



Control Number: 51091



Item Number: 87

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Executive Director

2022 APR 14 PM 1:03

Public Utility Commission of Texas
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TO: Central Records

FROM: Office of Policy and Docket Management

DATE: April 14, 2022

RE: Correspondence related to Docket No. 51091, Complaint of Certain Members of Rio Ancho Homeowner Association Against Aqua Texas, Inc.

Chairman Lake received the attached correspondence pertaining to the above-styled docket.

Please note that a member or employee of a state agency assigned to render a decision in a contested case may not directly or indirectly communicate in connection with an issue of fact or law with any state agency, person, party, or representative of those entities, except on notice and opportunity for each party to participate. See Administrative Procedures Act, Texas Government Code § 2001.061.

cc: All Parties

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April 14, 2022

Mr. Peter Lake
Chairman
Public Utility Commission of Texas
P.O. Box 13326
Austin, TX 78711-3326

RE: PUC Docket No. 51091, ***Complaint of Certain Members of Rio Ancho Homeowners Association against Aqua Texas, Inc.***

Dear Chairman Lake,

On January 7, 2022 the State Office of Administration Hearings (SOAH), issued a Proposal for Decision regarding the aforementioned complaint filed by Rio Ancho Homeowners (Complainants) against Aqua Texas, Inc. (Aqua). Texas Farm Bureau (TFB) wishes to offer our opinion on this complaint and the Proposal for Decision due to the implications on water use and conservation planning across all water use sectors.

TFB is a grassroots membership organization representing more than 535,000 member families in Texas. Our mission is to support the health and well-being of all Texans through the promotion of a prosperous agricultural sector, capable of producing a long-term, domestic source of food, fuel, and fiber. Water availability is essential to this mission. As such, our organization closely monitors water policy and related issues.

After reviewing the facts of this complaint and the arguments made by both parties in SOAH proceedings as presented in the Proposal for Decision, several issues are clear.

- Despite having adequate system capacity to satisfy normal household water need (as per TCEQ minimum standards) for the Rio Ancho subdivision, Aqua was not able to meet peak demand - resulting in service interruptions and low system pressure for multiple customers.
- Aqua noted in its filings that peak demand (and subsequent interruptions in service) was caused by excessive outdoor watering. Aqua also noted that this high demand could have likely been prevented with the installation of flow restrictors for each meter and/or establishment of an aggressive, graduated water pricing structure.

Instead of implementing either of these measures, Aqua elected to impose a voluntary drought contingency plan (DCP) which did very little to curb usage.

- Complainants have insisted that (a) the inability of Aqua to meet peak demand is evidence that the water system's capacity is inadequate; and (b) that Aqua did not follow proper protocols in implementing a DCP.

The Complainants later withdrew their petition on inadequate capacity due to the PUC lacking jurisdiction.

- The Administration Law Judge (ALJ) found that under Texas Commission on Environmental Quality rules, a DCP could be implemented temporarily during times of "extraordinary high use" - which the ALJ found to be the case in this situation.

Furthermore, Aqua seems to have resolved issues with interruptions of service.

In Texas, water is a finite resource. As our population continues to grow it will become increasingly important to find ways to become more efficient water users in order to share this essential resource. Its for this reason that the Texas Legislature established the State Water Planning process and has prioritized conservation planning and assistance.

During summer months, Rio Ancho Homeowners have consistently used twice as much water as comparable households in Aqua's regional service area. Despite this fact, Complainants alleged that Aqua *"failed to supply sufficient capacity to meet the reasonable local demand of the Rio Ancho subdivision and improperly imposed water use restrictions under its drought contingency plan."*

Key Policy Concerns:

- *"Sufficient capacity to meet the reasonable local demand"* is highly subjective and should not be used to force small water systems to unnecessarily expand capacity when the current system can provide ample water for normal use. The policy of the state should be to maximize available water sources and minimize unnecessary use and waste.
- Rate structures may need to be evaluated on a system basis, even within an aggregated region, to ensure that rates actively promote conservation and discourage overuse.
- The State's Regional Water Planning Groups are targeting water conservation strategies to meet future water supply needs, in addition to expanding reservoir capacity. Rule and statutes may need to be evaluated to ensure that identified conservation strategies are not seen as a failure to expand capacity to meet water supply needs.

Ultimately, TFB agrees with the ALJ's Finding of Facts and Conclusions of Law, as well as the Proposed Ordering Paragraph. As such, we encourage the Commission to accept the Proposal for Decision, as written.

Thank you for your time and consideration on this matter.

Sincerely,



Jay Bragg
Associate Director, Commodity and Regulatory Activities