which require reimbursement from Aqua Texas.

10. In the exercise of its role as a regulatory authority under TEX. WATER CODE § 13.042(a), a municipality may retain certain outside professionals and seek reimbursement from the utility for costs associated with their employment. There are significant constraints and conditions on that cost recovery, which are conditions precedent to a municipality recovering allowed expenses.

11. TEX. WATER CODE § 13.084 governs the City’s ability to recover allowed expenses and provides:

The governing body of any municipality . . . shall have the right to select and engage rate consultants, accountants, auditors, attorneys, engineers, or any combination of these experts to conduct investigations, present evidence, advise and represent the governing body, and assist with litigation on water and sewer utility ratemaking proceedings. The water and sewer utility engaged in those proceedings shall be required to reimburse the governing body . . . for the *reasonable costs* of those services and *shall be allowed to recover those expenses through its rates with interest* . . . (emphasis added).

12. The individuals that the City may employ and whose expenses it may recover are limited to professionals identified in the Water Code. The City’s “reasonable costs” that may be reimbursed must directly relate to that specific rate case and must be limited to the identified tasks being performed for that municipality only.

13. In this case, Aqua Texas has not been presented with any evidence or facts that indicate the City has incurred rate case expenses, much less whether those expenses may be *reasonable* as required by TEX. WATER CODE § 13.084. The City’s Resolution merely declares the City entitled to reimbursement from Aqua Texas for its “reasonable rate case expenses”, but makes no evidentiary findings identifying those expenses or addressing their reasonableness. The City has not shared any evidence or information concerning such expenses with Aqua Texas.

14. Aqua Texas was not presented with any documentation of the City's rate case expense costs, which it could analyze or rebut, prior to the City adoption of the Resolution. Further, there is no provision within the Resolution allowing Aqua Texas to recover such expenses through rates so that it can "timely" reimburse the City as described in TEX. WATER CODE § 13.084. Finally, the Resolution is vague as to what might be considered "timely" reimbursement. For all these reasons, with respect to the Resolution's direction to reimburse the City for its "reasonable rate case expenses", the Resolution violates the Water Code and is void.

#### **VI. NEED FOR INTERIM RATE RELIEF**

15. The TCEQ has jurisdiction to establish interim rates and issue necessary interim orders in this appeal pursuant to TEX. WATER CODE § 13.043(h) and 30 TEX. ADMIN. CODE § 291.29. The City's actions have prevented Aqua Texas from receiving authority to charge its proposed rates within the City's corporate limits as proposed in the application. This action inequitably distributes the recovery of Aqua Texas' North Region water revenue requirement from other same-classed environs customers. The loss of incremental increased revenues from inside City customers has an immediate economic impact on Aqua Texas. This revenue loss cannot equitably and legally be passed on to environs customers. Thus, Aqua Texas and its shareholders face an immediate and potentially irrevocable unreasonable economic hardship.

16. This economic loss can only be remedied during the pendency of this appeal by authorizing Aqua Texas to charge its proposed North Region water rates inside the City as of their originally proposed effective date. In-city customers' interests will be protected since such interim rates may be made subject to reconciliation and refund/surcharge upon final resolution of this appeal.

17. Failure to establish an interim rate in this case could result in a financially burdensome "catch up" surcharge levied on in-city customers when the TCEQ ultimately raises in-

city rates to the level they should have been raised to by the Board of Aldermen of Brazos Bend, Texas. In Aqua Texas' last rate case, it took nearly 4 ½ years to receive a Commission final order after the application was originally filed. The Water Code provides that the Commission shall allow the utility to surcharge customers for lost revenues.

18. If a lost-revenue surcharge is allowed instead of an interim rate, customers will pay the surcharge at the same time they will be paying higher rates *and* the litigation expenses incurred in prosecuting this appeal. An interim order would prevent this from occurring.

#### VII. NECESSARY PARTIES

19. The necessary parties to this appeal are:

- A. AQUA TEXAS, by and through its attorneys of record:  
Paul M. Terrill  
Geoffrey P. Kirshbaum  
THE TERRILL FIRM, P.C.  
810 W. 10th St.  
Austin, TX 78701  
(512) 474-9100  
(512) 474-9888 (fax)
  
- B. AQUA TEXAS, by and through its president:  
Robert Laughman  
Aqua Texas, Inc.  
1100 Clayton Lane, Suite 400W  
Austin, TX 78723  
(512) 990-4400  
(512) 990-4410 (fax)
  
- C. CITY OF BRAZOS BEND, by and through its mayor:  
Mayor Vernon Oechsle  
City of Brazos Bend  
1905 Canaveral Ct.  
Brazos Bend, Texas 76048  
(817) 573-5212
  
- E. TCEQ EXECUTIVE DIRECTOR:  
Zac Covar, Executive Director  
Texas Commission on Environmental Quality  
c/o Legal Services Division and  
Water Supply Division

P. O. Box 13087, MC 173 and 153  
Austin, TX 78711-3087  
(512) 239-0606 (fax), (512) 239-6972 (fax)

F. TCEQ PUBLIC INTEREST COUNSEL:  
Blas Coy, Jr., Public Interest Counsel  
Texas Commission on Environmental Quality  
P. O. Box 13087, MC 103  
Austin, TX 78711-3087  
(512) 239-6377 (fax)

20. Aqua Texas has no knowledge of any other parties before the City who would have standing in this appeal. Aqua Texas was not invited to participate in the City meeting at which the Resolution was purportedly considered. The Resolution contains no record of any separate or third parties who may have participated in that meeting other than City officials.

#### **VIII. MOTION TO IMPLEAD THE CITY AS A NECESSARY PARTY**

21. Aqua Texas requests that the City be made a party to this appeal. The Water Code requires the production of the record before the City containing copies of all “information that was available to the governing body at the time the governing body made its decision.” TEX. WATER CODE § 13.043(a). With this information, the Commission will have a complete record as required by TEX. WATER CODE § 13.043(a). Aqua Texas requests that the City be made a party and subject to all lawful discovery through this motion of impleader so that it may produce this appellate record.

22. Aqua Texas will waive this motion if the City will provide (to Aqua Texas, the TCEQ Executive Director and the TCEQ Public Interest Counsel — the statutory parties to this appeal) copies of all documents before the City Board of Aldermen or considered by the City Board of Aldermen, jointly and severally, during each of their deliberations on the rate/tariff change application. It will not be necessary to provide copies of the rate/tariff change application filed by Aqua Texas, Aqua Texas’ February 22, 2012 response to the TCEQ’s Notice of Deficiency, or other documents provided by Aqua Texas to the City as reflected in Aqua Texas’ January 6, 2012 and

February 2, 2012 letters to the City and other municipalities. It is sufficient to merely list those documents in a summary of documents if no changes were made to those documents as submitted to the City. If changes were made to those documents, copies of those changes should be provided under certification by the City Secretary or other custodian of public records for the City.

**PRAYER**

Aqua Texas prays that the TCEQ:

- A. take jurisdiction over this appeal;
- B. immediately set interim rates as specified above effective February 21, 2012, the date the City should have granted Aqua Texas full and complete rate relief;
- C. issue interim orders suspending all obligations to pay municipal rate case expenses until such expenses can be found "reasonable" based upon an evidentiary record and that upon such finding and such reimbursement, Aqua Texas be allowed to surcharge those expenses to customers in the City or, alternatively, as part of regional rate case expense surcharges;
- D. implead the City as a party to this proceeding, or, in the alternative, require the City to provide copies of the record considered by the City in its deliberations on this rate change application; and
- E. after hearing, set such fair and equitable rates for each distinct customer class that the Commission finds are just and reasonable under the ratemaking criteria of the Water Code, and allow Aqua Texas to recover its reasonable and necessary expenses associated with this appeal.



Respectfully submitted,

THE TERRILL FIRM, P.C.

By: Geoffrey P. Kirshbaum

Paul M. Terrill III  
State Bar No. 00785094  
Geoffrey P. Kirshbaum  
State Bar No. 24029665  
810 West 10<sup>th</sup> Street  
Austin, Texas 78701  
Tel: (512) 474-9100  
Fax: (512) 474-9888

**ATTORNEYS FOR AQUA TEXAS, INC., AQUA  
UTILITIES, INC., AQUA DEVELOPMENT, INC.  
KERRVILLE SOUTH WATER COMPANY, INC.  
and HARPER WATER COMPANY, INC. d/b/a  
AQUA TEXAS**

CERTIFICATE OF SERVICE

I hereby certify on August 13, 2012 that true and correct copies of the foregoing appeal were served on the following parties as indicated.

Mayor Vernon Oechsle  
1905 Canaveral Ct.  
Brazos Bend, TX 76048  
(817) 573-5212

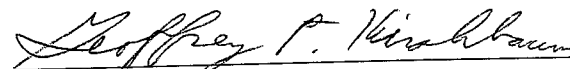
*via CM/RRR# 7108 1853 1570 0010 4342*

Zac Covar  
Executive Director - TCEQ  
c/o Legal Services Division and  
Water Supply Division  
P. O. Box 13087, MC 173 and 153  
Austin, TX 78711-3087

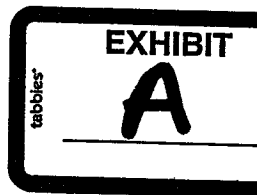
*via CM/RRR# 7108 1853 1570 0010 4359*

Blas Coy, Jr.  
Public Interest Counsel - TCEQ  
P. O. Box 13087, MC 103  
Austin, TX 78711-3087

*via CM/RRR# 7108 1853 1570 0010 4366*

  
Geoffrey P. Kirshbaum

Bryan W. Shaw, Ph.D., *Chairman*  
Buddy Garcia, *Commissioner*  
Carlos Rubinstein, *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

February 15, 2012

Mr. Paul Terrill, Attorney  
The Terrill Firm, PC  
810 West 10<sup>th</sup> Street  
Austin, Texas 78701

**Fax No. (512) 474-9888**

### **Notice of Deficiency**

Re: Water Rate/Tariff Change Application of Aqua Texas, Inc., Aqua Development, Inc., Kerrville South Water Company, Inc., and Harper Water Company, Inc. dba Aqua Texas ("Aqua Texas") – North Region Water and Southwest Region Water only; Application Nos. 37234-R and 37235-R

Certificate of Convenience and Necessity (CCN) Nos. 11157, 12902, 13201, 11421 and 11484

Counties: Anderson, Bosque, Camp, Cherokee, Cooke, Denton, Erath, Grayson, Gregg, Henderson, Hood, Hunt, Johnson, McLennan, Marion, Parker, Smith, Somervell, Tarrant, Taylor, Wise, Wood, Bandera, Bexar, Burnet, Comal, Gillespie, Hays, Kendall, Kerr, Kimble, Live Oak, Llano, Medina, Nueces, Travis, Victoria, Williamson, and Wilson Counties

CN: 602787509, 600336077, 600649172, 600789705, 602787509, 601570773,  
RN: 102674215, 101217842, 102672128,

Dear Mr. Terrill:

Your rate applications received on December 27, 2011, have been assigned Application Nos. 37234-R and 37235-R, but have not been accepted for filing. Please refer to these numbers in future correspondence.

Based on an administrative review of your applications, it appears the notice to customers and the applications contain deficiencies. To continue processing the applications, you must complete and/or revise the following:

- 1) The summary page of the study and the pages attached to the applications are not consistent with the composite remaining life and some of the annual accrual rate. Please clarify and provide documentation in a simple format with the formulas so that staff can verify the numbers.

February 15, 2012

- 2) The application for the North Region (page NT-20) indicated "SW share of Texas Corp Plant". Please clarify if this is a typographical error, and if so, please provide a corrected page for the North region.
- 3) The Annual Depreciation amount on page NT-20 does not match with the amount indicated on page NT- 26. Please explain the difference and/or provide a spreadsheet to support the annual depreciation of \$4,504,248.
- 4) The total gallons indicated for the First Block Under 20k and the 2<sup>nd</sup> Block Over 20k on page NT-34 are different from the gallonage presented on Attachment "NT-2, WP-Adj17 Bills & Vols Summary". Please explain the discrepancy and/or submit a corrected page.
- 5) The Annual Depreciation amount on page SW-20 does not match with the amount shown on page SW- 26. Please explain the difference and/or provide a spreadsheet to support the annual depreciation of \$2,829,601.
- 6) The formula used to compute the water loss for the North Region on page NT-31, Section VII-Production & Consumption Information-Water, is different from the formula used to compute the water loss for the Southwest Region on Page SW-31. Please clarify why the number of gallons for flushing, leaked and stolen water, were added to the number of gallons pumped, raw water purchased and treated for the Southwest Region on Page SW-31. Please submit a corrected page for Section VIII-Production & Consumption information-Water, Southwest Region.
- 7) The total gallons indicated for First Block Under 20k and the 2<sup>nd</sup> Block Over 20k on page SW-34 are different from the gallons presented on Attachment "SW-2, WP-Adj17 Bills & Vols Summary". Please clarify the discrepancy and/or submit a corrected page.
- 8) Please explain the relationship of the list of Water Assets on "Attachment NT/SW-5" with the depreciation schedules for the North Region on pages NT 19 and 20 and for the Southwest Region on pages SW 19 and 20.
- 9) Please reconcile the rate base as requested on the applications to the depreciation study. For the two regions excluded from this rate case, please provide the plant and equipment balances included in the rate base as of the end of the test year, so that the sum of the individual region plant and equipment numbers equals the total plant and equipment number on the depreciation study. A table similar to the following would be a sufficient response to this request.

	(A)Region 1	(B)Region 2	(C)Region 3	Depreciation Study
Plant & Equip.	\$	\$	\$	(Total of (A), (B), (C))
Accum Depr.	\$	\$	\$	(Total)

Reconciling items:

+

-

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Plant and equip. applications.	\$	\$	\$	Rate/tariff change
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Please provide an explanation and calculations for all differences, if any.

- 10) Please reconcile the depreciation study (plant in service, accumulated depreciation) with the Plant and Equipment included in the rate base for TCEQ Docket Nos. 2004-1120-UCR; 2004-1671-UCR; 2004-2122-UCR; 2005-0113-UCR; 2005-0114-UCR, and 2005-0112-UCR in which rate base was set. Please explain all changes and/or differences.
- 11) Please reconcile the depreciation study to the NARUC general ledger account balances included in Aqua's general ledger. Please provide totals and amounts by regions.
- 12) Please clarify your intent for including the "RATE CASE NOTICE ADDENDUM" in your notice to customers.

The Notice to Customers sent to the following subdivisions/systems contains deficiencies and should be corrected as follows:

a) **Briarcreek (North Region)**: The TCEQ approved tariff shows that the "Late Charge" fee is 10%, not \$5.00. The Customer Service Inspection Fee is \$75.00 and Lock Removal or Damage Fee is \$10; however, both fees were not shown on the notice to customers. Please show the correct amounts on the revised notice.

b) **Spring Hill/Stony Hill (North Region)**: The TCEQ approved tariff for a 4" meter is \$417.00; however, your notice to customers shows \$417.50 for a 4" meter.

c) **V L S Water Corporation (North Region)**:

	TCEQ approved tariff dated 1/27/2011	Per Notice to Customers
Tap Fee (Unique Cost)	Actual	
Tap Fee (Larger Meter)	Actual	
Late Charge	10%	None
Return Check Charge	\$25.00	None
Customer Deposit- Residential	\$50.00	None
Meter Test Fee	\$25.00	None

~~Mr. Paul Terrill, Attorney~~

Page 4

February 15, 2012

d) Saddle Club Estates (North Region):

Late Charge Fee            \$5.00                            \$5.00 or 10%

**The effective date of your rate change for the North and Southwest Region is hereby suspended until the deficiencies are corrected and your customers are re-noticed.** Your new effective date must be at least 60 days following the date the completed application is mailed to us, and correct notice is mailed or delivered to the customers. It must also be the first day of a billing period. If you have collected the new proposed rates, you are required to refund the excess amount collected.

Please respond in writing to each of these items separately and provide supporting documentation for each response. An original and three (3) copies of the customer notice, notarized affidavit, and other documents referenced above must be submitted to our office by **March 15, 2012**. If these items are not received by this date, the application will be returned for failure to prosecute.

Thank you for your attention to this matter. If you have any questions, please contact Ms. Elsie Pascua at (512)239-5367, e-mail at [Elsie.Pascua@tceq.texas.gov](mailto:Elsie.Pascua@tceq.texas.gov), Mr. Kamal Adhikari at (512)239-0680, e-mail [Kamal.Adhikari@tceq.texas.gov](mailto:Kamal.Adhikari@tceq.texas.gov) or Ms. Leila Guerrero at (512)239-2286, by e-mail at [Leila.Guerrero-Gantioqui@tceq.texas.gov](mailto:Leila.Guerrero-Gantioqui@tceq.texas.gov). If you contact TCEQ by correspondence include MC 153 in the address.

Sincerely,



Tammy Benter, Manager  
Utilities & Districts Section  
Water Supply Division  
Texas Commission on Environmental Quality

TB/EP/KA/LG/ln

cc: Mr. Robert L. Laughman, President

**SECTION VIII - PRODUCTION & CONSUMPTION INFORMATION - WATER**

Please provide the following information regarding water utility operations over your selected twelve month "test year".  
 Table VIII

Total number of gallons pumped (total master meter reading for the year)	[A]		gallons
Total number of gallons purchased from another source for sale to customers (if any)	[B]		gallons
Total number of gallons provided to customers [C]=[A]+[B]	[C]		gallons
Total number of gallons billed to your customers (total customer consumption)	[D]	①	gallons
System losses: $\frac{[C] - [D]}{[C]} \times 100\% = [E]$	[E]		%
Source of Purchased water			

① To Table IX. A., Line [B] and Table X. A., Line [B]

PLEASE MOVE THE FOLLOWING TO THE NEXT PAGE BEFORE YOU FINALIZE  
THE LETTER: THANKS.

---

Address for: Mr. Robert L. Laughman, President, Aqua Texas, 1106 Clayton Lane, Suite 400W,  
Austin, Texas 78723

bc: Ms. Elsie Pascua, MC 153  
Kamal Adhikari, MC 159  
TCEQ Region 12 Office



Bryan W. Shaw, Ph.D., *Chairman*  
Buddy Garcia, *Commissioner*  
Carlos Rubinstein, *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

March 14, 2012

Mr. Paul Terrill, Attorney  
The Terrill Firm, PC  
810 West 10<sup>th</sup> Street  
Austin, Texas 78701

**Fax No. (512) 474-9888**

Re: Water Rate/Tariff Change Applications of Aqua Texas, Inc., Aqua Development, Inc., Kerrville South Water Company, Inc., and Harper Water Company, Inc. dba Aqua Texas ("Aqua Texas") – North Region Water and Southwest Region Water only;  
Application Nos. 37234-R and 37235-R

Certificate of Convenience and Necessity (CCN) Nos. 11157, 12902, 13201, 11421 and 11484

Counties: Anderson, Bosque, Camp, Cherokee, Cooke, Denton, Erath, Grayson, Gregg, Henderson, Hood, Hunt, Johnson, McLennan, Marion, Parker, Smith, Somervell, Tarrant, Taylor, Wise, Wood, Bandera, Bexar, Burnet, Comal, Gillespie, Hays, Kendall, Kerr, Kimble, Live Oak, Llano, Medina, Nueces, Travis, Victoria, Williamson, and Wilson Counties

CN: 602787509, 600336077, 600649172, 600789705, 602787509, 601570773,  
RN: 102674215, 101217842, 102672128,

Dear Mr. Terrill:

Thank you for your response received on February 22, 2012, regarding the above referenced applications. Your applications have been accepted for filing and assigned Application Nos. 37234-R and 37235-R. Please refer to these numbers in future correspondence.

**Your new rates may go into effect on February 21, 2012, for the affected ratepayers in North and Southwest Region water only.** Your new effective date must be at least 60 days following the date your completed applications were mailed to us and correct notice is mailed or delivered to the customers. The effective date of the new rates must be the first day of the billing period, and the new rates may not apply to service provided before the effective date of the new rates.

Mr. Paul Terrill, Attorney  
Page 2  
March 14, 2012

The applications will be scheduled for a hearing if:

- the Texas Commission on Environmental Quality (TCEQ) receives complaints from at least 1,000 or 10% of the ratepayers, whichever is lesser within 90 days of the effective date of the rate increase, or
- TCEQ staff protests the applications on its own motion.

You will be notified if a hearing is scheduled. If, during the course of a hearing, rates are set which are different from the rates charged by Utility, you may be required to refund or credit future bills. The refund or credit will include all sums collected during the pendency of the rate proceeding in excess of the rate finally ordered, plus interest, as determined by the TCEQ.

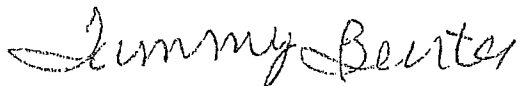
If TCEQ does not receive the required number of complaints within 90 days of the effective date, and the staff does not require a hearing, you will receive another letter or notification from TCEQ so informing you, along with your approved tariff.

Please contact the staff listed below if you have any questions. Include MC-153 in the address if you contact TCEQ by correspondence.

Ms. Elsie Pascua at (512)239-5367 or by email at [Elsie.Pascua@tceq.texas.gov](mailto:Elsie.Pascua@tceq.texas.gov).

Mr. Kamal Adhikari at (512)239-0680 or by email at [Kamal.Adhikari@tceq.texas.gov](mailto:Kamal.Adhikari@tceq.texas.gov).

Sincerely,



Tammy Benter, Manager  
Utilities and Districts Section  
Water Supply Division  
Texas Commission on Environmental Quality

TB/LG/ln

cc: Mr. Robert L. Laughman, President