



Control Number: 44291



Item Number: 36

Addendum StartPage: 0

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

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**.

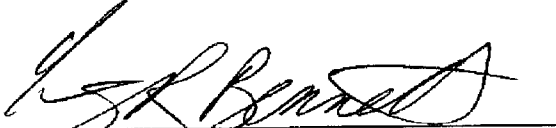
3. If the RAWs Group, the SREWS Group, and the Hill Country Group do not adequately respond to Aqua Texas discovery requests by **December 14, 2012**, these protestant groups may not be allowed to introduce at the hearing any information not timely produced in response to those discovery requests.

**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

PARTIES

MARK ZEPPA  
ATTORNEY  
LAW OFFICE OF MARK H. ZEPPA, P C  
4833 SPICEWOOD SPRINGS RD., SUITE 202  
AUSTIN, TX 78759-8436  
(512) 346-4011 (PH)  
(512) 346-6847 (FAX)  
markzeppa@austin.rr.com

AQUA UTILITIES, INC.

PAUL TERRILL  
ATTORNEY  
THE TERRILL FIRM, P.C.  
810 WEST 10TH STREET  
AUSTIN, TX 78701  
(512) 474-9100 (PH)  
(512) 474-9888 (FAX)  
pterrill@terrill-law.com

AQUA UTILITIES, INC.

ROSS W. HENDERSON  
STAFF ATTORNEY  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
MC-173 P.O. BOX 13087  
AUSTIN, TX 78711-3087  
(512) 239-6257 (PH)  
(512) 239-0626 (FAX)  
rhenders@tceq.texas.gov

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

RICK GUZMAN  
LAW OFFICE OF RICK GUZMAN  
2201 DOUBLE CREEK DRIVE, SUITE 5001  
ROUND ROCK, TX 78664  
(512) 388-7800 (PH)  
(512) 388-7801 (FAX)  
rguzman@rickguzmanlaw.com

NORTH REGION GROUP

---

JIM BOYLE  
HERRERA & BOYLE, PLLC  
816 CONGRESS AVENUE, SUITE 1250  
AUSTIN, TX 78701  
(512) 474-1492 (PH)  
(512) 474-2507 (FAX)  
jboyle@herreraboylelaw.com

CITY OF KERRVILLE

---

DINNIAH TADEMA  
STAFF ATTORNEY  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
ENVIRONMENTAL LAW DIVISION  
MC-173 P O BOX 13087  
AUSTIN, TX 78711-3087  
(512) 239-0617 (PH)  
(512) 239-0606 (FAX)  
dtadema@tceq.texas.gov

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

---

GEOFFREY P. KIRSHBAUM  
ATTORNEY AT LAW  
THE TERRILL FIRM, P.C.  
810 WEST 10TH STREET  
AUSTIN, TX 78701  
(512) 474-9100 (PH)  
(512) 474-9888 (FAX)  
gkirshbaum@terrill-law.com

AQUA UTILITIES, INC.

---

AMY SWANHOLM  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
OFFICE OF PUBLIC INTEREST COUNSEL  
P.O. BOX 13087, MC-103  
AUSTIN, TX 78711-3087  
(512) 239-6363 (PH)  
(512) 239-6377 (FAX)  
amy.swanholtm@tceq.texas.gov

TCEQ PUBLIC INTEREST COUNSEL

---

JOHN QUEST  
833 HILLSIDE LOOP  
CANYON LAKE, TX 78133  
(830) 214-4454 (PH)  
jq@gvtc.com

RAWS GROUP

---

JAY E. YOUNT  
206 CHERRY FALLS  
COMFORT, TX 78013  
(830) 995-5844 (PH)  
eyou42@hotmail.COM

SW REGION EXISTING SYSTEM GROUP

---

LARRY WESTFALL  
450 RIM ROCK ROAD  
KERRVILLE, TX 78028  
(830) 792-5506 (PH)  
(830) 792-5510 (FAX)  
lgwestfall@aol.com

HILL COUNTRY GROUP

---

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