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**DOCKET NO. 49904**

<b>PETITION OF REPUBLIC BUSINESS</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>CENTER LLC TO AMEND AQUA</b>	<b>§</b>	
<b>TEXAS, INC.'S CERTIFICATES OF</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CONVENIENCE AND NECESSITY</b>	<b>§</b>	
<b>IN HARRIS COUNTY BY</b>	<b>§</b>	
<b>EXPEDITED RELEASE</b>	<b>§</b>	
	<b>§</b>	

**BRIEF IN RESPONSE TO ORDER NO. 5**

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest and files this Brief in Response to Order No. 5. In support thereof, Staff shows the following:

**I. BACKGROUND**

On August 27, 2019, Republic Business Center LLC (Republic or Petitioner) filed a petition for streamlined expedited release from Aqua Texas, Inc.'s (Aqua) water Certificate of Convenience and Necessity (CCN) No. 13203 and sewer CCN No. 21605 in Harris County under Texas Water Code § 13.254(a-5) and 16 Texas Administrative Code § 24.245(I).

Petitioner asserted that it owns approximately 156 acres of contiguous property in Harris County, Texas (Property) and requested expedited release for approximately 14 acres. Furthermore, Petitioner stated that all of the Property is located within the boundaries of Aqua's water CCN No. 13203 and sewer CCN No. 21605. Additionally, Petitioner claimed that the Property is not receiving service from any water service provider.

On October 18, 2019, the Administrative Law Judge (ALJ) found Republic's petition administratively complete and granted Aqua's motion to intervene.

**II. ARGUMENT**

On December 5, 2019, the ALJ issued Order No. 5, certifying the issue below to the Commission:

For the purposes 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?

Staff first notes that although the original petition was filed on August 27, 2019 under Texas Water Code (TWC) § 13.254(a-5), on September 18, 2019, Petitioner filed an amended petition correcting the sewer CCN No. from which the petitioner was seeking release from CCN No. 21605 to 21065 at Staff's request. Staff also notes that it made this request on September 17, 2019 before Aqua's intervention on October 11, 2019. Republic filed both its original petition and the amended petition under TWC 13.254(a-5). However, on September 1, 2019, TWC 13.254(a-5) transferred to TWC § 13.2541. Therefore, TWC § 13.2541 applies to this expedited release proceeding.

Additionally, as noted by Aqua, "[t]he Commission rules states that 'Applications under subchapter H of chapter 24 are not considered filed until administratively complete.'"<sup>1</sup> The petition was declared administratively complete by the ALJ in Order No. 3 filed on October 18, 2019. Under Order No. 1, Commission Staff was not required to file comments on the administrative completeness of the petition and notice until September 26, 2019, at the earliest. Therefore, the petition would not have been declared administratively complete until after September 1, 2019, the effective date of the statute. Because applications under subchapter H of chapter 24 are not considered filed until administratively complete, Staff believes an expedited release proceeding commences on the date when the petition is deemed by the ALJ to be administratively complete and that TWC § 13.2541 applies to this expedited release proceeding.

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<sup>1</sup> *Aqua Texas, Inc's Supplemental Response to Petition*, at 5-6 (Oct. 25, 2019).

**PUBLIC UTILITY COMMISSION OF  
TEXAS LEGAL DIVISION**

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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on December 18, 2019 in accordance with 16 TAC § 22.74.



Rashmin J. Asher