



Control Number: 44534



Item Number: 10

Addendum StartPage: 0

DOCKET NO. 44534

**APPLICATION OF AQUA TEXAS, INC. §
D/B/A AQUA TEXAS TO AMEND ITS §
CERTIFICATES OF CONVENIENCE §
AND NECESSITY IN HARRIS COUNTY §**

PUBLIC UTILITY COMMISSION

OF TEXAS

2015 MAY 29 2:34
PUBLIC UTILITY COMMISSION
FILING CLERK

STAFF'S RESPONSE TO ORDER NO. 1

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Response to Order No. 3, and would show the following:

I. Background

On March 13, 2015, Aqua Texas, Inc. d/b/a Aqua Texas (Aqua Texas) filed with the Public Utility Commission of Texas (Commission) an application to amend its water and sewer certificate of convenience and necessity (CCN) Nos. 13203 and 21065, respectively, in Harris County. Aqua Texas seeks to amend its CCNs in order to provide water and wastewater utility services to a commercial development, comprising 620.652 acres. On April 13, 2015, Order No. 2 was issued finding the application administratively incomplete and deficient and requiring Staff to file a supplemental recommendation regarding notice, the administrative completeness of the supplemental application, along with a proposed procedural schedule, if appropriate, by May 29, 2015. Accordingly, this pleading is timely filed.

II. Recommendation on Administrative Sufficiency

Based on the attached memorandum from Debbie Reyes Tamayo, Program Specialist and Tracy Harbour, GIS Specialist of the Water Utility Regulation Division and Grace Godines, Retail Market Analyst of the Competitive Market Division, Staff finds the application sufficient for filing.

On May 13, 2015, Aqua Texas timely filed supplemental information previously requested by Staff in an attempt to cure the deficiencies. Staff finds that the response satisfies the mapping requirements as listed on page 5 of the CCN amendment application and as required

in the 16 Tex. Admin. Code 24.105(a)(2) (TAC). To continue processing this application, Aqua Texas must meet the requirements of 16 TAC §24.106, which provides:

§24.106. Notice and Mapping Requirements for Certificate of Convenience and Necessity Applications.

(a) If an application for issuance or amendment of a certificate of public convenience and necessity (CCN) is filed, the applicant will prepare a notice or notices, as prescribed in the commission's application form, which will include the following:

- (1) all information outlined in the Administrative Procedure Act, Texas Government Code, Chapter 2001;
- (2) all information stipulated in the commission's instructions for completing an application for a CCN; and
- (3) a statement that persons who wish to intervene or comment upon the action sought file a request with the commission, within 30 days of mailing or publication of notice, whichever occurs later.

(b) After reviewing and, if necessary, modifying the proposed notice, the commission will send the notice to the applicant for publication and/or mailing.

(2) For applications for an amendment of a CCN, the applicant shall mail the notice to cities and neighboring retail public utilities providing the same utility service whose corporate limits or certificated service area boundaries are within two miles of the requested service area boundaries, and any city with an extraterritorial jurisdiction that overlaps the proposed service area boundaries. If decertification or dual certification is being requested, the applicant shall provide notice by certified mail to the current CCN holder. Applicants are also required to provide notice to the county judge of each county and to each groundwater conservation district that is wholly or partly included in the area proposed to be certified.

(3) Except as otherwise provided by this subsection, in addition to the notice required by subsection (a) of this section, the applicant shall mail notice to each owner of a tract of land that is at least 25 acres and is wholly or partially included in the area proposed to be certified. Notice required under this subsection must be mailed by first class mail to the owner of the tract according to the most current tax appraisal rolls of the applicable central appraisal district at the time the commission received the application for the certificate or amendment. Good faith efforts to comply with the requirements of this subsection shall be considered adequate

mailed notice to landowners. Notice under this subsection is not required for a matter filed with the commission under:

- (A) TWC, §13.248 or §13.255; or
- (B) TWC, Chapter 65.

Accordingly, Staff recommends that the Applicant complete the following in order to meet the requirements of 16 TAC §24.106:

1. Provide correct notice of the application to:

- a) any districts, utilities, and cities providing the same utility service, whose corporate limits or service area boundaries are within two (2) miles of the proposed service area;
- b) any city with an extraterritorial jurisdiction which overlaps the proposed service area;
- c) landowners with at least 25 acres in the proposed CCN area. The landowner information may be obtained from the county appraisal district tax rolls for the county or counties in which the proposed CCN lies; and
- d) notice must be published once each week for two (2) consecutive weeks in a newspaper of general circulation in Harris County.

2. In addition to those entities listed in the application, the Applicant must also notice the following entities located within a 2-mile buffer of the proposed water and sewer service areas:

- a) H-M-W SUD (CCN No. 10342) (District No. 439000)
- b) Valeria Lynn Raub Mobile Home Subdivision (CCN No. 12999)
- c) Coastal Water Authority (District No. 2309000)
- d) Gulf Coast Waste Disposal Authority (District No. 3444000)
- e) Harris County FCD (District No. 3630000)
- f) Harris County Improvement District 17 (District No. 3736443)
- g) Harris County MUD 273 (District No. 3737736)
- h) Harris-Galveston Coastal Subsidence District (District No. 4419000)
- i) North Harris County Regional Water Authority (District No. 5984800)
- j) Northpointe WCID (District No. 5999500)
- k) Port of Houston Authority (District No. 7133000)

3. The Applicant include copy of a map showing the proposed service area with the individual notices to neighboring utilities, other affected parties and each landowner. It is the Applicant's burden to provide an accurate map delineating the proposed area with each individual notice. Information related to districts including addresses can be obtained by the Applicant from the TCEQ web site located at <http://www14.tceq.texas.gov/iwud/>.

The Applicant should be ordered to return a copy of the actual notices issued, the map issued with the individual mailed notice, and signed affidavits that the notice was given within 30 days of the Commission order.

Aqua Texas and Staff have agreed that the following items do not need to be addressed as part of the administrative review process for the application. Instead, Aqua Texas will work with Staff to address those issues as part of the substantive/technical review process for the Application:

1. The Applicant submitted a copy of the preliminary engineering report to PUC. The Applicant should provide proof that the preliminary engineering report, or plans and specifications for the proposed system that will provide service to the area referenced in this application, have been submitted to and approved by the TCEQ.
2. The Applicant has provided a TCEQ approved wastewater permit. The Applicant must also show that a Summary Transmittal Letter for construction of the wastewater facilities that will provide service to the area reference in this application has been submitted to and approved by the TCEQ. The Summary Transmittal Letter is filed in lieu of plans and specs and must be signed and sealed by a licensed P.E. The Applicant can view the link to the TCEQ's webpage for more information:
http://www.tceq.texas.gov/permitting/wastewater/plans/WW_design_requirements.html
3. The Applicant should provide a business plan and analysis regarding how much the new systems will cost and how they will be paid for, as well as financial projections for the new systems.

III. Proposed Procedural Schedule

Staff proposes the following procedural schedule:

<u>Event</u>	<u>Date</u>
Deadline for Applicant to file affidavits of proof of notice.	Within 45 calendar days of the issuance of the Commission's order.
Deadline for intervention; deadline for intervenors to request a hearing on the merits.	Within 30 calendar days of mailing or publication of notice, whichever occurs later.
Deadline for Staff to request a hearing or to file a recommendation on final disposition.	Within 45 calendar days from the end of the intervention period.

Deadline for Applicant to request a hearing or respond to Staff's recommendation on final disposition; or if no disputed issues exist, deadline for parties to file proposed findings of fact, conclusions of law, and ordering paragraphs.	Within 10 working days from Staff's recommendation on final disposition.
---	--

IV. Conclusion


Staff respectfully requests that an order be issued consistent with this Response.

Dated: May 29, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director – Legal Division


Karen S. Hubbard
Managing Attorney – Legal Division



Ralph J. Daigneault
Attorney-Legal Division
State Bar No. 24040755
(512) 936-7348 (telephone)
(512) 936-7268 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on May 29, 2015, in accordance with P.U.C. Procedural Rule 22.74.



Ralph J. Daigneault

PUC Interoffice Memorandum

To: Ralph Daigneault, Attorney
Legal Division

Thru: Tammy Benter, Director
Water Utility Division

From: Debbie Reyes Tamayo, Program Specialist
Tracy Harbour, GIS Specialist
Water Utility Division

Grace Godines, Retail Market Analyst
Competitive Market

Date: May 29, 2015

Subject: Docket No. 44534, Application of Aqua Texas, Inc. for an Amendment to Water and Sewer Certificates of Convenience and Necessity (CCNs) in Harris County

On March 13, 2015, Aqua Texas, Inc., (Applicant) filed an application with the Commission to amend its water CCN. No. 13203 and sewer CCN No. 21065 in Harris County under P.U.C. Substantive Rules 24.101 – 24.107.

On May 13, 2015, the Applicant timely filed their response to Commission Order No. 2. Staff has reviewed their response intended to cure the identified mapping deficiencies and finds that the response satisfies the mapping requirements as listed on page 5 of the CCN amendment application and as required in the P.U.C. SUBST. R. 24.105(a)(2). Therefore, Staff recommends the application to be deemed sufficient for filing.

Staff recommends the Applicant be ordered to do the following:

1. Provide correct notice of the application to:
 - a) any districts, utilities, and cities providing the same utility service, whose corporate limits or service area boundaries are within two (2) miles of the proposed service area;
 - b) any city with an extraterritorial jurisdiction which overlaps the proposed service area;
 - c) landowners with at least 25 acres in the proposed CCN area. The landowner information may be obtained from the county appraisal district tax rolls for the county or counties in which the proposed CCN lies; and
 - d) notice must be published once each week for two (2) consecutive weeks in a newspaper of general circulation in Harris County;
2. In addition to those entities listed in the application, the Applicant must also notice the following entities located within a 2-mile buffer of the proposed water and sewer service areas:
 - a) H-M-W SUD (CCN No. 10342) (District No. 439000)
 - b) Valeria Lynn Raub Mobile Home Subdivision (CCN No. 12999)
 - c) Coastal Water Authority (District No. 2309000)
 - d) Gulf Coast Waste Disposal Authority (District No. 3444000)

Docket #44534

- e) Harris County FCD (District No. 3630000)
 - f) Harris County Improvement District 17 (District No. 3736443)
 - g) Harris County MUD 273 (District No. 3737736)
 - h) Harris-Galveston Coastal Subsidence District (District No. 4419000)
 - i) North Harris County Regional Water Authority (District No. 5984800)
 - j) Northpointe WCID (District No. 5999500)
 - k) Port of Houston Authority (District No. 7133000)
3. The Applicant include copy of a map showing the proposed service area with the individual notices to neighboring utilities, other affected parties and each landowner. It is the Applicant's burden to provide an accurate map delineating the proposed area with each individual notice. Information related to districts including addresses can be obtained by the Applicant from the TCEQ web site located at <http://www14.tceq.texas.gov/iwud/>.

The Applicant should be ordered to return within 30 days of the Commission order, a copy of the actual notices issued, the map issued with the individual mailed notice, and signed affidavits that the notice was given.

Aqua Texas and Staff have agreed that the following items do not need to be addressed as part of the administrative review process for the application. Instead, Aqua Texas will work with Staff to address those issues as part of the substantive/technical review process for the Application:

1. The Applicant submitted a copy of the preliminary engineering report to PUC. The Applicant should provide proof that the preliminary engineering report, or plans and specifications for the proposed system that will provide service to the area referenced in this application, have been submitted to and approved by the TCEQ.
2. The Applicant has provided a TCEQ approved wastewater permit. The Applicant must also show that a Summary Transmittal Letter for construction of the wastewater facilities that will provide service to the area reference in this application has been submitted to and approved by the TCEQ. The Summary Transmittal Letter is filed in lieu of plans and specs and must be signed and sealed by a licensed P.E. The Applicant can view the link to the TCEQ's webpage for more information:

http://www.tceq.texas.gov/permitting/wastewater/plans/WW_design_requirements.html

3. The Applicant should provide a business plan and analysis regarding how much the new systems will cost and how they will be paid for, as well as financial projections for the new systems.

TB/DRT

Notice for Publication

NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) TO PROVIDE WATER AND SEWER UTILITY SERVICE IN HARRIS COUNTY, TEXAS

Aqua Texas, Inc. has filed an application to amend CCN Nos. 13203 and 21065 with Public Utility Commission of Texas to provide Water and Sewer utility service in Harris County.

The area subject to this transaction is located approximately 1.5 miles southwest of downtown Tomball, Texas, and is generally bounded on the north by N. Humble Lake Road; on the east by St. Hwy. 249; on the south by Boudreaux Estates Drive; and on the west by Telge Road.

The total area being requested for the proposed water service area includes approximately 617 acres and for the proposed sewer service area includes approximately 621 acres and 0 current customers.

A copy of the proposed service area map is available at: 2211 Louetta RD, Spring, Texas 77388-4706, (281)-651-0174.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should file with the PUC at the following address:

Filing Clerk
Public Utility Commission of Texas
1701 North Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the commission will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary

hearing is held, the SOAH will submit a recommendation to the commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If you are a landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the proposed area, you may request to be excluded from the proposed area (or "opt out") by providing written notice to the commission within (30) days from the date that notice was provided by the applicant. All requests to opt out of the requested service area must include a scaled, general location map and a metes and bounds description of the tract of land.

Persons who meet the requirements to opt out, and wish to request this option should file the required documents with the:

Filing Clerk
Public Utility Commission of Texas
1701 North Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

A copy of the request to opt out of the proposed area must also be sent to the applicant. Staff may request additional information regarding your request.

Si desea informacion en Espanol, puede llamar al 1-888-782-8477

Notice to Neighboring Systems, Landowners and Cities

NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) TO PROVIDE WATER AND SEWER UTILITY SERVICE IN HARRIS COUNTY, TEXAS

To: _____ Date Notice Mailed: _____, 2015
(Name of Neighboring System, Landowner, or City)

(Address)

(City State Zip)

Aqua Texas, Inc. has filed an application to amend CCN Nos. 13203 and 21065 with Public Utility Commission of Texas to provide Water and Sewer utility service in Harris County.

The area subject to this transaction is located approximately 1.5 miles southwest of downtown Tomball, Texas, and is generally bounded on the north by N. Humble Lake Road; on the east by St. Hwy. 249; on the south by Boudreaux Estates Drive; and on the west by Telge Road.

See enclosed map of the proposed service area.

The total area being requested for the proposed water service area includes approximately 617 acres and for the proposed sewer service area includes approximately 621 acres and 0 current customers.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should write the:

Filing Clerk
Public Utility Commission of Texas
1701 North Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the commission on its own motion requests a hearing. Only those

individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the commission will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If you are a landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the proposed area, you may request to be excluded from the proposed area (or "opt out") by providing written notice to the commission within (30) days from the date that notice was provided by the applicant. All requests to opt out of the requested service area must include a scaled, general location map and a metes and bounds description of the tract of land.

Persons who meet the requirements to opt out, and wish to request this option should file the required documents with the:

Filing Clerk
Public Utility Commission of Texas
1701 North Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

A copy of the request to opt out of the proposed area must also be sent to the applicant. Staff may request additional information regarding your request.

Si desea informacion en Espanol, puede llamar al 1-888-782-8477

PUBLIC UTILITY COMMISSION



PUBLISHER'S AFFIDAVIT
DOCKET NO. _____

STATE OF TEXAS
COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____, who being by me
duly sworn, deposes and that (s)he is the _____
(TITLE)
of the _____
(NAME OF NEWSPAPER)
that said newspaper is regularly published in: _____
(COUNTY/COUNTIES)
and generally circulated in _____, Texas: and
(COUNTY/COUNTIES)
that the attached notice was published in said newspaper on the following date(s), to wit:

(DATES)

(SIGNATURE OF NEWSPAPER REPRESENTATIVE)

Subscribed and sworn to before me this _____ day of _____, 20____,
to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____

PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE TO NOTICE TO NEIGHBORING SYSTEMS, LANDOWNERS AND CITIES

DOCKET NO. _____

STATE OF TEXAS
COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared

_____, who being by me

duly sworn, deposes and that (s)he is the

(TITLE)

of the

(NAME OF UTILITY)

that the attached notice was provided to customers and other affected parties by

(METHOD USED TO PROVIDE NOTICE)

on or about the following date, to wit:

(DATE)

(SIGNATURE OF UTILITY OFFICIAL)

Subscribed and sworn to before me this _____ day of _____, 20____,
to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____