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DOCKET NO. 52172

APPLICATION OF AQUA TEXAS, INC. TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY IN COLLIN COUNTY	§ § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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**AGREED MOTION TO ADMIT EVIDENCE
AND PROPOSED NOTICE OF APPROVAL**

On May 27, 2021, Aqua Texas, Inc. (Aqua Texas) filed an application to amend its certificate of convenience and necessity (CCN) in Collin County. Aqua Texas holds water CCN No. 13201. The requested service area consists of 138 acres, zero existing connections, and 924 proposed connections. Aqua Texas filed supplemental information on June 23, 2021.

On August 26, 2021, the administrative law judge (ALJ) filed Order No. 4, establishing a deadline of October 27, 2021 for the parties to file joint proposed findings of fact and conclusions of law. Therefore, this pleading is timely filed.

I. MOTION TO ADMIT EVIDENCE

The parties respectfully request that the following documents be admitted into evidence in this proceeding:

- a. Aqua Texas's application and attachments, filed on May 27, 2021 (Interchange Item No. 1);
- b. Aqua Texas's supplemental filing (Docket No. 52172), filed on June 23, 2021 (Interchange Item No. 3);
- c. Commission Staff's recommendation on administrative completeness and proposed notice, filed on June 28, 2021 (Interchange Item No. 4);
- d. Aqua Texas's confirmation of mailed notice pursuant to ALJ's Order No. 2, filed on July 1, 2021 (Interchange Item No. 6);
- e. Aqua Texas's confirmation of mailed notice pursuant to ALJ's Order No. 2, filed on July 27, 2021 (Interchange Item No. 7);
- f. Commission Staff's recommendation on sufficiency of notice, filed on August 23, 2021 (Interchange Item No. 8);

- g. Aqua Texas's notice of consent filing w-exhibit 1 consent form, etc., filed on October 13, 2021 (Interchange Item No. 12); and
- h. Commission Staff's final recommendation,¹ including attachments, filed on October 19, 2021 (Interchange Item No. 13).

II. PROPOSED NOTICE OF APPROVAL

The parties have agreed on the attached Proposed Notice of Approval, which would grant Aqua Texas's application to amend water CCN No. 13201. The parties request that the Commission adopt the findings of fact, conclusions of law, and ordering paragraphs from the Notice of Approval.

III. CONCLUSION

The parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the attached Proposed Notice of Approval be adopted.

¹ This pleading was inadvertently titled "Commission Staff's Request to Amend the Procedural Schedule."

Dated: October 27, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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DOCKET NO. 52172

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 on October 27, 2021 in accordance with the Order Suspending Rules filed in Project No. 50664.

/s/ Merritt Lander
Merritt Lander

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PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of Aqua Texas, Inc. to amend its certificate of convenience and necessity (CCN) number 13201 in Collin County. The Commission amends Aqua Texas's water CCN number 13201 to include the requested area to the extent provided in this Notice of Approval.

I. Findings of Fact

The Commission makes the following findings of fact:

Applicant

1. Aqua Texas is a domestic for-profit corporation registered with the Texas secretary of state under file number 800304878.
2. Aqua Texas is a wholly owned subsidiary of Essential Utilities, Inc.
3. Aqua Texas owns and operates various water systems for its geographic North operating region (N Region) under CCN number 13201.
4. Aqua Texas owns and operates various public water systems registered with the Texas Commission on Environmental Quality (TCEQ), including the North Custer Road Plant system registered under identification number 0430077.

Application

5. On May 27, 2021, Aqua Texas filed an application to amend its water CCN number 13201 in Collin County.
6. On June 23, 2021, Aqua Texas filed a supplement to the application.
7. Aqua Texas's application, as supplemented, seeks to amend its water CCN number 13201 to add approximately 138 acres, with zero existing connections and 924 proposed connections, to its certificated service area.

8. The requested area is located approximately 7 miles west-northwest of downtown McKinney, Texas, and is generally bounded on the north by CR 123; on the east by CR 124; on the south by Wilson Creek; and on the west by N. Custer Road.
9. In Order No. 2 filed on June 28, 2021, the administrative law judge (ALJ) found the application, as supplemented, administratively complete.

Notice

10. On July 1, 2021, Aqua Texas filed the affidavit of Temple Noble, legal assistant at McCarthy & McCarthy, LLP, attesting that notice was mailed to neighboring utilities, county authorities, municipalities, and affected parties on June 30 and July 1, 2021.
11. On July 27, 2021, Aqua Texas filed a publisher's affidavit attesting to the publication of notice in the *McKinney Courier Gazette*, a newspaper of general circulation in Collin County, on July 4 and 11, 2021.
12. In Order No. 3 filed on August 23, 2021, the ALJ found the notice sufficient.

Map, Certificate, and Tariff

13. On September 29, 2021, Commission Staff emailed its proposed final map, certificate, and tariff to Aqua Texas.
14. On October 13, 2021, Aqua Texas filed its consent to the proposed final map, certificate, and tariff.
15. On October 19, 2021, Commission Staff filed the final map, certificate, and tariff as attachments to its final recommendation.

Evidentiary Record

16. On October 27, 2021, Commission Staff filed an agreed motion to admit evidence and proposed notice of approval.
17. In Order No. ____ filed on _____, 2021, the ALJ admitted the following evidence into the record for this proceeding: (a) Aqua Texas's application and attachments, filed on May 27, 2021; (b) Aqua Texas's supplemental filing (Docket No. 52172), filed on June 23, 2021; (c) Commission Staff's recommendation on administrative completeness and proposed notice, filed on June 28, 2021; (d) Aqua Texas's confirmation of mailed notice pursuant to ALJ's Order No. 2, filed on July 1, 2021; (e) Aqua Texas's confirmation of published notice pursuant to ALJ's Order No. 2, filed on July 27, 2021; (f) Commission Staff's recommendation on sufficiency of notice, filed

on August 23, 2021; (g) Aqua Texas's notice of consent filing w-exhibit 1 consent form, etc., filed on October 13, 2021; and (h) Commission Staff's final recommendation, including attachments, filed on October 19, 2021.

Adequacy of Existing Service

18. No entity currently provides retail water service to the requested area.
19. Aqua Texas has several TCEQ-approved public water systems.
20. The public water system that will provide service to the requested area is registered under public water system identification number 0430077.
21. The Commission's complaint records, which go back to 2014, show 752 complaints against Aqua Texas.

Need for Service

22. A developer requested Aqua Texas to provide water service to the requested area for a proposed residential subdivision with over 900 potential connections.

Effect of Granting the Certificate

23. Granting the CCN amendment will obligate Aqua Texas to provide service to future customers in the requested area and such service must be continuous and adequate.
24. All landowners with a tract of land of 25 acres or more that are located within the requested area received notice and did not file comments or a request to opt out.
25. All retail public utilities in the proximate area were provided notice of the CCN amendment requested in this proceeding and none requested to intervene.
26. There will be no effect on any retail public utility servicing the proximate area.

Ability to Serve: Managerial and Technical

27. Aqua Texas will extend water service to the proposed development using public water system number 0430077.
28. The Commission's complaint records, which go back to 2014, show 752 complaints against Aqua Texas.
29. Aqua Texas has access to an adequate supply of water and is capable of providing water that meets the requirements of chapter 341 of the Texas Health and Safety Code, chapter 13 of the Texas Water Code (TWC), and the TCEQ's rules.
30. Aqua Texas employs a TCEQ-licensed operator who is responsible for operating and maintaining public water system number 0430077.

31. Aqua Texas has the managerial and technical capability to provide continuous and adequate service to the requested area.

Feasibility of Obtaining Service from Adjacent Utilities

32. The developer of the proposed subdivision requested water service from Aqua Texas.
33. Neighboring utilities, the City of McKinney and the City of Prosper, do not have facilities near the requested area to provide the required water service.
34. TCEQ has approved plans for the North Custer Road Plant public water system registered under identification number 0430077 to serve future customers in the requested area and has verified that the water plant built to serve the area will have sufficient capacity
35. It is not feasible to obtain service from an adjacent retail public utility.

Ability to Serve: Financial Ability and Stability

36. Aqua Texas's affiliate, Essential Utilities, Inc., has a debt-to-equity ratio that is less than 1.0, satisfying the leverage test.
37. Aqua Texas, through its affiliate, Essential Utilities, Inc., demonstrated that it has sufficient cash on hand to cover any projected operations and maintenance shortages during the first five years of operations after approval of the CCN amendment, satisfying the operations test.
38. Aqua Texas has demonstrated the financial ability and stability to provide continuous and adequate service to the requested area.

Financial Assurance

39. There is no need to require Aqua Texas to provide a bond or other financial assurance to ensure continuous and adequate service.

Environmental Integrity and Effect on the Land

40. There will be minimal effects on environmental integrity and on the land as waterlines are extended to provide service to customers in the requested area.
41. The land and environmental integrity of the requested area will not be affected to such a degree that the application should not be granted.

Improvement in Service or Lowering of Cost

42. Water service to the requested area will improve because Aqua Texas will be obligated to provide service to future customers in the requested area.

43. Aqua Texas will provide water service to the future customers in the requested area with the same level of service and at the same rates it currently charges.

Regionalization or Consolidation

44. Construction of a physically separate water system is needed to serve the requested area.
45. Neither of the neighboring utilities, the City of McKinney and the City of Prosper, have facilities near the requested area to provide the required water service.
46. Therefore, neither regionalization or consolidation is feasible.

Informal Disposition

47. More than 15 days have passed since the completion of notice provided in this docket.
48. No person filed a protest or motion to intervene.
49. Commission Staff and Aqua Texas are the only parties to this proceeding.
50. No party requested a hearing and no hearing is needed.
51. The decision is not adverse to any party.

II. Conclusion of Law

The Commission makes the following conclusions of law:

1. The Commission has authority over this proceeding under TWC §§ 13.041, 13.241, 13.242, 13.244, and 13.246.
2. Aqua Texas is a retail public utility as defined by TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(31).
3. Aqua Texas's application meets the requirements of TWC § 13.244 and TAC § 24.227.
4. Aqua Texas provided notice of the application in compliance with TWC § 13.246 and 16 TAC § 24.235.
5. The Commission processed the application in accordance with the requirements of the Administrative Procedure Act², the TWC, and Commission rules.
6. After consideration of the factors in TWC §§ 13.241(a) and 13.246(c) and 16 TAC § 24.227(e), Aqua Texas demonstrated adequate financial, managerial, and technical capability to provide continuous and adequate service to the requested service area and its

² Tex. Gov't Code Ann. §§ 2001.001–2001.903.

current service area in Collin County, as required by TWC § 13.241(a) and 16 TAC § 24.227.

7. Aqua Texas has access to an adequate supply of water to serve the requested area, and its North Custer Road Plant public water system is capable of providing water that meets the requirements of chapter 341 of the Texas Health and Safety Code, chapter 13 of the TWC, and the rules of the TCEQ in accordance with TWC § 13.241(b) and 16 TAC § 24.227(a)(1).
8. After consideration of TWC § 13.241(d), regionalization or consolidation is not feasible because no neighboring utilities have the facilities needed to provide service to the requested area.
9. It is not necessary for Aqua Texas to provide a bond or other financial assurance under TWC § 13.246(d) or 16 TAC § 24.227(f).
10. Aqua Texas demonstrated that the amendment to water CCN number 13201 to include the requested area is necessary for the service, accommodation, convenience, or safety of the public, as required by TWC § 13.246(b) and 16 TAC § 24.227(d).
11. Aqua Texas must record a certified copy of its approved map and certificate, along with a boundary description of the service area, in the real property records of Collin County within 31 days of receiving this Notice of Approval and submit evidence of the recording to the Commission in accordance with TWC § 13.257(r) and (s).
12. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission amends Aqua Texas's CCN number 13201 to include the requested area as described in this Notice of Approval and shown on the attached map.
2. The Commission approves the map and tariff attached to this Notice of Approval.
3. The Commission issues the certificate attached to this Notice of Approval.

4. Aqua Texas must provide service to every customer and applicant for service within the approved area under CCN number 13201 who requests water service and meets the terms of Aqua Texas's water service, and such service must be continuous and adequate.
5. Aqua Texas must comply with the recording requirements of TWC § 13.257(r) and (s) for the areas in Collin affected by the application and file in this docket proof of the recording no later than 45 days after receipt of this Notice of Approval.
6. Within 10 days of the date of this Notice of Approval, Commission Staff must provide a clean copy of the tariff approved by this Notice of Approval to central records to be marked *Approved* and filed in the Commission's tariff book.
7. The Commission denies all other motions and any other requests for general or specific relief that have not been expressly granted.

Signed at Austin, Texas the _____ day of _____ 2021.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE