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DOCKET NO. 48824

**PETITION OF TEJAS CREEK, LTD. §
TO AMEND AQUA TEXAS, INC.'S §
CERTIFICATES OF CONVENIENCE §
AND NECESSITY IN MONTGOMERY §
COUNTY BY EXPEDITED RELEASE §**

2019 JAN -9 PM 2:55
BEFORE THE PUBLIC UTILITY
PUBLIC UTILITY COMMISSION
FILING CLERK

COMMISSION OF TEXAS

**AQUA TEXAS' RESPONSE TO COMMISSION STAFF'S
FINAL RECOMMENDATION**

Aqua Texas, Inc. d/b/a Aqua Texas ("Aqua" or "Intervenor") files this Response to Commission Staff's Final Recommendation on Tejas Creek, Ltd.'s ("Applicant") Petition for an Expedited Release from Aqua's water CCN No. 13203 and sewer CCN No. 21065 ("Petition") filed in this docket, and in support would show as follows.

On October 30, 2018, Applicant submitted its Petition for an Expedited Release from Aqua's Water CCN No. 13203 and sewer CCN No. 21065. Aqua was granted intervenor status and filed a response. On January 2, 2019, the Staff filed a final recommendation.

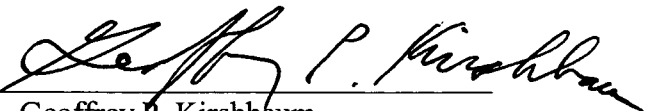
Aqua objects to the summary nature of the Staff recommendation. The Staff recites the boiler-plate bases for granting the petition without providing a reasoned or factual basis for the recommendation. Neither the recommendation nor the memorandum in support informs the parties, the Administrative Law Judge, or the Commission *why* Staff ignores Aqua's response and recommends depriving Aqua of a portion of its certificated area without any compensation.

Aqua objects to the substance of the recommendation as well. The Petition should be denied because Aqua has performed acts and committed facilities such that water and sewer service are being received on Applicant's 108-acre property for which it seeks release (the "Property"). Aqua has built water and sewer capacity in anticipation of development of the property and has confirmed in response to Applicant's queries that it has sufficient existing capacity to serve the announced

development. Aqua has service lines that reach the adjacent properties. The map attached to the Staff recommendation emphasizes that decertification will hollow the certified area, leaving an isolated tract along the west side and a narrow strip along the southern edge, making fulfillment of Aqua's obligation to serve those remaining certificated areas much more difficult. Removal or decertification of the Property from Aqua's CCN areas will render Aqua's property—including its planning expenditures and excess capacity—useless or valueless.

Aqua respectfully requests that the Honorable Administrative Law Judge and the Commission reject the summary Staff recommendation, find that the Petition does not meet the expedited release requirements under Texas Water Code § 13.254(a-5) and 16 TAC § 24.245(l), and deny the Petition. In the alternative, if the Property is removed from Aqua's CCNs, the ALJ and the Commission must find that the removal of the Property renders useless or valueless a portion of Aqua's water and wastewater plants, pipelines, contingent rights under Aqua's CCNs and permits, and any money used to acquire and maintain those rights and infrastructure. The parties, the ALJ, and the Commission must then proceed to determine the amount of value lost.

Respectfully submitted,

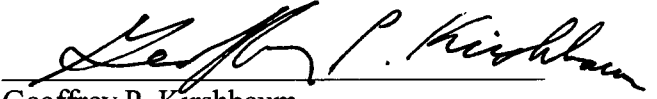
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**ATTORNEYS FOR AQUA TEXAS, INC.
D/B/A AQUA TEXAS**

CERTIFICATE OF SERVICE

I hereby CERTIFY that on January 9, 2019, a true and complete copy of the above was sent to the parties of record in accordance with 16 TAC § 22.74.



Geoffrey P. Kirshbaum