

Control Number: 48465



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PUC DOCKET NO. 48465

**APPLICATION OF AQUA TEXAS, INC. §
AND THE CITY OF TOMBALL FOR §
APPROVAL OF SERVICE AREA §
CONTRACT UNDER TEXAS WATER §
CODE § 13.248 AND TO AMEND §
CERTIFICATES OF CONVENIENCE §
AND NECESSITY IN HARRIS COUNTY §**

BEFORE THE PUBLIC UTILITY

COMMISSION OF TEXAS

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PUBLIC UTILITY COMMISSION
FILING CLERK

JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

COME NOW Aqua Texas, Inc. (Aqua) and the City of Tomball (the City), together with the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, (collectively, the Parties), and file this Joint Motion to Admit Evidence and Proposed Notice of Approval. In support thereof, the Parties show the following.

I. BACKGROUND

On June 14, 2018, Aqua Texas, Inc. (Aqua) and the City of Tomball (City) filed an application under the Texas Water Code (TWC) § 13.248 and 16 Texas Administrative Code (TAC) § 24.117¹ for approval of a service area contract and to amend their water certificates of convenience and necessity (CCN) in Harris County. Aqua holds water CCN No. 13203 and sewer CCN No. 21065, and City holds water CCN No. 13257 and sewer CCN No. 21103. The Applicants, by mutual agreement, seek approval to alter the boundaries and transfer affected certificated water CCN areas comprising 353 acres and 0 current customers and affected certificated sewer CCN areas comprising 356 acres and 0 current customers. No Aqua facilities are currently located in the area proposed for transfer.

On July 18, 2018, the Commission issued Order No. 2, Addressing Sufficiency of Application and Notice and Establishing Procedural Schedule, which required that the Parties file joint proposed findings of fact, corresponding conclusions of law, and ordering paragraphs by October 4, 2018. This pleading is therefore timely filed.

II. JOINT MOTION TO ADMIT EVIDENCE

The Parties move to admit the following evidence into the record of this proceeding:

1. Application, filed on June 14, 2018.

¹ 16 TEX. ADMIN. CODE § 24.117.

2. Aqua's Response to Order No. 1, filed on June 25, 2018.
3. Aqua's Letter Regarding Electronic Mapping Data (CD), filed on July 11, 2018.
4. The City's consent form to the final maps and certificates, filed on September 12, 2018.
5. Aqua's consent form to the final maps and certificates, filed on September 17, 2018.
6. Commission Staff's recommendation that the Application be approved, along with the attached final maps and certificates, filed September 26, 2018.

III. PROPOSED NOTICE OF APPROVAL

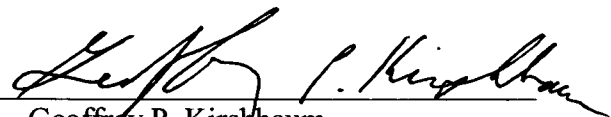
The Parties move for adoption of the attached Joint Proposed Notice of Approval included as Attachment A, which would approve the Application to amend water and sewer CCN Nos. 13203, 13257, 21065, and 21103 in Harris County, Texas.

IV. CONCLUSION

The Parties respectfully request that the Commission grant the Motion to Admit Evidence and adopt the attached Joint Proposed Notice of Approval.

Respectfully submitted,

By: _____

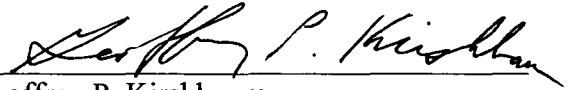


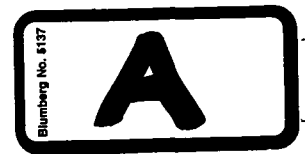
Geoffrey P. Kirshbaum
State Bar No. 24029665
TERRILL & WALDROP
810 West 10th Street
Austin, Texas 78701
Tel: (512) 474-9100
Fax: (512) 474-9888
gkirshbaum@terrillwaldrop.com

ATTORNEYS FOR AQUA TEXAS, INC.

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on October 4, 2018, in accordance with 16 TAC § 22.74.


Geoffrey P. Kirshbaum



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APPLICATION OF AQUA TEXAS, INC.	§	BEFORE THE PUBLIC UTILITY
AND THE CITY OF TOMBALL FOR	§	
APPROVAL OF SERVICE AREA	§	COMMISSION OF TEXAS
CONTRACT UNDER TEXAS WATER	§	
CODE § 13.248 AND TO AMEND	§	
CERTIFICATES OF CONVENIENCE	§	
AND NECESSITY IN HARRIS COUNTY	§	

JOINT PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application by Aqua Texas, Inc. (Aqua) and the City of Tomball (the City) (collectively, Applicants), pursuant to Texas Water Code (TWC) § 13.248 and 16 Texas Administrative Code (TAC) § 24.117, for approval and enforcement of a service area contract that would amend their water and sewer certificates of convenience and necessity (CCNs) to transfer portions of certificated area from Aqua to the City. The Staff (Staff) of the Public Utility Commission of Texas (Commission) recommended approval of this application on September 26, 2018. The application is approved.

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

FINDINGS OF FACT

Procedural History

1. On June 14, 2018, Applicants filed with the Commission an application to approve and enforce a service area contract that would amend their water and sewer CCNs to transfer portions of certificated area from Aqua to the City.
2. On June 18, 2018, Order No. 1 was issued, requiring that Aqua file supplemental information and that Staff file a recommendation on the sufficiency of the application and propose a procedural schedule for processing.
3. On June 25, 2018, Aqua filed supplemental information in response to Order No. 1.
4. On June 29, 2018, notice of the application to amend Aqua and the City's water and sewer CCNs was published in the *Texas Register*.
5. On July 11, 2018, Aqua filed a letter regarding electronic mapping data (CD).

6. On July 13, 2018, Commission Staff filed a recommendation on administrative completeness, recommending that the application be deemed administratively complete and that no additional notice be required.

7. On July 18, 2018, Order No. 2 was issued, deeming the application sufficient for filing.

8. On September 12, 2018, the City submitted a signed consent form evidencing its consent to the revised CCN maps and certificates proposed by Staff.

9. On September 17, 2018, Aqua submitted a signed consent form evidencing its consent to the revised CCN maps and certificates proposed by Staff.

10. On September 26, 2018, Staff recommended that the application be approved.

11. On October 4, 2018, the parties filed a joint motion to admit the following evidence in the record of the proceeding: (a) Application, filed on June 14, 2018 (Filing No. 1); (b) Aqua's Response to Order No. 1, filed on June 25, 2018 (Filing No. 5); (c) Aqua's Letter Regarding Electronic Mapping Data (CD), filed on July 11, 2018 (Filing No. 7); (d) consent forms from Aqua and the City to the final maps and certificates, filed on September 12, 2018, and September 17, 2018 (Filing Nos. 10 and 11); and (e) Commission Staff's recommendation that the application be approved, along with the attached final maps and certificates, filed September 26, 2018 ((Filing No. 12).

12. On October 4, the Parties filed a joint proposed notice of approval.

13. The final maps and CCN certificates referenced in Findings of Fact Nos. 8 and 9 are attached to this Notice of Approval.

Notice

14. Notice was published in the *Texas Register* on June 29, 2018.

15. Additional notice was waived because there are no customers in the transferred service area.

Evidentiary Record

16. On October ____, 2018, Order No. 3 was issued, admitting evidence into the record of this proceeding.

Description of the Application

17. Aqua and the City have agreed to transfer portions of Aqua's water CCN No. 13203 to the City's CCN No. 13257.

18. Aqua and the City have agreed to transfer portions of Aqua's sewer CCN No. 21065 to the City's CCN No. 21103.

Informal Disposition

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

20. Applicants and Commission Staff are the only parties to this proceeding.

21. No issues of law remain disputed by any party.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction and authority over these matters pursuant to TWC § 13.248 and 16 TAC § 24.117.

2. Aqua and the City are each a retail public utility as defined in TWC § 13.002(19) and 16 TAC § 24.3(59).

3. Notice of the application was provided in compliance with 16 TAC § 24.117.

4. The application meets the requirements set forth in TWC § 13.248 and in 16 TAC § 24.117.

5. After considering the factors in TWC § 13.248 and 16 TAC § 24.117, Aqua and the City are entitled to approval of their agreement to transfer Aqua's CCN area to the City, having demonstrated that the service area requested in this application is within Harris County's county limits and having provided a copy of the agreement between Aqua and the City that states that the City may serve all of the requested area, consistent with TWC § 13.248.

6. Applicants demonstrated that amendments of their respective water and sewer CCN Nos. 13203, 13257, 21065, and 21103 are necessary for the service, accommodation, convenience, or safety of the public, as required under TWC § 13.246(b) and 16 TAC § 24.102(c).

7. Under TWC § 13.257(r)-(s) and 16 TAC § 24.106(e), Aqua and the City are required to record a certified copy of the approved CCN and map, along with a boundary description of the service area in the real property records of each county in which the service

area or a portion of the service area is located, and submit to the Commission evidence of the recording.

8. The requirements for informal disposition pursuant to 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 order:

1. The application is approved.
2. Aqua's water CCN No. 13203 and sewer CCN No. 21065 are hereby amended consistent with this Notice.
3. Aqua shall serve every customer and applicant for service within the areas certified under water CCN No. 13203 and sewer CCN. No 21065, and such service shall be continuous and adequate.
4. Aqua shall comply with the recording requirements in TWC § 13.257(r)-(s) for the area in Harris County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.
5. The City's water CCN No. 13257 and sewer CCN No. 21103 are hereby amended consistent with this notice.
6. The City shall serve every customer and applicant for service within the areas certified under water CCN No. 13257 and sewer CCN. No 21103, and such service shall be continuous and adequate.
7. The City shall comply with the recording requirements in TWC § 13.257(r)-(s) for the area in Harris County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.
8. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

SIGNED AT AUSTIN, TEXAS on the ____ day of _____, 2018.

PUBLIC UTILITY COMMISSION OF
TEXAS ADMINISTRATIVE LAW JUDGE