

Admit \_\_\_

Deny \_\_\_

Detailed reasons why party cannot admit or deny: **We do not have enough knowledge to respond.**

6. Admit that Aqua Texas's proposed tariffs incorporate inclining block pricing for water service.

Admit X

Deny \_\_\_

Detailed reasons why party cannot admit or deny:

*Aqua Texas' P' Set of Discovery Requests to Protestants Page 10*

7. Admit that inclining block pricing promotes water conservation for single-family residences and landscape irrigation.

Admit X

Deny \_\_\_

Detailed reasons why party cannot admit or deny:

8. Admit that you are not a customer of Aqua Texas, Inc.

Admit \_\_\_

Deny X

Detailed reasons why party cannot admit or deny:

9. Admit that Aqua Texas's proposed rates provide it a reasonable opportunity to earn a fair and reasonable return on its used and useful invested capital over and above its reasonable and necessary operating expenses in order to preserve its financial integrity.

Admit \_\_\_

Deny \_\_\_

Detailed reasons why party cannot admit or deny: **At this time we do not have enough information to properly respond.**

10. Admit that Aqua Texas's proposed rates are fair and reasonable

Admit \_\_\_

Deny X

Detailed reasons why party cannot admit or deny:

11. Admit that every individual component in Aqua Texas's proposed capital structure should be included in the ratemaking formulas in these dockets.

Admit X

Deny \_\_\_

Detailed reasons why party cannot admit or deny:

12. Admit that every individual element of Aqua Texas's proposed tariffs is appropriate for approval in these dockets.

Admit \_\_\_

Deny X

Detailed reasons why party cannot admit or deny:

*Aqua Texas' P' Set of Discovery Requests to Protestants Page]]*

13. Admit that every Aqua Texas North and Southwest Region service area is receiving adequate quality water service.

Admit   

Deny X

Detailed reasons why party cannot admit or deny:

14. Admit that Aqua Texas has appropriately responded to every report of poor or inadequate water service within its North and Southwest Regions.

Admit   

Deny X

Detailed reasons why party cannot admit or deny:

15. Admit that Aqua Texas provided continuous and adequate water utility service within its certificated service areas during the test year.

Admit   

Deny X

Detailed reasons why party cannot admit or deny:

16. Admit that all property (real or personal) claimed by Aqua Texas as being property of the utility company in the application is owned by the utility company.

Admit   

Deny   

Detailed reasons why party cannot admit or deny: **We do not have enough knowledge to properly respond.**

17. Admit that the method of rate case expense recovery proposed by Aqua Texas in this proceeding is appropriate.

Admit X

Deny   

Detailed reasons why party cannot admit or deny:

18. Admit that the Aqua Texas water system that serves you is substantially similar to other systems in your region.

Admit   

Deny   

Detailed reasons why party cannot admit or deny: **Do not have enough knowledge to respond.**

19. Admit that there are customer benefits created by water systems within Aqua Texas' North Region sharing cost of service.

*Aqua Texas' F' Set of Discovery Requests to Protestants Page 12*

Admit \_\_

Deny \_\_

Detailed reasons why party cannot admit or deny: **We do not know as we are in the Southwest region.**

20. Admit that there are customer benefits created by water systems within Aqua Texas' Southwest Region sharing cost of service.

Admit X

Deny \_\_\_\_\_

Detailed reasons why party cannot admit or deny:

21. Admit that the TCEQ has found that there are customer benefits created by water systems within Aqua Texas' North and Southwest region sharing cost of service.

Admit X

Deny \_\_\_\_\_

Detailed reasons why party cannot admit or deny:

*Aqua Texas' 1" Set of Discovery Requests to Protestants Page 13*

### **INTERROGATORIES**

1. Identify **each individual** component in Aqua Texas's proposed capital structure you believe should not be included in ratemaking formulas in these dockets and explain why you hold this opinion.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion .

2. Identify whether you believe the rate of return on equity or debt or both of Aqua Texas's proposed capital structure should not be included in ratemaking formulas in these dockets and explain why you hold this opinion.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion .

3. Identify Jj alternative rate design methodologies you believe are more appropriate for use in these dockets, Explain why you hold this opinion.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion .

4. Identify **each individual** element of Aqua Texas's proposed North and Southwest Region water tariffs you believe is not appropriate for approval in these dockets and explain why you hold this opinion.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion .

5. Identify Aqua Texas service area that you contend is receiving poor or inadequate quality water service by name, subdivision, city, region, etc. (if you know). Explain all reasons why you hold this opinion for each system identified.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion .

6. Identify çci, instance of poor or inadequate water service by customer name, date, nature of problem, to whom it was reported, what remedial action was taken and when the remedial action was taken.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion .

7. If you deny that Aqua Texas provided continuous and adequate water utility service within its certificated service areas during the test year, explain your reasons.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion .

8. For each expert not listed in the response to the Request for Disclosure whom you have consulted and whose mental impressions and opinions have been reviewed by an expert you expect to testify in this matter, please provide: (a) the consulting expert's name and business address and telephone number; (b) the facts known by the expert that relate to or form the basis of the expert's mental impressions and opinions formed or made in connection with this matter, regardless of when and how the factual information was acquired; (c) the expert's mental impressions and opinions formed or made in connection with this matter and any methods used to derive them; and (d) a curriculum vita or other detailed description of the expert's qualifications.

None.

9. Identify the water rates you believe that Aqua Texas should charge and explain how those rates will recover all reasonable and necessary operating expenses, taxes, and depreciation on used and useful utility plant dedicated to public service, and provide a reasonable opportunity to earn a fair return on that same plant while maintaining the utility's financial integrity. Identify each component of your proposed cost of service amount that these rates would recover.

*Aqua Texas' P' Set of Discovery Requests to Protestants Page 14*

Subject to supplementation. We are still reviewing the application and have not formulated an opinion .

10. Identify all property (real or personal) claimed by Aqua Texas as being property of the utility company that you allege is owned by a third party. Explain why you believe that property is owned by a third party and present all documentation in your possession that supports your claim.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion .

11. Identify all contracts, written agreements and signed offers or proposals involving Aqua Texas that you claim are relevant to any issue of fact or law in this rate/tariff change docket.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion .

12. Please list the names, addresses and telephone numbers of all individual customers in or represented by Groups designated in Order No. 1.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion .

13. Identify the method, e.g., amortization or on a per connection basis, by which the rate case expenses incurred in this proceeding should be recovered.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion .

14. Identify each Aqua Texas water system in your region that you contend is not substantially similar to other systems in your region. Explain all reasons why you hold this opinion for each system identified.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion .

15. Please explain why you are contesting Aqua Texas' application.

*Aqua Texas' 1st Set of Discovery Requests to Protestants Page 10*

Please see Response to Request for Disclosure. In addition, we would like to add a request to remove any legal fees pertaining to the current rate case charged by Aqua Texas.

## REQUESTS FOR PRODUCTION

1. Provide copies of all documents, tangible items and other demonstrative evidence to be used by you at trial.

None at this time, subject to supplementation.

2. Provide copies of all studies, reports, compilations, treatises, contracts, correspondence, photographs, graphs, diagrams, maps, charts, financial statements, invoices, bids, checks, governmental records, test results, audits, and other documents reviewed and relied upon by any witness for you in this cause.

None at this time, subject to supplementation.

3. Provide copies of all documentation in your possession or control that demonstrates that Aqua Texas cannot provide continuous and adequate water utility service to any portion of its certificated service area subject to this rate change. Please indicate on the document, if not already discernable, which portion of Aqua Texas's certificated service area is receiving inadequate service.

None at this time, subject to supplementation.

4. Provide copies of all documents, studies, treatises, reports, compilations, computer programs (with associated data bases), charts, diagrams, maps, pictures, text books and other tangible materials reviewed by a non-testifying expert for you used or relied upon by your expert witness in formulating any opinion to be offered at trial by you as expert witness testimony. The Texas Rules of Evidence shall define "Expert witness" subject to the Texas Supreme Court's holding in *E. I. DuPont de Nemours and Co. v. Robinson*, 923 S. W. 2d 549 (Tex. 1997) and the United States Supreme Court's holding in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509, U. S. 579, 113 S. Ct. 2786 (1993). With respect to each produced or identified items, please identify which non- testifying expert reviewed the item and what opinion of your expert witness the item is associated with.

None at this time, subject to supplementation.

5. Provide copies of all documentation in your possession or control that demonstrates that any cost, tax, assessment or expense in Aqua Texas's proposed water utility cost of service (or revenue requirement) is not reasonable and necessary. With respect to each item produced, identify with specificity which cost or expense is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

None at this time, subject to supplementation.

6. Provide copies of all documentation in your possession or control that demonstrates that any item or plant or investment in Aqua Texas's proposed water utility rate base is not reasonably priced for ratemaking purposes. With respect to each item produced, identify with specificity which individual item of plant or investment is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

None at this time, subject to supplementation.

7. Provide copies of all documentation in your possession or control that demonstrates that any item of plant or investment in Aqua Texas's proposed water utility rate base is not used and useful for ratemaking purposes. With respect to each item produced, identify with specificity which individual item of plant or investment is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

*Aqua Texas' 1' Set of Discovery Requests to Protestants Page 16*

None at this time, subject to supplementation.

8. Provide copies of all documentation in your possession or control that demonstrates that any component of Aqua Texas's proposed capital structure is inappropriate for water utility ratemaking purposes in these dockets. With respect to each item produced, identify with specificity which component is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

None at this time, subject to supplementation.

9. Provide copies of all documentation in your possession or control that demonstrates that any Aqua Texas proposed rate of return on any component of its capital structure is inappropriate for water utility ratemaking purposes in these dockets. With respect to each item produced, identify with specificity which rate of return on which component is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

None at this time, subject to supplementation.

10. Provide copies of all documentation in your possession or control that demonstrates that any component of Aqua Texas's proposed rate design in its application/notice is inappropriate for water utility ratemaking purposes in these dockets. With respect to each item produced, identify with specificity which rate design component is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

None at this time, subject to supplementation.

11. Provide copies of all documentation in your possession or control that demonstrates that any "miscellaneous" service fee or charge proposed by Aqua Texas in its application/notice is

inappropriate. With respect to each item produced, identify with specificity which fee or charge is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

None at this time, subject to supplementation.

12. Provide copies of all documentation in your possession or control that demonstrates that any component, section or provision of Aqua Texas's proposed water utility tariffs should not be approved in these dockets. With respect to each item produced, identify with specificity which tariff component, section or provision is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

None at this time, subject to supplementation.

13. Provide copies of all documents in your possession or control that demonstrates that Aqua Texas has facilities used to provide water service to the public that do not meet the public health or service standards of the TCEQ found in 30 TAC Chapter 290. Identify where these facilities are located and when your documents indicate this deficiency.

None at this time, subject to supplementation.

14. Provide copies of all documentation in your possession or control demonstrates that you or any individual or entity represented by you has received poor quality or inadequate water service from Aqua Texas during or since the test year. With respect to each item produced, identify with specificity which customer was poorly served, when, and the witness that will sponsor that document and this opinion evidence at trial.

None at this time, subject to supplementation.

15. Provide copies of all documentation in your possession or control that demonstrates that you or any individual or entity represented by you has received poor customer service from Aqua Texas during or since the test year. With respect to each item produced, identify with specificity which customer was poorly served, when, and the witness that will sponsor that document and this opinion evidence at trial. *Aqua Texas' 1st Set of Discovery Requests to Protestants Page 17*

None at this time, subject to supplementation.

16. Provide copies of all documentation in your possession or control that demonstrates what rate case expenses incurred by Aqua Texas should be recoverable through rates and which should not. With respect to each item produced, identify with specificity which expenses the document relates to and the expert witness that will sponsor that document and this opinion evidence at trial.

None at this time, subject to supplementation.



17. Provide copies of all documentation in your possession or control that demonstrates how rate case expenses incurred by Aqua Texas should be recovered through rates. With respect to each item produced, identify with specificity which expenses the document relates to and the expert witness that will sponsor that document and this opinion evidence at trial.

None at this time, subject to supplementation.

18. Provide copies of all documentation in your possession or control that support your position that regional rates as proposed by Aqua Texas are not appropriate in these dockets. With respect to each item produced, identify with specificity the expert witness that will sponsor that document and this opinion evidence at trial.

None at this time, subject to supplementation.

19. If not provided elsewhere, provide copies of all documents reviewed or otherwise used by you in answering any of these discovery requests.

None.

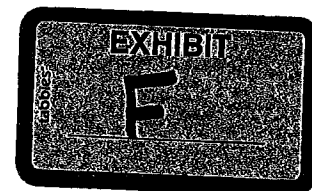
20. Provide copies of any document that you consider constitutes an admission with respect to any issue in this case.

None at this time, subject to supplementation.

21. Provide copies of all documents sent to the TCEQ from any Protestant Party regarding Aqua Texas' rate application being considered in this docket.  
*Aqua Texas' Set of Discovery Requests to Protestants Page 18*

None at this time, subject to supplementation.

End.



SOAH DOCKET NO. 582-12-6658

TCEQ DOCKET NO. 2012-1058-UCR

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

**"THE HILL COUNTRY GROUP" RESPONSE TO AQUA TEXAS' DISCLOSURE  
REQUEST TO ALL PARTIES**

TO: The Applicant, Aqua Texas, Inc., by and through its attorney of record, Paul M. Terrill, of THE TERRILL FIRM, P.C., 810 West 10th Street, Austin, TX, 78701.

COMES NOW, The Hill Country Group and files this response to Aqua Texas, Inc.'s Requests for Disclosure in the above-referenced matter.

**RESPONSES**

Pursuant to rule 194 of the Texas Rules of Civil Procedure, we are providing the following disclosure information in response to your request of August 6, 2012, received by us on August 7, 2012:

**(a) the correct names of the parties to the contested case hearing;**

Please see Order No. 1 confirming party designations issued by the Administrative Law Judges assigned to this contested case hearing for the correct names of the parties.

**(b) the names, addresses and telephone number of any potential parties;**

The Hill Country Group (as defined in the response to (a) above) is not presently aware of any potential parties other than the parties identified in Order NO.1 and individuals and groups identified in TCEQ's Chief Clerk's File, which contains public records and is readily accessible at the TCEQ Chief Clerk's Office.

**(c) the legal theories and, in general, the factual bases of the responding party's claims or defenses (the responding party need not marshal all evidence that may be offered at trial);**

1. The Hill Country water systems are not "common" with others with which they have been regionalized by AQUA. For example, high growth urban areas require investment disproportionately greater than small rural areas. Pumping fees and other operating costs are incurred in some counties, but not in others. Note that the Kerrville South Water System investment by AQUA Texas was approximately \$500 over three years per household served while the average investment claimed by AQUA Texas for the SW Region averaged more than \$2,000; 2. It is unjustifiable and unconstitutional to "pass through" operating costs incurred in one county to other counties where no comparable charges are incurred in those counties. Regionalization should not apply to operating costs; 3. Removal of 2,000 gallons from the base rate imposes an unacceptable hardship on low income customers who struggle to use minimal amounts only; 5. Operating costs are inappropriately classified by AQUA Texas as Investments to enable their recovery in subsequent rate increases. For example simple repairs involving leakage and main breaks are included in investments; (6) AQUA Texas profits under the rate increase are excessive. While analysis of financial information supports the need to increase rates the projected results from the rate increase far exceed what might be considered normal and acceptable.; 7. Supplementation of this response will occur as The Hill Country Group completes its review of the information submitted in the application, obtained in discovery or from other sources, presented in prefiled testimony and testimony taken during the evidentiary hearing.

**(d) the amount and any method of calculating economic damages;**

Damages are widely disseminated and extensive, but are not identified at this time, subject to supplementation.

**(e) The name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each person's connection with the case;**

Other than the named parties as well as the customer base of the applicant, no other such persons have been identified as of this time, subject to supplementation.

**(f) for any testifying expert;**

None identified at this time, subject to supplementation.

**(g) any indemnifying and insuring agreements described in Rule 192.3(f);**

None identified at this time, subject to supplementation.

**(h) any settlement agreements described in Rule 192.3 (g);**

None identified at this time, subject to supplementation.

(i) Any witness statements described in Rule 192.3(h);

None identified at this time, subject to supplementation.

(j) the name, address and telephone number of any person who may be designated as a responsible third party

None identified at this time, subject to supplementation.

By: \_\_\_\_\_  
Larry Westfall  
Designated Representative Hill Country Group

#### **CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing document on this the 6<sup>th</sup> day of September, 2012 upon the following by facsimile, email, overnight delivery, or by first class mail:

1. **Aqua Texas, Inc.**, Aqua Utilities, Inc., Aqua Development, Inc., Harper Water Company, Inc., and Kerrville South Water Company, Inc., d/b/a/ Aqua Texas for North and South West Regions, by and through its attorney of record, Paul Terrill, The Terrill Law Firm, 810 West 10<sup>th</sup> Street, Austin, TX 78701, fax 512-474-9888, email [pterrill@terrill-law.com](mailto:pterrill@terrill-law.com), [gkirshbaum@terrill-law.com](mailto:gkirshbaum@terrill-law.com), [markzeppa@austin.rr.com](mailto:markzeppa@austin.rr.com), [bfigg@terrill-law.com](mailto:bfigg@terrill-law.com)

2. **TCEQ Executive Director**, by and through its attorney of record, Ross Henderson, TCEQ, P.O. Box 13087, Austin, TX 78711, fax 512-239-0626, email [ross.henderson@tceq.texas.gov](mailto:ross.henderson@tceq.texas.gov)

3. **Office of Public Interest Counsel** of TCEQ, by and through its attorney of record, Amy Swanholm, OPIC, P.O. Box 13087, Austin, TX 78711, fax 512-239-6377, email [Amy.swanholm@tceq.texas.gov](mailto:Amy.swanholm@tceq.texas.gov)

4. **Recently Acquired Water System Group**, by and through its designated representative, John Quest, Canyon Springs Resort POA, 833 Hillside Loop, Canyon Lake, TX 78133, fax 830-899-8555, email [jq@gvtc.com](mailto:jq@gvtc.com)

5. **SW Region Existing Water Systems Group**, by and through its designated representative, Jay E. Yount, 206 Cherry Falls, Comfort, TX 78013, email [eyou42@hotmail.com](mailto:eyou42@hotmail.com)

6. **North Region Group**, by and through its designated representative, Mr. Rick Guzman, Attorney, 2201 Double Creek 1 #5001, Round Rock, Texas 78664, [rguzman@rickguzmanlaw.com](mailto:rguzman@rickguzmanlaw.com)

By: \_\_\_\_\_  
Larry Westfall  
Designated Representative Hill Country Group

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

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

**SOUTHWEST REGION HILL COUNTRY GROUP RESPONSE  
TO AQUA TEXAS, INC.'S REQUESTS FOR ADMISSIONS, REQUESTS FOR  
PRODUCTION AND INTERROGATORIES TO PROTESTANTS**

TO: Aqua Texas, Inc., by and through its attorney of record, Paul M. Terrill, of THE TERRILL FIRM, P.C., 810 West 10<sup>th</sup>, Street, Austin, TX, 78701.

Southwest Region Hill Country Group submits these responses to Aqua Texas, Inc.'s Requests for Admissions, Requests for Production, and Interrogatories to Protestants.

Respondent serves the following Response to the Request for Production and Inspection:

**Conditions to Response**

1. Our Responses are based on present knowledge and investigation on fair interpretation and format of the request.
2. Respondent reserves the right to redact any or all portions which are not pertinent to the materials at hand.
3. We may supplement responses when, if, required by Texas Rules of Civil Procedure.
4. We will make a good faith effort to produce any document requested.

**REQUESTS FOR ADMISSION**

1. Admit that Aqua Texas provided continuous and adequate water utility service within the certificated service area in which you reside during the test year ending 12/31/2010.

Admit ☐

Deny ☒

Detailed reasons why party cannot admit or deny:

Respondent has not yet fully developed evidence that Aqua TX has failed to provide continuous and adequate water utility service within the certified service area in which we reside

during the test year ending 12/31/2010. Additional information obtained to be provided at a later date.

2. Admit that Aqua Texas is providing continuous and adequate water utility service within the certificated service area in which you reside at this time.

Admit ☐

Deny ☐

Detailed reasons why party cannot admit or deny:

Respondent has not yet fully developed evidence that Aqua TX has failed to provide continuous and adequate water utility service within the certified service area in which we reside at this time. Additional information obtained to be provided at a later date.

3. Admit that the water service that Aqua Texas provides customers in your service area meets the primary water standards of the TCEQ's Rules.

Admit ☐

Deny ☐

Detailed reasons why party cannot admit or deny:

Respondent can neither admit or deny due to lack of information at this time. Additional information obtained to be provided at a later date.

4. Admit that Aqua Texas is entitled to rates that provide it a reasonable opportunity to earn a fair and reasonable return on its used and useful invested capital over and above its reasonable and necessary operating expenses in order to preserve its financial integrity.

Admit ☐

Deny ☒

Detailed reasons why party cannot admit or deny:

Denied to the extent that Aqua TX is entitled to rates that provided a reasonable opportunity to earn a "fair and" reasonable return on its used and useful invested capital over and above its reasonable and necessary operating expenses in order to preserve its financial integrity. The invested capital must be used and useful in rendering service.

5. Admit that all of the Aqua Texas water supply systems within your Aqua Texas region (North or Southwest) are substantially similar.

Admit ☐

Deny ☒

Detailed reasons why party cannot admit or deny:

There are many areas in which the systems within the Southwest region are NOT substantially similar. Included in these are urban versus rural characteristics of the different systems, water sources, costs, fees, etc. Additional information obtained to be provided at a later date.

6. Admit that Aqua Texas's proposed tariffs incorporate inclining block pricing for water service.

Admit ☐

Deny ☒

Detailed reasons why party cannot admit or deny:

There is one single step built into the rates at the 20,000 gallon mark. It is not known how many residential customers will exceed that usage monthly.

7. Admit that inclining block pricing promotes water conservation for single-family residences and landscape irrigation.

Admit ☐

Deny ☒

Detailed reasons why party cannot admit or deny:

Since almost all customers use less than 20,000 gallons, the pricing system fails to provide an incentive for conservation.

8. Admit that you are not a customer of Aqua Texas, Inc.

Admit ☐

Deny ☒

Detailed reasons why party cannot admit or deny:

9. Admit that Aqua Texas's proposed rates provide it a reasonable opportunity to earn a fair and reasonable return on its used and useful invested capital over and above its reasonable and necessary operating expenses in order to preserve its financial integrity.

Admit ☐

Deny ☐

Detailed reasons why party cannot admit or deny:

At this time we do not have enough information to properly respond.

10. Admit that Aqua Texas's proposed rates are fair and reasonable

Admit ☐

Deny ☒

Detailed reasons why party cannot admit or deny:

11. Admit that every individual component in Aqua Texas's proposed capital structure should be included in the ratemaking formulas in these dockets.

Admit ☐

Deny ☐

Detailed reasons why party cannot admit or deny:

Respondent can neither admit nor deny due to lack of information at this time. Additional information obtained to be provided at a later date.

12. Admit that every individual element of Aqua Texas's proposed tariffs is appropriate for approval in these dockets.

Admit ☐

Deny ☐

Detailed reasons why party cannot admit or deny:

Respondent can neither admit nor deny due to lack of information at this time. Additional information obtained to be provided at a later date.

13. Admit that every Aqua Texas North and Southwest Region service area is receiving adequate quality water service.

Admit ☐

Deny ☐

Detailed reasons why party cannot admit or deny:

Respondent can neither admit nor deny due to lack of information at this time. Additional information obtained to be provided at a later date.

14. Admit that Aqua Texas has appropriately responded to every report of poor or inadequate water



service within its North and Southwest Regions.

Admit \_\_\_\_

Deny \_\_\_\_

Detailed reasons why party cannot admit or deny:

Respondent can neither admit nor deny due to lack of information at this time. Additional information obtained to be provided at a later date.

15. Admit that Aqua Texas provided continuous and adequate water utility service within its certificated service areas during the test year.

Admit \_\_\_\_

Deny \_\_\_\_

Detailed reasons why party cannot admit or deny:

Respondent can neither admit nor deny due to lack of information at this time. Additional information obtained to be provided at a later date.

16. Admit that all property (real or personal) claimed by Aqua Texas as being property of the utility company in the application is owned by the utility company.

Admit \_\_\_\_

Deny \_\_\_\_

Detailed reasons why party cannot admit or deny:

Respondent can neither admit nor deny due to lack of information at this time. Additional information obtained to be provided at a later date.

17. Admit that the method of rate case expense recovery proposed by Aqua Texas in this proceeding is appropriate.

Admit \_\_\_\_

Deny \_\_\_\_

Detailed reasons why party cannot admit or deny:

Respondent can neither admit nor deny due to lack of information at this time. Additional information obtained to be provided at a later date.

18. Admit that the Aqua Texas water system that serves you is substantially similar to other systems in your region.

Admit \_\_\_\_

Deny \_\_\_\_

Detailed reasons why party cannot admit or deny:

Respondent can neither admit nor deny due to lack of information at this time. Additional information obtained to be provided at a later date.

19. Admit that there are customer benefits created by water systems within Aqua Texas' North Region sharing cost of service.

*Aqua Texas' F' Set of Discovery Requests to Protestants Page 12*

Admit \_\_\_\_

Deny \_\_\_\_

Detailed reasons why party cannot admit or deny:

Respondent can neither admit nor deny due to lack of information at this time. Additional information obtained to be provided at a later date.

20. Admit that there are customer benefits created by water systems within Aqua Texas' Southwest Region sharing cost of service.

Admit \_\_\_\_

Deny \_\_\_\_

Detailed reasons why party cannot admit or deny:

Respondent can neither admit nor deny due to lack of information at this time. Additional information obtained to be provided at a later date.

21. Admit that the TCEQ has found that there are customer benefits created by water systems within Aqua Texas' North and Southwest region sharing cost of service.

Admit \_\_\_\_

Deny \_\_\_\_

Detailed reasons why party cannot admit or deny:

Respondent can neither admit nor deny due to lack of information at this time. Additional information obtained to be provided at a later date.

### **INTERROGATORIES**

1. Identify **each individual** component in Aqua Texas's proposed capital structure you believe should not be included in rate-making formulas in these dockets and explain why you hold this opinion.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion.

2. Identify whether you believe the rate of return on equity or debt or both of Aqua Texas's proposed capital structure should not be included in ratemaking formulas in these dockets and explain why you hold this opinion.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion.

3. Identify all alternative rate design methodologies you believe are more appropriate for use in these dockets, Explain why you hold this opinion.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion.

4. Identify **each individual** element of Aqua Texas's proposed North and Southwest Region water tariffs you believe is not appropriate for approval in these dockets and explain why you hold this opinion.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion.

5. Identify Aqua Texas service area that you contend is receiving poor or inadequate quality water service by name, subdivision, city, region, etc. (if you know). Explain all reasons why you hold this opinion for each system identified.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion.

6. Identify each instance of poor or inadequate water service by customer name, date, nature of problem, to whom it was reported, what remedial action was taken and when the remedial action was taken.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion.

7. If you deny that Aqua Texas provided continuous and adequate water utility service within its certificated service areas during the test year, explain your reasons.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion.

8. For each expert not listed in the response to the Request for Disclosure whom you have consulted and whose mental impressions and opinions have been reviewed by an expert you expect to testify in this matter, please provide: (a) the consulting expert's name and business address and telephone number; (b)

the facts known by the expert that relate to or form the basis of the expert's mental impressions and opinions formed or made in connection with this matter, regardless of when and how the factual information was acquired; (c) the expert's mental impressions and opinions formed or made in connection with this matter and any methods used to derive them; and (d) a curriculum vita or other detailed description of the expert's qualifications.

None.

9. Identify the water rates you believe that Aqua Texas should charge and explain how those rates will recover all reasonable and necessary operating expenses, taxes, and depreciation on used and useful utility plant dedicated to public service, and provide a reasonable opportunity to earn a fair return on that same plant while maintaining the utility's financial integrity. Identify each component of your proposed cost of service amount that these rates would recover.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion.

10. Identify all property (real or personal) claimed by Aqua Texas as being property of the utility company that you allege is owned by a third party. Explain why you believe that property is owned by a third party and present all documentation in your possession that supports your claim.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion.

11. Identify all contracts, written agreements and signed offers or proposals involving Aqua Texas that you claim are relevant to any issue of fact or law in this rate/tariff change docket.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion.

12. Please list the names, addresses and telephone numbers of all individual customers in or represented by Groups designated in Order No. 1.

This interrogatory is unclear as to what is being requested. It would be unduly burdensome for the responding party to provide information that was already address and provided at the prehearing and by order No. 1.

13. Identify the method, e.g., amortization or on a per connection basis, by which the rate case expenses incurred in this proceeding should be recovered.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion.

14. Identify each Aqua Texas water system in your region that you contend is not substantially similar to other systems in your region. Explain all reasons why you hold this opinion for each system identified.

Subject to supplementation. We are still reviewing the application and have not formulated an opinion.

15. Please explain why you are contesting Aqua Texas' application.

Please see Response to Request for Disclosure.

## **REQUESTS FOR PRODUCTION**

1. Provide copies of all documents, tangible items and other demonstrative evidence to be used by you at trial.

None identified at this time; subject to supplementation.

2. Provide copies of all studies, reports, compilations, treatises, contracts, correspondence, photographs, graphs, diagrams, maps, charts, financial statements, invoices, bids, checks, governmental records, test results, audits, and other documents reviewed and relied upon by any witness for you in this cause.

None identified at this time; subject to supplementation.

3. Provide copies of all documentation in your possession or control that demonstrates that Aqua Texas cannot provide continuous and adequate water utility service to any portion of its certificated service area subject to this rate change. Please indicate on the document, if not already discernible, which portion of Aqua Texas's certificated service area is receiving inadequate service.

None identified at this time; subject to supplementation.

4. Provide copies of all documents, studies, treatises, reports, compilations, computer programs (with associated data bases), charts, diagrams, maps, pictures, text books and other tangible materials reviewed by a non-testifying expert for you used or relied upon by your expert witness in formulating any opinion to be offered at trial by you as expert witness testimony. The Texas Rules of Evidence shall define "Expert witness" subject to the Texas Supreme Court's holding in *E. I. DuPont de Nemours and Co. v. Robinson*, 923 S. W. 2nd 549 (Tex. 1997) and the United States Supreme Court's holding in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509, U. S. 579, 113 S. Ct. 2786 (1993). With respect to each produced or identified items, please identify which non- testifying expert reviewed the item and what opinion of your expert witness the item is associated with.

None identified at this time; subject to supplementation.

5. Provide copies of all documentation in your possession or control that demonstrates that any cost, tax, assessment or expense in Aqua Texas's proposed water utility cost of service (or revenue requirement) is not reasonable and necessary. With respect to each item produced, identify with specificity which cost or expense is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

None identified at this time; subject to supplementation.

6. Provide copies of all documentation in your possession or control that demonstrates that any item or plant or investment in Aqua Texas's proposed water utility rate base is not reasonably priced for ratemaking purposes. With respect to each item produced, identify with specificity which individual item of plant or investment is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

None identified at this time; subject to supplementation.

7. Provide copies of all documentation in your possession or control that demonstrates that any item of plant or investment in Aqua Texas's proposed water utility rate base is not used and useful for ratemaking purposes. With respect to each item produced, identify with specificity which individual item of plant or investment is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

*Aqua Texas' 1' Set of Discovery Requests to Protestants Page 16*

None identified at this time; subject to supplementation.

8. Provide copies of all documentation in your possession or control that demonstrates that any component of Aqua Texas's proposed capital structure is inappropriate for water utility rate-making purposes in these dockets. With respect to each item produced, identify with specificity which component is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

None identified at this time; subject to supplementation.

9. Provide copies of all documentation in your possession or control that demonstrates that any Aqua Texas proposed rate of return on any component of its capital structure is inappropriate for water utility

ratemaking purposes in these dockets. With respect to each item produced, identify with specificity which rate of return on which component is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

None identified at this time; subject to supplementation.

10. Provide copies of all documentation in your possession or control that demonstrates that any component of Aqua Texas's proposed rate design in its application/notice is inappropriate for water utility ratemaking purposes in these dockets. With respect to each item produced, identify with specificity which rate design component is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

None identified at this time; subject to supplementation.

11. Provide copies of all documentation in your possession or control that demonstrates that any "miscellaneous" service fee or charge proposed by Aqua Texas in its application/notice is inappropriate. With respect to each item produced, identify with specificity which fee or charge is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

None identified at this time; subject to supplementation.

12. Provide copies of all documentation in your possession or control that demonstrates that any component, section or provision of Aqua Texas's proposed water utility tariffs should not be approved in these dockets. With respect to each item produced, identify with specificity which tariff component, section or provision is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

None identified at this time; subject to supplementation.

13. Provide copies of all documents in your possession or control that demonstrates that Aqua Texas has facilities used to provide water service to the public that do not meet the public health or service standards of the TCEQ found in 30 TAC Chapter 290. Identify where these facilities are located and when your documents indicate this deficiency.

None identified at this time; subject to supplementation.

14. Provide copies of all documentation in your possession or control demonstrates that you or any individual or entity represented by you has received poor quality or inadequate water service from Aqua Texas during or since the test year. With respect to each item produced, identify with specificity which customer was poorly served, when, and the witness that will sponsor that document and this opinion evidence at trial.

None identified at this time; subject to supplementation.

15. Provide copies of all documentation in your possession or control that demonstrates that you or any individual or entity represented by you has received poor customer service from Aqua Texas during or since the test year. With respect to each item produced, identify with specificity which customer was poorly served, when, and the witness that will sponsor that document and this opinion evidence at trial. *Aqua Texas' 18<sup>th</sup> Set of Discovery Requests to Protestants Page 17*

None identified at this time; subject to supplementation.

16. Provide copies of all documentation in your possession or control that demonstrates what rate case expenses incurred by Aqua Texas should be recoverable through rates and which should not. With respect to each item produced, identify with specificity which expenses the document relates to and the expert witness that will sponsor that document and this opinion evidence at trial.

None identified at this time; subject to supplementation.

17. Provide copies of all documentation in your possession or control that demonstrates how rate case expenses incurred by Aqua Texas should be recovered through rates. With respect to each item produced, identify with specificity which expenses the document relates to and the expert witness that will sponsor that document and this opinion evidence at trial.

None identified at this time; subject to supplementation.

18. Provide copies of all documentation in your possession or control that support your position that regional rates as proposed by Aqua Texas are not appropriate in these dockets. With respect to each item produced, identify with specificity the expert witness that will sponsor that document and this opinion evidence at trial.

None identified at this time; subject to supplementation.

19. If not provided elsewhere, provide copies of all documents reviewed or otherwise used by you in answering any of these discovery requests.

None.

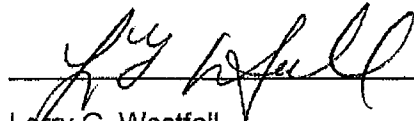
20. Provide copies of any document that you consider constitutes an admission with respect to any issue in this case.

None identified at this time; subject to supplementation.

21. Provide copies of all documents sent to the TCEQ from any Protestant Party regarding Aqua Texas' rate application being considered in this docket.

Other than filings in this case and rate payer protests in Aqua Texas' possession, none are identified at this time; subject to supplementation.

Dated this 31<sup>st</sup> of October, 2012



Larry G. Westfall  
450 Rim Rock Road  
Kerrville, Texas 78028  
830-792-5506

### CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document on this the 13<sup>th</sup> day of August, 2012 upon the following by facsimile, email, overnight delivery, or by first class mail

**Aqua Texas, Inc., Aqua Utilities, Inc., Aqua Development, Inc., Harper Water Company, Inc., and Derrville South Water Company, Inc., d/b/a/ Aqua Texas for North and South West Regions,** by and through its attorney of record, Paul Terrill, The Terrill Law Firm, 810 West 10<sup>th</sup> Street, Austin, TX 78701, fax 512-474-9888, email [pterrill@terrill-law.com](mailto:pterrill@terrill-law.com), [gkirshbaum@terrill-law.com](mailto:gkirshbaum@terrill-law.com), [markzepppa@austin.rr.com](mailto:markzepppa@austin.rr.com), [bfigg@terrill-law.com](mailto:bfigg@terrill-law.com)

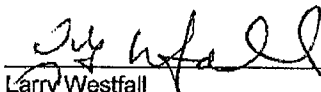
**TCEQ Executive Director,** by and through its attorney of record, Ross Henderson, TCEQ, P.O. Box 10387, Austin, TX 78711, fax 512 239-9626, email [ross.henderson@tceq.texas.gov](mailto:ross.henderson@tceq.texas.gov)

**Office of Public Interest Counsel of TCEQ,** by and through its attorney of record, Amy Swanholm, OPIC, P.O. Box 13087, Austin, TX 78711, fax 512 239-6377, email [Amy.swanholm@tceq.texas.gov](mailto:Amy.swanholm@tceq.texas.gov)

**SW Region Existing Water Systems Group,** by and through its designated representative, Jay E. Yount, 206 Cherry Falls, Comfort, TX 7813, email [eyou42@hotmail.com](mailto:eyou42@hotmail.com)

**Hill Country Group,** by and through its designated representative, Larry Westfall, Kerrville South Community Action Group, 450 Riora Rock Road, Kerrville, TX 78028, fax 830 702-5510 email [lgwestfall@aol.com](mailto:lgwestfall@aol.com)

**North Region Group,** by and through its attorney of record, Rick Guzman, 2201 Double Cree Drive, Suite 5001, Round Rock, TX 78664, email [rguzman@rickguzmanlaw.com](mailto:rguzman@rickguzmanlaw.com)

  
\_\_\_\_\_  
Larry Westfall  
450 Rim Rock Road  
Kerrville, Texas 78028  
Tel: 830 792-5506