



Control Number: 51492



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DOCKET NO. 51492

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PETITION OF DENTON 114 LP TO §  
AMEND AQUA TEXAS, INC.'S §  
CERTIFICATE OF CONVENIENCE AND §  
NECESSITY IN DENTON COUNTY BY §  
EXPEDITED RELEASE §

PUBLIC UTILITY COMMISSION  
FILING CLERK  
OF TEXAS

### COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and in response to Order No. 2, files this Recommendation on Final Disposition. Staff recommends that the petition be approved. In support thereof, Staff shows the following:

#### I. BACKGROUND

On November 16, 2020 Denton 114 LP (Denton 114) filed a petition to amend Aqua Texas, Inc.'s (Aqua) water certificate of convenience and necessity (CCN) in Denton County by streamlined expedited release. Denton 114 seeks the expedited release of its approximately 90.5-acre tract that lies (the Property) within the boundaries of Aqua's water CCN number 13201, under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h). Denton 114 asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Denton County, which is a qualifying county. On December 8, 2020, Aqua filed a motion to intervene. Denton 114 supplemented the petition on December 17, 2020.

On December 8, 2020, the administrative law judge filed Order No. 2, finding the petition administratively complete, notice sufficient, and requiring Staff to file its Recommendation on Final Disposition by January 11, 2021. Therefore, this pleading is timely filed.

#### II. STATUTORY APPROVAL DEADLINE

Under TWC § 13.2541(c), the Commission shall grant the petition for streamlined expedited release not later than the 60<sup>th</sup> day after the date the landowner files the petition. A

petition is not considered filed until it is deemed administratively complete.<sup>1</sup> Denton 114's petition was deemed administratively complete in Order No. 2, filed on December 8, 2020. Therefore, the 60-day deadline for administrative approval in February 8, 2021.

### **III. FINAL RECOMMENDATION**

Staff has reviewed the petition filed by Denton 114 and, as detailed in the attached memorandum from Patricia Garcia, Infrastructure Division, recommends that the petition be approved. Staff recommends that Denton 114's petition satisfies the requirements of TWC § 13.2541 and 16 TAC § 24.245(h). Specifically, the petition demonstrates that the Property is located in a qualifying county (Denton County), is at least 25 acres in size, is not receiving water service, and is located within Aqua's water certificated service area. In addition, Denton 114 has provided a warranty deed confirming its ownership of the Property. Denton 114's petition includes an affidavit Julian Hawes, Jr., the President of Provident Realty Advisors stating that the Property "is not receiving water or sewer service from Aqua Texas, Inc. Denton 114 [], has not requested water or sewer service from Aqua Texas, Inc. . . ."<sup>2</sup>

On December 8, 2020, Aqua filed a motion to intervene.<sup>3</sup> On December 30, 2020, Aqua filed a supplement response to Denton 114's petition stating that "[a]ctually delivering water to a water is plainly 'service,' but a property can also receive water or sewer service under the statute without a utility delivering 'actual water' onto a property."<sup>4</sup> To that end, Aqua states that the Property "receives water service from Aqua through its commitments to, and its existing facilities and capacity proximate to the Property."<sup>5</sup>

However, in Docket No. 50787, the Commission granted the petition of Tyler Oak Creek Development from the CCN holder's service area where tract of land was not receiving actual sewer service from the CCN holder and the CCN holder had facilities near the tract of land but

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<sup>1</sup> 16 TAC § 24.8(d) states that applications under subchapter H of chapter 24 are not considered filed until the commission makes a determination that the application is administratively complete, which includes streamlined expedited releases under 16 TAC § 24.245(h).

<sup>2</sup> Petition by Denton 114 LP for Streamlined Expedited Release Pursuant to Texas Water Code Section 13.2541 at bates 6, Exhibit A (Nov. 6, 2020).

<sup>3</sup> Aqua's Motion to Intervene and Request for Response Deadline (Dec. 8, 2020).

<sup>4</sup> Aqua's Supplemental Response to Petition of Denton 114 LP for Streamlined Expedited Release at 2 (Dec. 30, 2020).

<sup>5</sup> *Id* at 3.

had not committed or dedicated any facilities or lines to the tract of land.<sup>6</sup> Staff has also reviewed the mapping information submitted by Aqua and finds no facilities located adjacent to the area.

Accordingly, Staff recommends that Denton 114's petition for streamlined expedited release be approved. The final water CCN map and certificate are attached to this filing. Staff additionally recommends that the final map and certificate be provided to Aqua and that Aqua file a certificated copy of the CCN map and boundary description of the CCN service area in the Denton County Clerk's office as required under TWC § 13.256(r)-(s).

#### **IV. CONCLUSION**

Staff respectfully requests that Denton 114's petition be approved and that an order be issued consistent with the foregoing recommendations.

Date: January 11, 2021

#### **PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION**

Rachelle Nicolette Robles  
Division Director

Rashmin J. Asher  
Managing Attorney

/s/ M. Justin Ackley  
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<sup>6</sup> *Petition of Tyler Oak Creek Development, LLC to Amend Liberty Utilities (Tall Timbers Sewer) Corp 's Certificate of Convenience and Necessity in Smith County by Expedited Release*, Docket No 50787, Findings of Fact 22-29 (Dec. 17, 2020).

**DOCKET NO. 51492**

**CERTIFICATE OF SERVICE**

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on January 11, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ M. Justin Ackley  
M. Justin Ackley

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** M. Justin Ackley, Attorney  
Legal Division

**FROM:** Patricia Garcia, Senior Engineering Specialist  
Infrastructure Division

**DATE:** January 11, 2021

**RE:** **Docket No. 51492** – *Petition of Denton 114 LP to Amend Aqua Texas Inc.'s Certificate of Convenience and Necessity in Denton County by Expedited Release*

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Denton 114 LP (Denton 114) filed an application for streamlined expedited release from Aqua Texas, Inc.'s (Aqua Texas) water certificate of convenience and necessity (CCN) No. 13201 in Denton County, under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h). Denton 114 asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Denton County, which is a qualifying county.

Denton 114 submitted adequate maps delineating the requested area for expedited release with enough detail to confirm the accurate positioning of its digital data under 16 TAC § 24.245(k). The map and digital data are sufficient for determining the location of the requested release area within Aqua Texas's certificated area. Tracy Montes, Infrastructure Division, was able to confirm the acreage of the subject property and determined that the requested area is located within Aqua Texas's water CCN. Furthermore, Denton 114 provided a warranty deed confirming ownership of the tract of land within Aqua Texas's certificated area. In addition, Denton 114 submitted a sworn affidavit attesting that the property was not receiving water service from the CCN holder. The area being requested for expedited release is approximately 90.5 acres.

Aqua Texas requested to intervene in the docket.

In accordance with TWC § 13.2541 and 16 TAC § 24.245(h), Denton 114 has met the Commission's requirements to allow for the release of the requested area from Aqua Texas's CCN No. 13201. Therefore, I recommend approval of the petition. Enclosed is a final map and certificate for Commission approval.

Additionally, I recommend that a final map and certificate be provided to the CCN holder.



Aqua Texas, Inc.  
Portion of Water CCN No. 13201  
PUC Docket No. 51492  
Petition by Denton 114 LP to Amend  
Aqua Texas, Inc.'s CCN by Expedited Release in Denton County

CCN  
13201

Area Released

Denton 114 LP Property Boundary

SH 114

CCN  
12311



Public Utility Commission of Texas  
1701 N. Congress Ave  
Austin, TX 78701

**Water CCN**



13201 - Aqua Texas Inc



12311 - City of Fort Worth



Area Released



Property Boundary

0 225 450  
Feet



Map by: Komal Patel  
Date created: December 28, 2020  
Project Path: n:\finalmapping\  
51492AquaTexas.mxd



# **Public Utility Commission of Texas**

**By These Presents Be It Known To All That**

**Aqua Texas, Inc.**

having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Aqua Texas, Inc. is entitled to this

## **Certificate of Convenience and Necessity No. 13201**

to provide continuous and adequate water utility service to that service area or those service areas in Anderson, Bosque, Camp, Cherokee, Collin, Cooke, Denton, Erath, Grayson, Gregg, Henderson, Hood, Hunt, Johnson, Kaufman, Marion, McLennan, Parker, Smith, Somervell, Tarrant, Wise, and Wood Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 51492 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the Aqua Texas, Inc. to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this \_\_\_\_ 11 \_\_\_\_ day of \_\_\_\_ January \_\_\_\_ 2021 \_\_\_\_.