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**DOCKET NO. 49904**

**PETITION OF REPUBLIC BUSINESS  
CENTER LLC TO AMEND AQUA  
TEXAS, INC.'S CERTIFICATES OF  
CONVENIENCE AND NECESSITY IN  
HARRIS COUNTY BY EXPEDITED  
RELEASE**

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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**ORDER NO. 5  
CERTIFYING AN ISSUE TO THE COMMISSION**

In this matter, Republic Business Center, LLC seeks expedited release from Aqua Texas, Inc.'s water and sewer certificates of convenience and necessity (CCNs) in Harris County. Republic filed its petition on August 27, 2019. The petition was declared to be administratively complete in Order No. 3 filed on October 18, 2019.

There is a dispute among the parties as to the version of the relevant law that applies in this case. Prior to September 1, 2019, Texas Water Code (TWC) § 13.254(d) mandated that, if a tract of land was decertificated from a CCN, then a new utility could not provide service to the decertificated tract without first providing compensation to the ousted utility for any property that had been "rendered useless or valueless" by the decertification.

During the 2019 legislative session, the relevant law changed. Now, under TWC §§ 13.254(g) and 13.2541(f)-(h), the Commission "may" require the owner of the tract of land for which expedited release is granted to provide "just and adequate" compensation to the utility following the decertification. According to the legislation, the changes to the law apply only to a "proceeding" affecting a CCN that "commences on or after the effective date of this Act," which is September 1, 2019.<sup>1</sup>

The parties disagree as to which version of the law applies in this case. Aqua Texas argues that the version of the law that became effective on September 1, 2019, should apply. The utility relies on 16 Texas Administrative Code (TAC) § 24.8(d) for its argument. Under 16 TAC § 24.8(d), an application affecting a CCN is not considered filed until the Commission makes a determination that the application is administratively complete. Because Republic's application was declared administratively complete on October 18, 2019, Aqua Texas contends that the petition should be governed by the amendments to the TWC that went into effect on September 1,

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<sup>1</sup> Act of May 26, 2019, 86<sup>th</sup> Leg., R.S., S.B. 2272, §§ 6, 7.

2019. Effectively, Aqua Texas is arguing that this docket should be considered to have commenced when the application was deemed administratively complete.

Republic contends that the prior law governs because it physically filed its petition with the Commission prior to September 1, 2019.

The administrative law judge (ALJ) believes the question of which version of the relevant statutes applies is an appropriate issue for certification to the Commission. Accordingly, under 16 TAC § 22.127, the ALJ certifies the following issue to the Commission:

For the purpose of determining which law applies, should an expedited release proceeding be deemed to have commenced on the date the petition was first physically filed with the Commission's Central Records office, or when the petition is deemed by the ALJ to be administratively complete?

If any party wishes to file briefing on the certified issue, it must do so by December 18, 2019.

Signed at Austin, Texas the 5<sup>th</sup> day of December 2019.

**PUBLIC UTILITY COMMISSION OF TEXAS**

  
**HUNTER BURKHALTER**  
**ADMINISTRATIVE LAW JUDGE**