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PUC DOCKET NO. 44382

APPLICATION OF AQUA WATER	§	BEFORE THE
SUPPLY CORPORATION TO AMEND	§	
A WATER CERTIFICATE OF	§	PUBLIC UTILITY COMMISSION
CONVENIENCE AND NECESSITY IN	§	
BASTROP COUNTY	§	OF TEXAS

**AQUA WATER SUPPLY CORPORATION'S
RESPONSE TO ORDER NO. 1**

COMES NOW the Aqua Water Supply Corporation ("Applicant" or "Aqua WSC", by and through its attorney of record, and files this Response to Order No. 1 and would show the following:

I. BACKGROUND

On January 28, 2015, Aqua WSC filed with the Public Utility Commission ("PUC" or "Commission") an Application to amend a water Certificate of Convenience and Necessity ("CCN") No. 10294 in Bastrop County. On January 29, 2015, the Administrative Law Judge ("ALJ") issued Order No. 1, ordering Commission Staff and Aqua WSC to file comments on how the Application should be processed and to file a proposed procedural schedule by February 27, 2015. Therefore, this Response is timely filed.

Aqua WSC possesses a water CCN covering territory in six counties, including Bastrop County. The area covered by the Application ("Area") is a retail/commercial center, located within the City of Bastrop on Highway 71. Aqua WSC believes that the development of the Area as a retail/commercial center began around 2005; prior to that time the land use was agricultural. Aqua WSC never received any service requests for properties in the Area, it never installed any facilities in the Area, and thus never had any customers in the Area. The City of Bastrop currently is the exclusive provider of retail water and wastewater services to the entire Area.

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Because of the service obligations imposed by the Texas Water Code on the holder of a CCN, Aqua WSC determined that it no longer wanted to hold the CCN for the Area that is being served exclusively by another retail public utility.¹ Aqua WSC has no customers or facilities in the Area, and no retail customer in the Area ever requested service from Aqua WSC. Aqua WSC has never provided service to the Area; therefore, decertification of Aqua WSC from the Area is appropriate under the provisions of the Texas Water Code.² Further, there will be no discontinuance, reduction, or impairment of service as a result of the decertification of Aqua WSC for the Area.³

The needs of the consumers of retail water utility service are being fully met by the City of Bastrop (as evidenced by the extensive development and the complete lack of requests by any consumer in the Area that Aqua WSC provide them retail water utility service), thus the decertification of Aqua WSC from the Area will not cause any adverse impact to any current or future retail consumer in the Area. Indeed, although the City of Bastrop currently holds water CCN No. 11198, its status as a retail public utility exempts it from the requirement that it first obtain a CCN before rendering retail water service to the public in areas not currently certified to another retail public utility. Therefore, the decertification of Aqua WSC from the Area will allow the City to legally serve the Area without first obtaining an amendment to its CCN.⁴

¹ Tex. Water Code Ann. § 13.250 (West 2008 and Supp. 2014).

² Tex. Water Code Ann. § 13.254(a)(1): “The utility commission at any time after notice and hearing may revoke or amend any certificate of public convenience and necessity with the written consent of the certificate holder or if the utility commission finds that: (1) the certificate holder has never provided, is no longer providing, is incapable or providing, or has failed to provide continuous and adequate service in the area, or part of the area, covered by the certificate.”

³ Tex. Water Code Ann. §§ 13.250(b) and (c).

⁴ Tex. Water Code Ann. § 13.242(a).

On January 28, 2015, Aqua WSC provided the City of Bastrop with a courtesy copy of the Application; notice of the Application was published in the *Texas Register* on February 13, 2015. To date, no one has filed a protest or request for hearing with the Commission.

Aqua WSC is not selling, assigning, or leasing any portion of its CCN pursuant to this Application.⁵ Aqua WSC has no expectations either that it will be requested to provide, or that it will seek to provide, retail water utility service to the Area in the future; therefore, it has no further need of a CCN for the Area subject to the Application.⁶

Aqua WSC is committed to continuing to provide continuous and adequate service to the remainder of its currently-certificated CCN area. This Application is based upon the specific circumstances existing in the Area, and Aqua WSC does not concede that this Application has any precedential value with regard to any entity that seeks in the future to provide retail water utility service to any portion of Aqua WSC's CCN area.

II. PROPOSED PROCEDURAL SCHEDULE

Aqua WSC has been informed by Commission Staff that the Application has not yet been determined to be administratively complete; therefore, Aqua WSC and the Staff have not discussed a proposed procedural schedule. Aqua WSC respectfully requests that once the Application is deemed to be administratively complete, in the absence of protests or requests for public hearing, a procedural schedule be adopted that will allow the Application be approved under the Commission's rules for information disposition. Aqua WSC will cooperate with Staff to develop such a schedule for the Commission's consideration and approval.

⁵ Tex. Water Code Ann. § 13.251.

⁶ Tex. Water Code Ann. § 13.242.

III. FILING REQUIREMENTS

Order No. 1 requested current contact information for the parties to be placed on the service list. The information set out below is the current contact information for Aqua WSC's legal representative.

Respectfully submitted,

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ATTORNEYS FOR AQUA WATER SUPPLY
CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was transmitted by fax, hand-delivery and/or regular, first class mail on this 27th day of February, 2015, to all parties of record.



GEORGIA N. CRUMP