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PUC PUBLIC UTILITY COMMISSION

FORMAL COMPLAINT OF RIO ANCHO HOMEOWNERS ASSOCIATION and DAVID AND DOREEN MEYERS AGAINST AQUA TEXAS, INC.	§ § § §	PUBLIC UTILITY COMMISSION  OF TEXAS
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**COMPLAINANTS' RESPONSE TO AQUA TEXAS, INC.'S OBJECTIONS AND  
MOTION TO STRIKE COMPLAINANTS' PRE-FILED TESTIMONY AND EXHIBITS**

Come now Complainants, and file their Response to Aqua Texas, Inc.'s ("Aqua")  
Objections and Motion to Strike Complainants' Pre-Filed Testimony and Exhibits.

**I. Objections to Pre-Filed Testimony and Exhibits of Donald G. Rauschuber**

**Objection 1:**

Mr. Rauschuber's testimony concerning continuous and adequate water service reflects his expert opinion concerning what is meant by these terms in the content of 16 TAC §§ 24.171 and 24.205. His testimony is consistent with these rules and simply explains that continuous, as used in the rules, means without interruption and that adequate water service, as used in 16 TAC § 205, means continuous access to water.

**Objection 2:**

The citation in the answer was incorrect. The appropriate citation is 16 Texas Administrative Code § 24.247. This testimony is directly relevant to the issues raised in this Complaint, given that the Rio Ancho Subdivision is not fully developed and new connections continue to be made.

**Objection 3:**

This testimony is admissible under the exception to the rule against hearsay testimony contained in Tex. R. Evid. 801(e)(2), as a statement against interest. This statement, made by an

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employee of Aqua, a party to this proceeding, meets the requirements for admissibility outlined in this rule. These statements are further admissible under Tex. R. Evid. 703, as information an expert in the area of water utility operation would reasonably rely on. Mr. Rauschuber was asked to examine the adequacy of water utility service to the Rio Ancho Subdivision. Discussions with representatives of the water utility concerning the operation of the system are the kind of information an expert in this area would customarily rely on.

**Objection 4:**

This testimony concerns statements made by an Aqua employee, which are clearly admissible under Tex. R. Evid. 801(e)(2), as statements against interest made by an employee with actual knowledge of the matters communicated to Mr. Rauschuber. These statements are further admissible under Tex. R. Evid. 703, as information an expert in the area of water utility operation would reasonably rely on. Mr. Rauschuber was asked to examine the adequacy of water utility service to the Rio Ancho Subdivision. Discussions with representatives of the water utility concerning the operation of the system are the kind of information an expert in this area would customarily rely on.

**Objection 5:**

Exhibit DGR-7 is a record of service issues reported by residents of the Rio Ancho Subdivision to the Community Manager at the time the events occurred. The testimony of Denise Johnston outlines how the information was collected and compiled and is the type of information an expert would normally rely upon in analyzing continuity of utility service. The information is directly relevant to the issues in this proceeding. This information is admissible under Tex. R. Evid. 703, as the type of information an expert in this area would normally review in analyzing the adequacy of water utility service to a particular service area. Mr. Rauschuber relied on the

business records maintained by the Rio Ancho Homeowners Association Community Manager concerning low water pressure and loss of service in reaching his conclusions.

**Objection 6:**

This exhibit reflects the results of Mr. Rauschuber's investigation into service inadequacies in the Aqua system serving the Rio Ancho Subdivision and reports the Aqua employee's conclusions concerning the cause of the service failures being investigated. These statements are further admissible under Tex. R. Evid. 703, as information an expert in the area of water utility operation would reasonably rely on. Mr. Rauschuber was asked to examine the adequacy of water utility service to the Rio Ancho Subdivision. Discussions with representatives of the water utility concerning the operation of the system are the kind of information an expert in this area would customarily rely on.

**II. Objections to Pre-Filed Testimony and Exhibits of David Meyers**

**Objection 1:**

David Meyers serves as the homeowners association President. The homeowners association hired Spectrum Association Management ("Spectrum") to manage the homeowners association. The homeowners association directed the person designated by Spectrum to maintain a record of homeowner complaints related to inadequate water service by Aqua. Exhibit DGR-7, verified by Denise Johnston is the record of these reports. These reports are directly relevant to the issues in this proceeding. Aqua's argument essentially is that every report of a service issue by a customer could only be presented by the actual customer experiencing the issue. Given the frequency and extent of the service failures, this argument would needlessly require testimony of dozens of homeowners concerning multiple instances of service failures.

**Objection 2:**

See response to Objection 1.

**Objection 3:**

A landowner may testify as to their opinion on the value of property they own. The property owner rule has long been recognized as an exception to the rule barring opinion testimony from lay witnesses. The question and answer are directly relevant to the issue of adequacy of Aqua service to the Rio Ancho Subdivision.

**III. Objections to Pre-Filed Testimony and Exhibits of Kevin Hay**

**Objection 1:**

As outlined in the response to Objection 3 to the testimony of David Meyers, this testimony by the property owner concerning the value of the property they own is admissible under the property owners rule, as is the information they relied on when reaching their opinion.

**IV. Objections to Pre-Filed Testimony and Exhibits of Denise Johnston**

**Objection 1:**

Denise Johnston, the Community Manager responsible for the Rio Ancho Homeowners Association, compiled the information contained in DGR-7 in the course and scope of her duties based upon her personal knowledge of reports by homeowners of service issues with Aqua's water service. In order to document these issues, residents were asked to report problems to the Community Manager who then compiled this summary.

There is no issue with the reliability of this information, since it was compiled by Ms. Johnston specifically for the purpose of summarizing the experiences of the homeowners in the subdivision and is the kind of information upon which an expert, such as Mr. Rauschuber, would typically rely.

**Objection 2:**

Ms. Johnston's experience in managing homeowners associations and comparing that experience to her experience managing the Rio Ancho Homeowners Association is directly relevant to the issues in this proceeding related to adequacy of water utility service.

**V. CONCLUSION**

Aqua's Objections and Motion to Strike Complainants Pre-Filed Testimony and Exhibits should be denied for the reasons outlined. Their objections are consistent with Aqua's pattern of denial and avoidance of their utility responsibilities and their consistent refusal to address the system's inability to meet their responsibility to provide continuous and adequate service.

Respectfully submitted,



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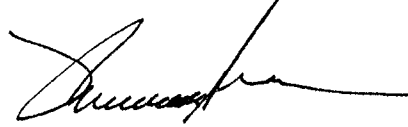
ATTORNEYS FOR COMPLAINANTS  
RIO ANCHO HOMEOWNERS ASSOCIATION

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 14<sup>th</sup> day of May 2021, as follows:

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