

Control Number: 44291



Item Number: 29

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

SOAH DOCKET NO. 582-12-6658
TCEQ DOCKET NO. 2012-1058-UCR

IN THE APPLICATION OF AQUA § BEFORE THE STATE OFFICE
TEXAS, INC., AQUA UTILITIES, INC., §
AQUA DEVELOPMENT, INC., HARPER §
WATER COMPANY, INC., AND §
KERRVILLE SOUTH WATER § OF
COMPANY, INC., DBA AQUA TEXAS §
FOR NORTH AND SOUTH WEST §
REGION WATER RATE/TARIFF §
CHANGES § ADMINISTRATIVE HEARINGS

ORDER NO. 9

SOAH DOCKET NO. 582-13-0755
TCEQ DOCKET NO. 2012-1989-UCR

APPEAL OF AQUA TEXAS, INC., AQUA § BEFORE THE STATE OFFICE
UTILITIES, INC., AQUA §
DEVELOPMENT, INC., KERRVILLE §
SOUTH WATER COMPANY, INC., AND §
HARPER WATER COMPANY, INC. DBA § OF
AQUA TEXAS, CCN NOS. 11157, 11421, §
11484, 12902, & 13201, OF CITY OF §
KERRVILLE RATEMAKING ACTION § ADMINISTRATIVE HEARINGS

ORDER NO. 2

GRANTING MOTIONS TO REVISE PROCEDURAL SCHEDULE
AND TO COMPEL AND DISMISSING PARTIES

1. Granting Motion for Revised Procedural Schedule

On November 11, 2012, 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) filed an agreed motion to revise the procedural schedule in docket number 582-12-6658 (the Rate Case). Currently, Aqua Texas' prefiled testimony is due December 6, 2012, before the December 10, 2012 preliminary hearing in docket number 582-13-0755 (the Appeal Case). All parties to the Rate Case

agree with the proposed revised schedule, except the City of Kerrville was unable to provide feedback as of November 11, 2012.

The Administrative Law Judges (ALJs) agree with Aqua Texas that the procedural schedule in the Rate Case should be changed in light of the conditional consolidation of the Rate Case with the Appeal Case. However, the ALJs decline to revise the entire procedural schedule prior to the preliminary hearing in the Appeal Case. **Therefore, it is ORDERED** that all prehearing deadlines in the current procedural schedule are **SUSPENDED**. However, the evidentiary hearing remains scheduled for April 29 through May 10, 2013. New prehearing deadlines and, as necessary, a new hearing setting will be established on or after the preliminary hearing in the Appeal Case.

2. Granting Aqua Texas' Motion to Compel

On November 19, 2012, Aqua Texas filed a motion to compel alleging that the following Southwest Region groups have not complied with its discovery requests as required by the Texas Rules of Civil Procedure: the Recently Acquired Water Systems Group (RAWS) Group; the Southwest Region Existing Water Systems (SREWS) Group; and the Hill Country Group.

Pursuant to Order No. 1 in the Rate Case, the parties had five business days to respond to Aqua Texas' motion to compel. However, no party has filed a response to the motion in either the Rate Case or the Appeal Case. Therefore, the ALJs assume that the parties do not dispute the factual allegations in Aqua Texas' motion to compel, and there is no need for a hearing on the motion. Therefore, Aqua Texas' request for a hearing is **DENIED**.

It is further ORDERED:


1. The RAWS Group, the SREWS Group, and the Hill Country Group have waived any objections to Aqua Texas' August 6, 2012 Requests for Disclosures and its August 28, 2012 First Set of Requests for Admissions, Request for Production, and Interrogatories.
2. The RAWS Group, the SREWS Group, and the Hill Country Group must respond to and adequately supplement their responses to Aqua Texas' discovery requests by **December 14, 2012**.

3. If the RAWs Group, the SREWS Group, and the Hill Country Group do not adequately respond to Aqua Texas discovery requests by **December 14, 2012**, these protestant groups may not be allowed to introduce at the hearing any information not timely produced in response to those discovery requests.

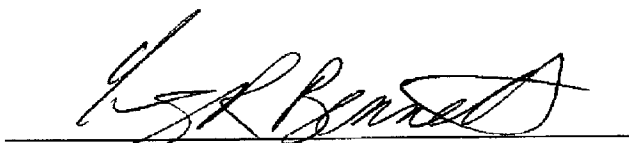
3. Dismissing Parties

On November 1, 2012, Venishia Taylor and the Briarcreek Subdivision water system customers (collectively, the Briarcreek Customers) filed a motion withdrawing their protests of Aqua Texas' water rate/tariff change application. That motion is **GRANTED** and the Briarcreek Customers are **DISMISSED** from this proceeding. The parties may delete these former parties from their service lists.

SIGNED November 30, 2012.



KERRIE JO QUALTROUGH
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



CRAIG R. BENNETT
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 UTILITIES, INC., AQUA TEXAS, INC. AQUA DEVELOPMENT, INC
SOAH DOCKET NUMBER: 582-12-6658
REFERRING AGENCY CASE: 2012-1058-UCR

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**ADMINISTRATIVE LAW JUDGE
ALJ CRAIG R. BENNETT**

REPRESENTATIVE / ADDRESS

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HILL COUNTRY GROUP

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

**TEXAS COMMISSION
ON ENVIRONMENTAL QUALITY**

TRANSMITTAL OF ADMINISTRATIVE RECORD

DATE: November 19, 2012

TO: SOAH Natural Resources Docket Clerk

THRU: Melissa Chao, Section Manager
TCEQ Agenda / Final Documents Section

FROM: *KA* Katha Anderson, TCEQ SOAH Docket Coordinator

RE: Aqua Texas, Inc.; Application No. 37415-A
SOAH Docket No. 582-13-0756; TCEQ Docket No. 2012-1990-UCR

Pursuant to 30 TAC ' 80.6(b)(4) regarding referrals to SOAH, a copy of the Chief Clerk=s case file is attached. Please find **certified** copies of the following documents:

- 1. the appeal;
- 2. public hearing notice and Chief Clerk's affidavit

If any of these documents are not included as enclosures with this memo, please notify Melissa Chao, Section Manager at (512) 239-5234.

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* AGENCY'S

REFERRING AGENCY NAME: TCEQ AGENCY NO.: FILE/CASE NO.: 2012-1990-UCR

NAME/STYLE OF THE CASE: AQUA TEXAS, 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 & 2012-2006-UCR)

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

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 15th Street, 4th 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.