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PUBLIC UTILITY COMMISSION  
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FORMAL COMPLAINT OF  
RIO ANCHO HOMEOWNERS  
ASSOCIATION and DAVID AND  
DOREEN MEYERS AGAINST  
AQUA TEXAS, INC.

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§

PUBLIC UTILITY COMMISSION  
OF TEXAS

**COMPLAINANTS' RESPONSES TO AQUA TEXAS,  
INC.'S FIRST REQUESTS FOR INFORMATION**

TO: Aqua Texas, Inc., c/o Geoffrey P. Kirshbaum, Terrill & Waldrop, 810 W. 10<sup>th</sup> Street,  
Austin, Texas 78701

Complainants Francis T. Rossi, James Justin Pogue, Julie Browse, Kenneth W. Cline, Diana S. Cline, David Amador, Marshall Ault, Chester Jackson, Virginia Jackson, Eric Robinson, Bruce Brown, Sue Brow, David Meyers, Doreen Meyers, Rob Myers, Casey Cobb, Ashlie Cobb, Daniel Winans, Andrea Winans, Samuel Cox, Jaime Torres and Dustin Torres ("Complainants") timely submit these responses to Aqua Texas, Inc.'s ("Aqua Texas") First Requests for Information ("RFI"). Complainants received Aqua Texas's First RFI by email on April 9, 2021. Complainants stipulate that all parties may treat these answers as if they were filed under oath. Complainants reserve the right to object at the time of hearing to the admissibility of the information produced. Pursuant to SOAH Order No. 1 and the Commission's "Second Order Suspending Rules" in Docket No. 50812, these responses are being filed on the PUC Interchange and served by email.

Respectfully submitted,



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ATTORNEYS FOR COMPLAINANTS  
RIO ANCHO HOMEOWNERS ASSOCIATION  
AND THE INDIVIDUAL CUSTOMERS LISTED  
IN EXHIBIT 1 TO COMPLAINT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was served on counsel for Aqua Texas, Inc., as required by order or in accordance with 16 TEX. ADMIN. CODE § 22.74, on this 29<sup>th</sup> day of April 2021, as follows:

Phillip Lehmann  
Public Utility Commission of Texas  
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810 W. 10<sup>th</sup> Street  
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[gkirshbaum@terrillwaldrop.com](mailto:gkirshbaum@terrillwaldrop.com)



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Russell S. Johnson

**Aqua RFI 1-1**

Please provide the legal theories and, in general, the factual bases of your claims (without marshaling all evidence that may be offered at trial).

**RESPONSE:**

The complaint of David Meyers and all the residents of the Rio Ancho subdivision is that the water system owned and operated by Aqua Texas is inadequate to meet the known reasonable demand on the system. The system fails to meet the requirements of PUC Substantive Rule Section 24.205(1) which mandates that capacity above the minimum standards established by the rule is required to meet the reasonable local demand characteristics of the service area, including reasonable quantities of water for outdoor usage. The factual basis of this claim is that customers within the subdivision have experienced, and will continue to experience, repeated, chronic instances of extremely low water pressure and episodes of complete loss of service followed by a requirement to boil water before using it. These chronic conditions have occurred during periods of normal and anticipated local demand.

The residents also complain that Aqua Texas has imposed outdoor water use restrictions outlined in its drought contingency plan to minimize the failures caused by its inadequate system when drought conditions or declared drought do not exist.

Preparer: Russell S. Johnson  
Sponsor: Donald G. Rauschuber, P.E.  
Don Kevin Hay  
Denise Johnston  
David Meyers

**Aqua RFI 1-2**

Please provide the name, address, and telephone number of persons having knowledge of relevant facts and a brief statement of each identified person's connection with the case.

**RESPONSE:**

See the pre-filed direct testimony of Donald Rauschuber, David Meyers, Don Kevin Hay and Denise Johnston. All residents of the Rio Ancho subdivision have direct knowledge of the chronic low water pressure and loss of service issues experienced on the Aqua Texas water system over the last three years. Aqua Texas's records should reflect the names and addresses of all customers receiving water service from Aqua Texas.

Mr. Rauschuber's knowledge relates directly to the adequacy of the system to meet known demand.

Mr. Meyers and Mr. Hay are residents of the subdivision and customers of Aqua Texas. They will testify concerning service issues and imposed drought restrictions.

Ms. Johnston was the Community Manager hired by the homeowners association and had knowledge related to the issues related to unreliable water service and drought restrictions imposed by Aqua Texas.

Preparer: Russell S. Johnson  
Sponsor: Donald G. Rauschuber, P.E.  
Don Kevin Hay  
Denise Johnston  
David Meyers

**Aqua RFI 1-3**

Please provide a copy - or a description by category and location - of all documents, electronically stored information, and tangible things that you have in your possession, custody, or control, and that may be used to support your claims, unless the use would be solely for impeachment.

**RESPONSE:**

All documents, information and tangible things that may be used to support Complainants' position is attached to the pre-filed direct testimony of Complainants' witnesses. To the extent rebuttal or impeachment of witnesses requires additional documents, they will be disclosed.

Preparer: Russell S. Johnson  
Sponsor: Donald G. Rauschuber, P.E.  
Don Kevin Hay  
Denise Johnston  
David Meyers

**Aqua RFI 1-4**

Please provide the name, and if, not previously provided, the address, and telephone number of each witness you may present at trial other than solely for impeachment-separately identifying those you expect to present and those you may call if the need arises.

**RESPONSE:**

See the Complainants' pre-filed direct testimony and exhibits.

Preparer: Russell S. Johnson  
Sponsor: Donald G. Rauschuber, P.E.  
Don Kevin Hay  
Denise Johnston  
David Meyers

**Aqua RFI 1-5**

Please provide an identification of each document or other exhibits you may present at trial other than solely for impeachment, including summaries of other evidence-separately identifying those items you expect to offer and those you may offer if the need arises.

**RESPONSE:**

See the Complainant's pre-filed direct testimony and exhibits.

Preparer: Russell S. Johnson  
Sponsor: Donald G. Rauschuber, P.E.  
Don Kevin Hay  
Denise Johnston  
David Meyers



**Aqua RFI 1-6**

For any testifying expert, please provide the following:

- a. The expert's name, address, and telephone number.
- b. The subject matter on which the expert will testify.
- c. The general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to your control, documents reflecting such information.
- d. If the expert is retained by, employed by, or otherwise subject to your control:
  - i. All documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony;
  - ii. The expert's current resume and bibliography;
  - iii. The expert's qualifications, including a list of all publications authored in the previous 10 years;
  - iv. Except when the expert is your attorney and is testifying to attorney fees, a list of all other cases in which, during the previous four years, the expert testified as an expert at trial or by deposition; and
  - v. A statement of the compensation to be paid for the expert's study and testimony in the case.

**RESPONSE:**

See pre-filed direct testimony of Donald Rauschuber and exhibits attached thereto, as well as the pre-filed direct testimony and exhibits of Denise Johnston, Kevin Hay and David Meyers.

Preparer: Russell S. Johnson  
Sponsor: Donald G. Rauschuber, P.E.

**Aqua RFI 1-7**

During the events described in Exhibit 2 to your Second Amended Complaint, "Water Issues," was an Aqua Texas water-use restriction schedule in effect for the Rio Ancho subdivision?

**RESPONSE:**

To the best of Complainants' knowledge, the subdivision has been under drought contingency plan water use restrictions during all times since June 2019, with the exception of the other service issues experience in June 2020, when Stage 1 restrictions were in place. All other issues have occurred when Aqua Texas has imposed Stage 3 restrictions.

Preparer: Russell S. Johnson  
Sponsor: Don Kevin Hay  
Denise Johnston  
David Meyers

**Aqua RFI 1-8**

During the events described in Exhibit 2 to your Second Amended Complaint, titled "Water Issues," did you comply with an Aqua Texas water-use restriction schedule in effect for the Rio Ancho subdivision?

**RESPONSE:**

All residents of the subdivision are aware of the water use restrictions imposed by Aqua Texas and are generally compliant with these restrictions. The Rio Ancho Homeowners Association and the resident witnesses have no ability to either monitor compliance or enforce the restrictions.

Preparer: Russell S. Johnson  
Sponsor: Don Kevin Hay  
Denise Johnston  
David Meyers

**Aqua RFI 1-9**

During the events described in Exhibit 2 to your Second Amended Complaint, titled "Water Issues," did other Rio Ancho subdivision homeowners comply with an Aqua Texas water-use restriction schedule in effect for the Rio Ancho subdivision?

**RESPONSE:**

All residents of the subdivision are aware of the water use restrictions imposed by Aqua Texas and are generally compliant with these restrictions. The Rio Ancho Homeowners Association and the resident witnesses have no ability to either monitor compliance or enforce the restrictions.

Preparer: Russell S. Johnson  
Sponsor: Don Kevin Hay  
Denise Johnston  
David Meyers

**Aqua RFI 1-10**

During the events described in Exhibit 2 to your Second Amended Complaint, titled "Water Issues," if other Rio Ancho subdivision homeowners did not comply with an Aqua Texas water-use restriction schedule in effect for the Rio Ancho subdivision, please identify those homeowners and their service addresses, if known.

**RESPONSE:**

Complainants have no direct knowledge of non-compliance with water use restrictions imposed by Aqua Texas. Outdoor water use is confined to evening hours and neither the homeowners association nor individual residents monitor or enforce the restrictions imposed by Aqua Texas.

Preparer: Russell S. Johnson  
Sponsor: Don Kevin Hay  
Denise Johnston  
David Meyers

**Aqua RFI 1-11**

If you contend that during the events described in Exhibit 2 to your Second Amended Complaint, titled "Water Issues," any Aqua Texas water-use restriction schedule in effect for the Rio Ancho subdivision was unlawful, please state the basis for your contention.

**RESPONSE:**

Complainants have no way of determining critical tank storage levels as outlined in Aqua Texas's drought contingency plan. Complainants just know that Aqua Texas has imposed drought restrictions at all times relevant to this complaint without regard to whether the area is experiencing drought conditions. If tank levels justify imposing drought restrictions at all times, this demonstrates the inadequacy of the Aqua Texas system serving the Rio Ancho subdivision. Complainants' complaint is the drought restrictions imposed by Aqua Texas have not been implemented in response to conditions caused by drought, but rather to reduce demand to avoid making system improvements necessary to meet known reasonable demand during the late spring, summer and early fall time periods.

Preparer: Russell S. Johnson  
Sponsor: Don Kevin Hay  
Denise Johnston  
David Meyers

**Aqua RFI 1-12**

Did any of the events described in Exhibit 2 to your Second Amended Complaint, titled "Water Issues," occur at a time when an Aqua Texas water conservation schedule was not in effect for the Rio Ancho subdivision? If so, please identify those events.

**RESPONSE:**

To the best of complainants knowledge drought restrictions at some level have been continuously in place at all times since July 2018.

Preparer: Russell S. Johnson  
Sponsor: Don Kevin Hay  
Denise Johnston  
David Meyers

**Aqua RFI 1-13**

For the period between July 20, 2018 and July 20, 2020, what was the capacity needed to meet the reasonable local demand characteristics, including reasonable quantities of water for outside usage and livestock, for Aqua Texas customers in the Rio Ancho subdivision. Please provide the basis for your response.

**RESPONSE:**

See pre-filed direct testimony and exhibits of Don Rauschuber.

Preparer: Russell S. Johnson  
Sponsor: Donald G. Rauschuber, P.E.



**Aqua RFI 1-14**

For the period between July 20, 2018 and July 20, 2020, what was a reasonable level of water demand for customers in the Rio Ancho subdivision? Please provide the basis for your response.

**RESPONSE:**

The reasonable level of demand for customers in the Rio Ancho subdivision is the demand placed on the system during the hotter months of the year in 2018, 2019 and 2020, plus the demand that would be expected if drought restrictions were not in place.

Preparer: Russell S. Johnson  
Sponsor: Donald G. Rauschuber, P.E.

**Aqua RFI 1-15**

For the period between July 20, 2018 and July 20, 2020, what was an unreasonable level of water demand for customers in the Rio Ancho subdivision? Please provide the basis for your response.

**RESPONSE:**

Demand caused by use for a non-beneficial purpose or waste is unreasonable. Water use in excess of that required to keep outdoor landscaping healthy would be unreasonable.

Preparer: Russell S. Johnson  
Sponsor: Donald G. Rauschuber, P.E.

**Aqua RFI 1-16**

For the period between July 20, 2018 and July 20, 2020, what was the maximum reasonable level of water demand for customer outside water usage in the Rio Ancho subdivision? Please provide the basis for your response.

**RESPONSE:**

Maximum reasonable level of water demand in the subdivision is greater than total demand experienced by the system over the hotter months in the last three years, since drought restrictions have been in place during this entire period of time.

Preparer: Russell S. Johnson  
Sponsor: Donald G. Rauschuber, P.E.