



## Filing Receipt

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**DOCKET NO. 51738**

<b>PETITION OF SANCTUARY TEXAS,</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>LLC TO AMEND AQUA TEXAS, INC.’S</b>	<b>§</b>	
<b>CERTIFICATE OF CONVENIENCE</b>	<b>§</b>	<b>OF TEXAS</b>
<b>AND NECESSITY IN DENTON</b>	<b>§</b>	
<b>COUNTY BY EXPEDITED RELEASE</b>	<b>§</b>	

**COMMISSION STAFF’S MOTION TO AMEND PROCEDURAL SCHEDULE**

On January 20, 2021, Sanctuary Texas, LLC (Sanctuary) filed a petition for streamlined expedited release of approximately 69.113 acres of land within the boundaries of Aqua Texas, Inc.’s (Aqua Texas) water certificate of convenience and necessity (CCN) number 13201 in Denton County, Texas under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h).

On July 30, 2021, the Commission filed an order in this docket granting the expedited release. However, on August 6, 2021, Aqua Texas timely filed a motion for reconsideration. On August 19, 2021, the Commission filed an order extending time to act on what it characterized as a motion for rehearing to the maximum extent allowed under Texas Government Code § 2001.146(e).

**I. BACKGROUND**

**a. Relevant Law**

16 TAC § 22.123(b)(2) provides, “...A motion for reconsideration of an interim order issued by the commission shall be filed within five working days of the issuance of the written interim order...”<sup>1</sup> 16 TAC § 22.123(b)(6)(A) provides, “if after five working days of the filing of a motion no commissioner has, by agenda ballot, placed the motion on the agenda for an open meeting, the motion is deemed denied.”<sup>2</sup> Texas Government Code § 2001.146(e) provides:

“A state agency or a person authorized to act for the agency may, on its own initiative or on the motion of any party for cause shown, by written order extend the time for filing a motion or reply or taking agency action under this section, provided that the agency or person extends the time or takes the action not later than the 10th day after the date the period for filing a motion or reply or taking

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<sup>1</sup> 16 Tex. Admin. Code (TAC) § 22.123(b)(2).

<sup>2</sup> 16 TAC § 22.123(b)(6)(A).

agency action expires. An extension may not extend the period for agency action beyond the 100th day after the date the decision or order that is the subject of the motion is signed.”<sup>3</sup>

Texas Government Code § 2001.146(f) further provides:

“In the event of an extension, a motion for rehearing is overruled by operation of law on the date fixed by the order or, in the absence of a fixed date, the 100th day after the date the decision or order that is the subject of the motion is signed.”<sup>4</sup>

## **b. Analysis**

On April 19, 2021, the administrative law judge (ALJ) filed Order No. 3, requiring the petitioner and CCN Holder to select an agreed-upon appraiser within 10 days after the Commission approves expedited release, or in the event agreement on an appraiser could not be reached, requiring the Petitioner and the CCN holder to file appraisal reports within 70 days after the Commission approved the expedited release. The Commission filed an order approving expedited release on July 30, 2021. However, on August 6, 2021, Aqua Texas timely filed its motion for reconsideration pursuant to TAC 22.123(b)(2). On August 19, 2021, the Commission filed an order extending the time to act on what it characterized as a motion for rehearing to the maximum extent allowed under Texas Government Code 2001.146(e), which is 100 days. On September 14, 2021, the Office of Policy and Docket Management filed a memorandum, which stated that no Commissioner had voted to add the motion for rehearing to an open meeting agenda.

The Commission’s order approving expedited release was filed on July 30, 2021. The one hundredth day after the date of that decision is November 7, 2021. Therefore, Aqua Texas’s motion for rehearing will be overruled by operation of law on November 7, 2021. Staff (Staff) for the Public Utility Commission of Texas (Commission) recommends that a new procedural schedule be adopted to account for the pertinent statutes and their timelines.

## **II. PROPOSED PROCEDURAL SCHEDULE**

Assuming an effective date of November 7, 2021 for the Commission’s order granting streamlined expedited release, Staff proposes the following procedural schedule:

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<sup>3</sup> Tex. Gov’t Code Ann. § 2001.146(e) (Apr. 14 2021)

<sup>4</sup> Texas Government Code § 2001.146(f) (Apr. 14 2021)

<b><i>In the event the petitioner and the CCN holder can select an agreed-upon appraiser</i></b>	
Expedited release granted	November 7, 2021
Deadline for petitioner and CCN holder to select an agreed-upon appraiser	November 17, 2021 (10 days after the expedited release is granted)
Deadline for appraiser's report	January 16, 2021 (70 days after the expedited release is granted)
Deadline for Commission's final order determining the amount of monetary compensation, if any, owed by petitioner to CCN holder	Within 60 days after the appraiser's report.
Deadline for petitioner to pay any compensation due to CCN holder	Within 90 days of the Commission's final order on compensation
<b><i>In the event petitioner and CCN holder are unable to select an agreed-upon appraiser</i></b>	
Expedited release granted	November 7, 2021
Deadline for reports from petitioner's appraiser and from CCN holder's appraiser	January 16, 2021 (70 days after the expedited release is granted)
Deadline for Commission Staff's appraiser's report	February 15, 2021 (100 days after the expedited release is granted)
Deadline for Commission's final order determining the amount of monetary compensation, if any, owed by petitioner to CCN holder	Within 60 days after the Commission receives the final appraisal
Deadline for petitioner to pay any compensation due to CCN holder	Within 90 days of the Commission's final order on compensation

### **III. CONCLUSION**

Staff respectfully requests an order adopting the proposed procedural schedule.

Dated: October 13, 2021

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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**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 October 13, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/S/ Phillip Lehmann  
Phillip Lehmann