



Control Number: 52004



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**DOCKET NO. 52004**

**PETITION OF D.P.S.F.L.P. LTD TO  
AMEND AQUA TEXAS, INC.'S  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY IN MONTGOMERY  
COUNTY BY EXPEDITED RELEASE**

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**PUBLIC UTILITY COMMISSION**

**OF TEXAS**

2021 MAY 10 AM 10:09

**COMMISSION STAFF'S COMMENTS ON ADMINISTRATIVE COMPLETENESS,  
NOTICE, AND PROPOSED PROCEDURAL SCHEDULE**

On April 9, 2021, D.P.S.F.L.P. Ltd. (DPSFLP) filed a petition to amend Aqua Texas, Inc.'s (Aqua Texas) water certificate of convenience and necessity (CCN) in Montgomery County by streamlined expedited release. DPSFLP seeks the expedited release of the 303-acre portion of a tract totaling 343 acres that lies within Aqua Texas's CCN number 13203.

On April 12, 2021, the administrative law judge (ALJ) filed Order No. 1, directing the Staff (Staff) of the Public Utility Commission of Texas to file a recommendation on sufficiency of the petition and notice by May 10, 2021. Therefore, this pleading is timely filed.

**I. ADMINISTRATIVE COMPLETENESS**

As detailed in the attached memorandum from Patricia Garcia, Infrastructure Division, Staff has reviewed DPSFLP's petition and the supplemental items filed by DPSFLP on April 29, 2021, and recommends that it be found sufficient.

**II. NOTICE**

Under 16 Texas Administrative Code (TAC) § 24.245(h)(3)(F), the landowner must provide proof that a copy of the petition has been mailed to the current CCN holder via certified mail on the day that the landowner submits the petition with the Commission. In its filing on May 6, 2021, Aqua Texas asserted that it has not received a copy of the petition. The petition states that "[a] copy of the petition was sent to Aqua Texas by certified mail on the same day that the petition was submitted to the PUC."<sup>1</sup> In reviewing DPSFLP's petition materials, there is no documentation supporting proof of notice, such as, a sworn affidavit or a tracking number from a certified mail receipt. Therefore, Staff recommends that the notice provided by DPSFLP be deemed deficient.

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<sup>1</sup> Petition at 1 (Apr. 9, 2021).

Because the deadline for the Commission to render a decision on the petition is 60 days from the date the petition is found administratively complete,<sup>2</sup> Staff recommends that the petition be found administratively incomplete and not accepted as filed at this time.

### **III. PROCEDURAL SCHEDULE**

Since Staff recommends that the petition be found administratively incomplete, Staff proposes the following procedural schedule:

| <b>Event</b>  | <b>Date</b>  |
|---|--------------|
| <i>Deadline for DPSFLP to file proof that Aqua Texas was provided notice of the petition.</i>               | May 20, 2021 |
| <i>Deadline for Staff's supplemental recommendation on administrative completeness and proposed notice.</i> | May 31, 2021 |

### **IV. CONCLUSION**

For the reasons detailed above, Staff respectfully recommends that DPSFLP's petition and notice be found administratively incomplete and not accepted as filed at this time, and that the proposed procedural schedule be adopted.

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<sup>2</sup> 16 TAC § 24.245(h)(7).

Dated: May 10, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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/s/ Kevin R. Bartz

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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 May 10, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Kevin R. Bartz

Kevin R. Bartz

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Kevin Bartz, Attorney  
Legal Division

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

**DATE:** May 7, 2021

**RE:** Docket No. 52004 – *Petition of D.P.S.F.L.P. Ltd to Amend Aqua Texas, Inc.'s Certificate of Convenience and Necessity in Montgomery County by Expedited Release*

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On April 9, 2021, D.P.S.F.L.P. Ltd. (DPSFLP) filed a petition for streamlined expedited release from Aqua Texas, Inc.'s (Aqua Texas) water certificate of convenience and necessity (CCN) No. 13203 in Montgomery County, under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h). DPSFLP asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Montgomery County, which is a qualifying county.

DPSFLP submitted a sworn affidavit attesting that the property was not receiving water service from Aqua Texas and a warranty deed confirming DPSFLP's ownership of the tract of land. In addition, DPSFLP submitted sufficient maps and digital data for determining the location of the requested release area within Aqua Texas's certificated service area. The total property is approximately 343 acres. The requested area to be released from Aqua Texas's CCN No. 13203 is approximately 303 acres.

On May 6, 2021, Aqua Texas submitted a filing indicating that it has not received notice of the petition from DPSFLP.

Based on the mapping review by Gary Horton, and my technical and managerial review of the information provided by DPSFLP and Aqua Texas, I recommend the petition be deemed administratively complete and that the notice be found insufficient.