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DOCKET NO. 48197

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APPLICATION OF AQUA TEXAS,  
INC., AQUA UTILITIES, INC., AND  
AQUA DEVELOPMENT, INC. DBA  
AQUA TEXAS FOR A MINOR  
TARIFF CHANGE (FEDERAL TAX  
CUT CREDIT RIDER)

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PUBLIC UTILITY COMMISSION  
FILING CLERK  
STATE OF TEXAS

### ORDER

This Order addresses the application of Aqua Texas, Inc., Aqua Utilities, Inc. (including its subsidiaries Harper Water Company, Inc. and Kerrville South Water Company, Inc.), and Aqua Development, Inc., each which does business under the assumed name Aqua Texas (collectively referred to as Aqua) for approval of a federal tax cut credit (FTCC) rider to pass through estimated tax savings gained as a result of the Tax Cuts and Jobs Act of 2017 (TCJA).<sup>1</sup> The Commission approves the rider and grants Aqua's requests related to requirements ordered in Project No. 47945.<sup>2</sup>

The Commission adopts the following findings of fact and conclusions of law:

#### I. Findings of Fact

##### Applicant

1. Aqua Texas, Inc. is a domestic for-profit corporation registered with the Texas secretary of state under filing number 800304878. Aqua Texas, Inc. has an assumed name certificate for the name Aqua Texas. Aqua Texas, Inc. is a subsidiary of Aqua America, Inc. Aqua Texas, Inc. provides water service under certificates of convenience and necessity numbered 13201, 13203, 13254 and sewer service under certificates numbered 21059 and 21065.
2. Aqua Utilities, Inc. is a domestic for-profit corporation registered with the Texas secretary of state under filing number 147005600. Aqua Utilities, Inc. has an assumed name

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<sup>1</sup> Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018, Pub. L. No. 115-97, 113 Stat. 2054 (Dec. 22, 2017).

<sup>2</sup> *Proceeding to Investigate and Address the Effects of Tax Cuts and Jobs Act of 2017 on the Rates of Texas Investor-Owned Utility Companies*, Project No. 47945, Amended Order (Feb. 15, 2018).

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certificate for the name Aqua Texas. Aqua Utilities, Inc. is a subsidiary of Aqua America, Inc. Aqua Utilities, Inc. provides water service under certificate of convenience and necessity number 11157 and sewer service under certificate number 20453.

3. Aqua Development, Inc. is a domestic for-profit corporation registered with the Texas secretary of state under filing number 14954100. Aqua Development, Inc. has an assumed name certificate for the name Aqua Texas. Aqua Development, Inc. is a subsidiary of Aqua America, Inc. Aqua Development, Inc. provides water service under certificate of convenience and necessity number 12902 and sewer service under certificate number 20867.
4. Harper Water Company, Inc. is a domestic for-profit corporation registered with the Texas secretary of state under filing number 120489100. Harper Water Company, Inc. has an assumed name certificate for the name Aqua Texas. Harper Water Company, Inc. is a subsidiary of Aqua Utilities, Inc. Harper Water Company, Inc. provides water service under certificate of convenience and necessity number 11421.
5. Kerrville South Water Company, Inc. is a domestic for-profit corporation registered with the Texas secretary of state under filing number 25372100. Kerrville South Water Company, Inc. has an assumed name certificate for the name Aqua Texas. Kerrville South Water Company, Inc. is a subsidiary of Aqua America, Inc. Kerrville South Water Company, Inc. is a subsidiary of Aqua Utilities, Inc. Harper Water Company, Inc. provides water service under certificate of convenience and necessity number 11484.

**Application**

6. On March 26, 2018, Aqua filed an application requesting approval of a proposed FTCC rider for each of the 24 tariffs it has on file with the Commission.
7. In addition, Aqua requested confirmation that the Commission will not require Aqua to file a rate case before 2020.
8. Aqua also requested approval to deviate from the requirement in the order in Project No. 47945 that requires all class A water utilities to record as a regulatory liability beginning on January 25, 2018 including the following: (1) the difference between the revenues collected under existing rates and the revenues that would have been collecting

had the existing rates been set using the recently approved federal income tax rates; and (2) the balance of accumulated deferred federal income taxes (ADFIT) that now exists because of the decrease in the federal income tax rates.

9. On May 1, 2018, the administrative law judge (ALJ) deemed Aqua's application administratively complete.

#### **Notice**

10. Beginning on May 1, 2018, notice of the FTCC rider was provided by bill insert and mailed to each customer. Each customer received a correct copy of the notice for each customer's respective rate region in the bills sent out during the regular May billings.
11. On July 10, 2018, Aqua filed the affidavit of Kurt A. Scheibelhut, Manager of Rates and Planning for Aqua Texas, Inc., attesting to the provision of notice to customers beginning on May 1, 2018.

#### **Evidentiary Record**

12. In a notice issued on October 11, 2018, the ALJ admitted the following evidence into the record: (a) Aqua's FTCC rider application filed on March 26, 2018; (b) Commission Staff's recommendation on sufficiency of the application filed on April 25, 2018; (c) Notice Approving Interim Rate and Establishing Procedural Schedule filed on May 1, 2018; (d) Commission Staff's final recommendation and attachments filed on July 6, 2018; (e) Affidavit of notice to customers filed July 10, 2018; and (f) Commission Staff's tariffs filed on August 20, 2018 and supplemental corrected tariffs filed on November 1, 2018.
13. In a notice issued on November 7, 2018, the ALJ admitted Commission Staff's corrected tariff pages filed November 1, 2018, into the record.

#### **Interim Rates**

14. On March 26, 2018, Aqua requested approval to apply the FTCC as an interim rate for its water- and wastewater-service customers prior to final Commission approval.
15. In a notice issued on May 1, 2018, the ALJ granted Aqua's request and approved the FTCC rider on an interim basis for each of the 24 tariffs.

**Federal Tax Cut Credit Rider**

16. Aqua's application states that a more precise tax savings calculation based on a recalculation of Aqua's approved tariff rates using the new 21% federal income tax rate is not possible because Aqua's rates have mostly been approved through "black box" settlements resulting in multiple customer rate divisions.
17. Aqua proposes to use the budgeted net-income for each rate division to determine an estimate amount of 2018 tax savings and rate division-specific FTTC rider percentages to be applied to each customer's bill.
18. Aqua's FTCC rider calculations are reasonable and the resulting FTCC rider percentages are downward rate adjustments that approximately reconcile Aqua's rates with expected post-TCJA actual federal income tax expense costs.
19. With regard to the tax expense, Aqua would have a zero balance in regulatory liability and there would be no amount to record as a regulatory liability on an ongoing basis for the tax expense.
20. The FTCC does not address the accounting and rate-making treatment of excess accumulated deferred federal income tax arising from changes to the federal tax law in the TCJA of 2017.

**Tariffs**

21. On August 20, 2018, Commission Staff filed the proposed tariffs and filed supplemental corrected tariffs on November 1, 2018.

**Good Cause Exceptions- 16 TAC § 22.5(b)**

22. No party sought a good cause exception.
23. It is appropriate to consider this Order at the earliest open meeting available; therefore, good cause exists to waive the requirement in 16 TAC § 22.35(b)(2) that a proposed order be served on the parties 20 days before the Commission is scheduled to consider an application in an open meeting.

**Informal Disposition**

24. More than 15 days have passed since the completion of notice provided in this docket.

25. No person filed a protest or motion to intervene.
26. Commission Staff and Aqua are the only parties to this proceeding.
27. No party requested a hearing and no hearing is needed.
28. Commission Staff recommended approval of the application.
29. This decision is not adverse to any party.

## **II. Conclusions of Law**

1. Aqua Texas, Inc., Aqua Utilities, Inc., Harper Water Company, Inc., Kerrville South Water Company, Inc., and Aqua Development, Inc. are water and sewer utilities as defined in Texas Water Code (TWC) § 13.002(23) and 16 Texas Administrative Code (TAC) § 24.3(76).
2. The Commission has jurisdiction over the application under TWC §§ 13.041, 13.181 and 13.182.
3. Aqua is a class A utility as defined in TWC § 13.002(4-a) and 16 TAC § 24.3(15).
4. The Commission has the authority to approve the FTCC under 16 TAC § 24.25(b)(2)(A)(v).
5. The Commission has the authority to implement the approved FTCC as a pass-through provision under 16 TAC § 24.25(b)(2)(C).
6. The notice provided complies with 16 TAC § 24.25(b)(2)(F).
7. The application complies with the order in Project No. 47945.
8. The Commission processed the application in accordance with TWC and Commission rules.
9. The rates established by this Order are just and reasonable under TWC § 13.182(a).
10. In accordance with TWC § 13.182(b), the rates established by this Order are not unreasonably preferential, prejudicial, or discriminatory, but that are sufficient, equitable, and consistent in application to each class of consumers.

11. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

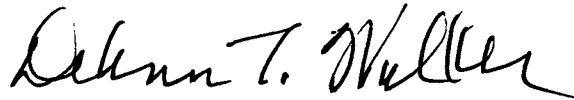
### **III. Ordering Paragraphs**

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission approves Aqua's FTCC rider.
2. The approved FTCC rider must remain in effect until Aqua's next rate case.
3. It is appropriate for Aqua to defer for future regulatory treatment any amortization of the protected and unprotected excess ADFIT that it makes for accounting purposes and reflect such deferred liability amounts in the determination of Aqua's rates in its next base rate application.
4. Aqua is not required to file a rate case before 2020.
5. Aqua must address, in Aqua's next rate case, the regulatory liability required by the Accounting Order in Docket No. 47945 for the balance of ADFIT that exists because of the decrease in the federal income tax rates.
6. The Commission approves the tariffs filed by Commission Staff on August 20, 2018 and supplemental corrected tariffs filed on November 1, 2018.
7. Within ten days after the date of this Notice, Commission Staff must provide a clean copy of the tariffs approved in this Notice to central records to be marked Approved and filed in the Commission's tariff book.
8. Under 16 TAC § 22.5(b), there is good cause to waive the 20-day requirement in 16 TAC § 22.35(b)(2).
9. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 4th day of April 2019.

**PUBLIC UTILITY COMMISSION OF TEXAS**



**DEANN T. WALKER, CHAIRMAN**



**ARTHUR C. D'ANDREA, COMMISSIONER**



**SHELLY BOTKIN, COMMISSIONER**

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