



Control Number: 47917



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<b>PETITION OF PRIMEWOOD INVESTMENTS, LP TO AMEND AQUA TEXAS, INC.'S CERTIFICATES OF CONVENIENCE AND NECESSITY IN MONTGOMERY COUNTY BY EXPEDITED RELEASE</b>	§ § § § § §	<b>PUBLIC UTILITY COMMISSION</b> FILING CLERK  <b>OF TEXAS</b>
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### COMMISSION STAFF'S ADMINISTRATIVE COMPLETENESS RECOMMENDATION

**COMES NOW** the Commission Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this response to Order No. 1, Staff's Administrative Completeness Recommendation. Staff recommends that the petition be deemed administratively complete and that the issued notice be found sufficient. In support thereof, Staff shows the following:

#### I. BACKGROUND

On January 2, 2018, Primewood Investments, L.P. (Primewood) filed a petition with the Commission for streamlined expedited release (SER) of approximately 12 acres from Aqua Texas Inc.'s (Aqua Texas) water certificate of convenience and necessity (CCN) No. 13203 and approximately 18 acres from sewer CCN No. 21065 in Montgomery County, Texas. The petition was filed pursuant to Tex. Water Code § 13.254(a-5) (TWC) and 16 Tex. Admin. Code § 24.113(l) (TAC). In the petition, Primewood asserted that it owns approximately 1,295 acres in Montgomery County (the Property), the certificated portions of which it seeks to have released from Aqua Texas's water and sewer CCNs.<sup>1</sup> Primewood also asserts that the Property is not receiving water or sewer service from Aqua Texas and that Primewood has never requested such service.<sup>2</sup> The Commission published notice of Primewood's petition in the *Texas Register* on January 26, 2018.<sup>3</sup>

<sup>1</sup> Petition at 2 (Jan. 2, 2018).

<sup>2</sup> *Id.*

<sup>3</sup> See Acknowledgement of Receipt (Jan. 18, 2018).

In Order No. 1, issued January 11, 2018, the administrative law judge (ALJ) ordered Staff to file comments on the administrative completeness of the petition and notice by February 1, 2018. Therefore, this pleading is timely filed.

## **II. JURISDICTION AND LEGAL AUTHORITY**

As an alternative to decertification, the Texas Water Code and the Texas Administrative Code permit a landowner to petition the Commission for an expedited release of land from a CCN.<sup>4</sup> TWC § 13.254(a-5), addressing streamlined expedited release, states:

[T]he owner of a tract of land that is at least 25 acres and that is not receiving water or sewer service may petition for expedited release from a certificate of public convenience and necessity and is entitled to that release if the landowner's property is located in a county with a population of at least one million, a county adjacent to a county with a population of at least one million, or a county with a population of more than 200,00 and less than 220,000 that does not contain a public or private university that had a total enrollment in the most recent fall semester of 40,000 or more, and not in a county that has a population of more than 45,500 and less than 47,500.<sup>5</sup>

Pursuant to TWC § 13.254(a-5) and 16 TAC § 24.113(l)(5), the Commission must render a decision on a petition for expedited release “not later than the 60<sup>th</sup> day after the date the landowner files the petition.” A petition is not considered filed until it is deemed administratively complete.<sup>6</sup> Primewood's petition has not yet been deemed administratively complete; therefore, the 60 day count will begin with the issuance of an order on administrative completeness.

## **III. ADMINISTRATIVE COMPLETENESS RECOMMENDATION**

As indicated by the attached memorandum of Jolie Mathis of the Commission's Water Utility Regulation Division, Staff has reviewed Primewood's petition and recommends that the petition be found administratively complete. The maps and digital data submitted by Primewood provide adequate information for Staff to continue its review of the petition and to make a recommendation regarding whether it satisfies the requirements of TWC § 13.254(a-5) and 16

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<sup>4</sup> See generally TWC §§ 13.254(a-1) & (a-5); 16 TAC §§ 24.113(k) & (l).

<sup>5</sup> TWC § 13.254(a-5); see also 16 TAC § 24.113(l).

<sup>6</sup> See *Petition of City of Midlothian to Amend Mountain Peak Special Utility District's Certificate of Convenience and necessity by Expedited Release in Ellis County*, Docket No. 44394, Conclusion of Law No. 13 (May 1, 2015).

TAC § 24.113(l). Specifically, the maps and digital data provided by Primewood enable Staff to determine whether each tract of land is located within the subject Property, is at least 25 acres, and is owned by one property owner. Therefore, Staff recommends that Primewood's petition be deemed administratively complete.

#### IV. NOTICE SUFFICIENCY RECOMMENDATION

Primewood asserts in its petition that it provided notice to the CCN holder, Aqua Texas, by certified mail on January 2, 2018.<sup>7</sup> As previously noted, the Commission also published notice of this petition in the *Texas Register* on January 26, 2018.<sup>8</sup> Such notice satisfies the requirement of 16 TAC § 24.113(l)(3)(A)(vi). Accordingly, Staff recommends that the notice issued be found sufficient.

#### V. PROPOSED PROCEDURAL SCHEDULE

In accordance with Staff's administrative completeness recommendation, Staff proposes the following procedural schedule:

<b>Event:</b>	<b>Date:</b>
Order regarding administrative completeness of petition	Date of Order
Deadline for Aqua Texas to file a response to the administratively complete petition	Seven (7) days from the date of the Order deeming the petition administratively complete
Deadline for Staff's recommendation on final disposition	Seven (7) days from the deadline for Aqua Texas to file its response
Deadline for Primewood to file a reply to both Aqua Texas's response and Staff's recommendation on final disposition <sup>9</sup>	Seven (7) days from the deadline for Staff to file its recommendation on final disposition
Sixty (60) day administrative approval	Date sixty (60) days from the Order deeming the petition administratively complete

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<sup>7</sup> Petition at 3 & 26-28.

<sup>8</sup> See Acknowledgement of Receipt.

<sup>9</sup> Staff notes that such a reply must be limited to briefing and argument. Additional proof will be deemed a new petition.

## **VI. CONCLUSION**

For the reasons stated above, Staff respectfully recommends that Primewood's petition be found administratively complete, that the issued notice be found sufficient, and that the proposed procedural schedule be adopted.

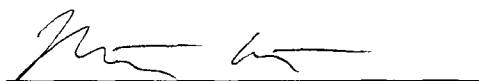
Dated: February 1, 2018

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Katherine Lengieza Gross  
Managing Attorney

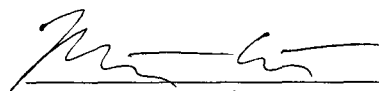


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**PUC DOCKET NO. 47917**

### **CERTIFICATE OF SERVICE**

I certify that a copy of this document was served on all parties of record on February 1, 2018, in accordance with the requirements of 16 TAC § 22.74.

  
Matthew A. Arth

## PUC Interoffice Memorandum

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**To:** Matthew Arth, Attorney  
Legal Division

**Thru:** Lisa Fuentes, Manager  
Water Utility Regulation Division

**From:** Jolie Mathis, Engineering Specialist  
Water Utility Regulation Division

**Date:** January 31, 2018

**Subject:** **Docket No. 47917:** *Petition of Primewood Investments, LP to Amend Aqua Texas, Inc.'s Certificate of Convenience and Necessity in Montgomery County by Expedited Release*

On January 2, 2018, Primewood Investments, LP (Primewood or Petitioner) filed an application for streamlined expedited release from Aqua Texas, Inc.'s (Aqua) water and sewer Certificate of Convenience and Necessity (CCN) Nos. 13203 and 21065 in Montgomery County, under Texas Water Code (TWC) § 13.254(a-5) and 16 Texas Administrative Code (TAC) § 24.113(l). The Petitioner asserts that the land is at least 25 contiguous acres, is not receiving water or sewer service, and is located in Montgomery County, which is a qualifying county.

The Petitioner submitted adequate maps delineating the requested area for expedited release with enough detail to confirm the accurate positioning of their digital data pursuant to 16 TAC §§ 24.113(m) and 24.119. The map and digital data are sufficient for determining the locations of the requested release areas within Aqua's certificated area. Mapping Staff was able to confirm the acreage of the subject properties, and determined that the requested areas are located within the subject property. Furthermore, the Petitioner provided warranty deeds confirming the Petitioners' ownership of the tracts of land within the subject property. In addition, the Petitioner submitted a sworn affidavit attesting that the property was not receiving water or sewer service from the CCN holder. The area being requested for streamlined expedited release is approximately 12 acres for water CCN No. 13203 and approximately 18 acres for sewer CCN No. 21065.

The petition also included a statement indicating that a copy of the petition was sent via certified mail to Aqua on the date that the petition was filed with the Commission.

Staff has reviewed the information provided by the Petitioner and recommends that the petition be deemed administratively complete and accepted for filing.