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Received - 2022-01-07 02:50:58 PM

Control Number - 52172

ItemNumber - 25

DOCKET NO. 52172

**APPLICATION OF AQUA TEXAS, INC.
TO AMEND A CERTIFICATE OF
CONVENIENCE AND NECESSITY
IN COLLIN COUNTY**

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**PUBLIC UTILITY
COMMISSION OF TEXAS**

**APPLICANT’S RESPONSE TO ORDER NO. 9 AND MOTION TO ADMIT
ADDITIONAL EVIDENCE IN SUPPORT OF ITS APPLICATION TO AMEND
CERTIFICATE OF CONVENIENCE AND NECESSITY NO. 13201**

COMES NOW Aqua Texas, Inc. ("Applicant"), and files this response to Order No. 9, and Motion to Admit additional evidence, in support of its Application to amend CCN No. 13201 in this Docket No. 52172, and would show the Administrative Law Judge the following:

**I.
BACKGROUND**

A. Aqua Texas Application

On May 27, 2021, Aqua Texas, Inc. (“Aqua Texas”) filed an Application to amend its Certificate of Convenience and Necessity No. 13201 (“CCN No. 13201”) in Collin County, Texas. Aqua Texas holds CCN No. 13201, which is a regionally based service area that covers Applicant’s retail water operations in North Texas. By its Application Aqua Texas seeks the addition to its existing certificated service area of 138 acres in Collin County with zero existing connections, and 924 proposed connections.

B. Staff Recommends Application Be Granted

On October 19, 2021, PUC Staff recommended Aqua Texas’ Application be granted. In its final recommendation, Staff concluded that the analysis of Patricia Garcia, Infrastructure Division, and Fred Bednarski, Rate Regulation Division of the Public Utility Commission, demonstrated that Aqua Texas’ Application meets the applicable technical, managerial *and financial*

requirements of both Chapter 13 of the Texas Water Code and Chapter 24 of the Commission's Rules (16 Texas Administrative Code).

In reliance upon Ms. Garcia's and Mr. Bednarski's expert analysis, PUC Staff concluded that Aqua Texas was capable of providing continuous and adequate service within the additional requested area of its amended CCN No. 13201. *See "Commission Staff's Request to Modify the Procedural Schedule"* at 1 (Docket No. 52172, Filing No. 13, dated October 19, 2021). Staff unconditionally recommended approval of Aqua Texas' Application, stating that granting the same was "necessary for service, accommodation, convenience, and public safety." *Id.* at 2.

On October 27, 2021, the Parties filed a Joint Proposed Motion to Admit Evidence and Notice of Approval. (Docket No. 52172, Filing No. 15) The Administrative Law Judge issued Order No. 6 Admitting Evidence, including the PUC Staff's final recommendations on October 28, 2021. (Docket No. 52172, Filing No. 16).

C. Order No. 7

Thereafter, on November 10, 2021, the Administrative Law Judge entered Order No. 7 requiring Commission Staff and/or the Applicant provide clarification on issues related to the financial ability of the Applicant pursuant to Section 24.11(e)(2)(A),(B),(C) or (D), or in the alternative, Section 24.11(e)(2)(E), to demonstrate satisfaction of the "leverage test through an affiliate." (Docket No. 52172, Filing No. 17) Assuming Aqua Texas chose to rely upon an "Affiliate," Order No. 7 noted that the Affiliate must pass the "leverage test." Order No. 7 also required that Aqua Texas either satisfy the "operations test" in section 24.11(e)(3) or, if relying upon an Affiliate, provide a "written guarantee that it will cover any temporary cash shortages experienced by the Applicant." *See* ALJ Order No. 7. Both the Applicant and Commission Staff timely filed responses to Order No. 7. (Docket No. 52172, Filing Nos. 18 & 19).

D. Order No. 8

On December 8, 2021, the ALJ issued Order No. 8, *inter alia*, overruling the Parties' Arguments Regarding Financial Assurance. In his Order the ALJ stresses the following:

What is missing from the record, however, is evidence the Essential Utilities is *willing* to cover Aqua Texas' temporary cash shortages, something that is required by the relevant rule [PUC Rule 16 TAC § 24.11(e)(2)(E)] cited above.

See ALJ's Order No. 8 at 3 (Docket No. 52172, Filing No. 20) (emphasis in the original Order). Order NO. 9 also concluded that the "operations test" had not been satisfied due to the lack of a "written guarantee" from Aqua Texas' Affiliate/Permit, Essential Utilities, Inc., providing that Essential Utilities would cover any temporary cash shortages of Aqua. *Id.*

In response to Order No. 8, PUC Staff filed an interim response requesting the ALJ issue an order upon receipt of Applicant's response to Order No. 8 "directing Staff to submit the appropriate filing [to Applicant's response]." *See* Staff's Response to Order No. 8 (PUC Interchange Filing Document No. 21, dated December 17, 2021).

On December 23, 2021, Applicant filed its response to Order No. 8,

- (i) addressing the manner the question of the "affiliate's written guarantee" had been handled in another pending PUC Docket (Docket No. 51402);
- (ii) requesting the ALJ reconsider this prior ruling related to the "written guarantee" or abate the proceeding pending Commission action on the pending proposed order in Docket No. 51407; and
- (iii) responding to the "written guarantee" question with argument and supporting documentation including (a) citation to the Aqua Texas 2020 Annual Class A Water and Sewer Utilities Report filed with the PUC by Aqua Texas (identified as Exhibit 5), (b) citation to Essential Utilities' 2020 Annual Report and an appended excerpt

from the Report (Auditor’s letter for Calendar Years 2019 and 2020) identified as Exhibit 8 and requesting the ALJ take “Official Notice” of Essential’s 2020 Annual Report, (c) citation to documentation previously submitted and considered in the evaluation of Aqua Texas’ Application, including Attachment Nos. 11 and 12 to the Application and PUC Staff Financial Analyst Fred Bednarski’s October 19, 2021, memorandum concluding that the Application satisfied the “financial assurance” criteria of PUC Rule 24.11 (16 TAC) and recommending no additional financial assurance be required, and (d) the December 21, 2021, affidavit of Aqua Texas’ Controller Beirj Bagdasarian, detailing information related to Aqua Texas’ satisfaction of the requirements of PUC Rule 24.11 (16 TAC).

E. Order No. 9

On December 23, 2021, the ALJ issued Order No. 9 (i) admitting additional evidence, (ii) denying Applicant’s request for “Official Notice,” (iii) requiring Applicant clarify whether it was relying upon Aqua Texas’ or Essential Utilities’ financials to demonstrate its satisfaction of the language and operations tests prescribed by PUC Rule 24.11 (16 TAC), and directing Applicant to respond by January 7, 2022, (iv) deny the motion to reconsider and direct PUC Staff to make a supplemental final recommendation focused on the “financial aspects” of Aqua Texas’ Application, and (v) denying the request for abatement pending the Commission’s action on the proposed pending order in Docket No. 51407.

On December 30, 2021, Aqua Texas filed an unopposed motion to admit additional evidence in partial response to Order No. 9. This response, filed January 7, 2022, is timely filed in response to Order No. 9.

II.
RESPONSE TO ORDER NO. 9

In Order No. 9 the ALJ directed Aqua to clarify whether:

- (i) [Aqua Texas] continues to seek to prove that it satisfies the leverage and operations tests by relying upon the financial data of its affiliate; or
- (ii) [Aqua Texas] is now seeking to prove that it satisfies the leverage and operations tests by relying upon its own financial data, without regard to its affiliate.

See Order No. 9 at 2.

The accurate answer to the requested clarification is that based upon (i) all of the information presented in the record of this Docket No. 52172, and (ii) inclusive of the additional information that Application requested by unopposed motion be admitted into the record on December 30, 2021, along with (iii) the additional documentation Applicant requests be admitted into the record in this Response, *supra*, for the reasons explained below, Aqua Texas has demonstrated that it satisfies the “financial assurance” requirements of PUC Rule 24.11 both on its own and through its Affiliate/Parent Essential Utilities. Accordingly, Aqua Texas seeks to demonstrate that it can satisfy the requirements of PUC Rule 24.11 pursuant to either, or both, (i) its own financial health or (ii) in conjunction with and reliance, in part, on that of its Affiliate/Parent Essential Utilities.

Assuming, *arguendo*, that upon review of all of the supplemental information provided in this Docket No. 52172 that either (i) the PUC Staff reaches a different conclusion than it articulated in its October 19, 2021, “Final Recommendation,” or (ii) following Staff’s filing of its supplemental recommendation on or before January 21st, the ALJ disagrees with the conclusion that Aqua Texas, either on its own or through its Affiliate/Parent Essential satisfies Rule 24.11 without the need for submission of a “written guarantee” as a condition precedent to satisfying the

“operations test” of Rule 24.11, Aqua Texas requests its application be granted on the basis of the authorized discretionary determination of compliance with Rule 24.11 on the basis of satisfaction of only one of the two financial assurance tests, *i.e.*, the leverage test and the operations, pursuant to a finding of “good cause.”

A. Aqua Texas’ Application Satisfies Rule 24.11 both as to the Applicant “Standalone” and Upon Reliance of its Affiliate/Parent Essential Utilities.

1. Aqua Texas alone satisfies Rule 24.11 “Financial Assurance.”

Aqua Texas operates almost 400 public water systems across the State of Texas. *See* Schedule 502-W, *Aqua Texas Class A Water and Sewer Utilities Annual Report for the 12 months ending December 31, 2020*, at pages 28-34. Additionally, Aqua Texas successfully operates more than 50 sewer (water quality) systems. *See id.* at Schedule 502-S, pp. 35-36. Since the formation of Aqua Texas in 2003 by Essential Utilities, Aqua Texas has operated its water and wastewater utility systems successfully without experiencing any cash shortfall or other inability to meet its financial burdens since 2003. *See id.*; *see generally* Affidavit of Beirj Bagdasarian, Controller, Aqua Texas dated January 7, 2022 (“Affidavit 2”) at ¶ 8d) at page 5.¹

As explained in detail by Aqua Texas’ Controller, Beirj Bagdasarian, Aqua Texas satisfies two of the enumerated prongs of the leverage test set forth in PUC Rule 24.11(e)(2). Specifically, based upon Mr. Bagdasarian’s knowledge, experience, training and review of the Aqua Texas records, Aqua Texas satisfies the prongs set forth in subparagraphs 24.11(e)(2)(A)-(B). These prongs require demonstration of a “debt to equity ratio of less than 1” (*see* 16 TAC § 24.11(e)(2)(A)), or a “debt service coverage ratio of more than 1.25” (*see* 16 TAC § 24.11(e)(2)(B)).

¹ A true and correct copy of Mr. Bagdasarian’s Affidavit 2 is attached hereto and incorporated herein by reference as Exhibit No. 11.

Mr. Bagdasarian explains the foundation for his conclusion in paragraph 8(a)(i) and (ii) of his Affidavit 2. *See* Exhibit 11 (Affidavit of Bagdasarian at ¶ 8(a)(i)-(ii) at pp. 3-4). According to Mr. Bagdasarian, Aqua Texas satisfies these two prongs of the leverage test as follows:

- (i) Aqua satisfies the prong defined in 16 TAC § 24.11(e)(2)(A), which requires Aqua to “have a debt to equity ratio of less than one, using long term debt and equity or net assets...” The debt to equity ratio of Aqua is 0.4983. The source of my calculation is Schedule 620 in the *Class A Water and Sewer Investor-Owned Utilities Annual Report* of Aqua Texas, Inc., for the 12 months ending December 31, 2020, which was previously filed in this Docket No. 52172, and admitted into the record in ALJ Order No. 9 at p. 1. For convenient reference I have attached a true and correct copy of said Schedule 620 to this Affidavit as Exhibit A, and incorporated it herein by reference for all purposes. As set forth on line Exhibit A, which shows the total debt as a percent of total capital is 49.83% , the debt equity ratio is 0.4983, which is less than one.
- (ii) Aqua satisfies the prong defined in 16 TAC § 24.11(e)(2)(B), which requires Aqua to “have a debt service coverage ratio of more than 1.25 using annual net operating income before depreciation and non-cash expenses divided by annual combined long term debt payments...” The debt service coverage ratio of Aqua is 7.09. The source of my calculation is Schedule 400 in the *Class A Water and Sewer Investor-Owned Utilities Annual Report* for the 12 months ending in December 2020, previously admitted into the record as noted above. For convenient reference I have attached a true and correct copy of said Schedule 400 to this Affidavit as Exhibit B, and incorporated it herein by reference for all purposes. My calculation of the Aqua “debt service coverage ratio” based upon the information in Schedule 400 is presented in Exhibit C attached hereto and incorporated by reference for all purposes. Simply put, to calculate the debt coverage ratio in accordance with 16 TAC § 24.11(e)(2)(B) requires one to subtract operating expenses on line 4 from total operating revenues on line 3 and divide the resulting net operating income by the interest expense on line 49. This calculation, which excludes taxes, including taxes other than income, results in a debt service coverage ratio of 7.09, which handily meets the requirements of this prong. I would emphasis that while this calculation is entirely consistent with the requirements of 16 TAC § 24.11(e)(2)(B), if one were to take an even *more* conservative approach and factor depreciation, taxes other than income, and other amortization items in the calculation, Aqua Texas would still meet the required debt service coverage ratio. A calculation of debt service coverage ratio which reduces total operating revenues by depreciation, taxes other than income, and other amortization items, is provided on line 8 of Schedule 620, attached hereto as Exhibit A. That “Pre-tax Interest Coverage” is 4.20, again which handily meets the requirements of 16 TAC § 24.11(e)(2)(B).

See Exhibit No. 11 (Affidavit 2 at ¶ 8)a)i-ii, pp. 3-4).

Based upon his knowledge of Aqua Texas, his experience, training and review of the records of Aqua Texas and his understanding of the PUC's requirements in Rule 24.11(e)(3), Mr. Bagdasarian is also of the professional opinion that Aqua Texas satisfies the "operations test" of Rule 24.11(e)(3). *See* Exhibit 11 (Bagdasarian Affidavit 2 at ¶ 8(b) at pp. 4-5). According to Mr. Bagdasarian:

Aqua satisfies 16 TAC § 24.11(e)(3), which requires that Aqua "*demonstrate sufficient cash is available* to cover any projected operations and maintenance shortages in the first five years of operations." Aqua included as Exhibit A to Affidavit 1 a true and correct copy of the Aqua/Essential Utilities Note No. 2021-3, dated October 31, 2021.

See Exhibit 11 (Affidavit 2 at ¶ 8)b)ii, at pp. 4-5. Aqua Texas meets this burden in part through the working relationship between Aqua and Essential Mr. Bagdasarian detailed in his Affidavit 1. Specifically, he explained that Aqua Texas works collaboratively with Essential each year to develop Aqua's annual budget. *Id.* Aqua only adopts its annual fiscal year operating budget after Essential has approved Aqua Texas' projected revenue and expenses for the fiscal year. *Id.*

The coordination between of the two companies provides the foundation for the two entities to develop a "Note," similar to the Note included as Exhibit "A" to Affidavit 1. *See* Exhibit 11 (Affidavit 2 at ¶ 8)b)ii, at p. 5. Relying upon that Note, expenses incurred by Aqua are forwarded for payment to Essential Utilities. Essential Utilities provides payment verification to Aqua. *Id.*; *see id.* ¶ 8)b)i-ii, pp. 4-5. Accordingly, Aqua Texas has access to sufficient cash to cover any short-term shortages in the first five years of operation in the expanded service area.

2. Aqua Texas Satisfies Rule 24.11 with its Affiliate/Parent Essential Utilities.

Based upon the Application and all of the supplemental documentation submitted by the Applicant, including Affidavit 1 and Affidavit 2 by Mr. Bagdasarian, both of which Applicant requests and moves be admitted into the record in this Docket No. 52172, Aqua Texas has

demonstrated that it can satisfy the financial assurance requirements of Rule 24.11 through its Affiliate/Parent Essential Utilities with one caveat, *i.e.*, the ALJ's disagreement with PUC and Applicant that a "written guarantee" from Essential Utilities is required. Aqua Texas renews its request that the ALJ reconsider his position on the question of the need for a written guarantee and, in the alternative, urges the ALJ to agree with the argument presented in the next subsection of this Response, and grant the relief sought by Aqua Texas to adopt the Final Recommendation of PUC Staff to grant Aqua Texas the requested amendment to its CCN No. 13201.

B. "Good Cause" Supports Use of "Only One Test."

As explained by Aqua's Controller Mr. Bagdasarian, even though in his professional opinion, Aqua passes both the Rule 24.11 "leverage test" and "operations test," "good cause" exists for the Commission to exercise the discretion expressly authorized by subsection (e)(1) of Rule 24.11 and find that Aqua meets the final assurance criteria of the Rule even if it is found to only satisfy one of the two tests. Rule 24.11(e)(1) provides as follows:

[A]n owner or operator may demonstrate financial assurance by satisfying the leverage and operations tests that conform to the requirements of this section, unless the commission finds good cause exists to require *only one* of these tests.

See 16 TAC § 24(e)(1) (emphasis added). According to Mr. Bagdasarian, "good cause," is "demonstrated by Aqua Texas' documented long-term sound financial operation and management of its water and wastewater facilities throughout Texas." *See* Exhibit No. 11 (Affidavit 2 at ¶ 8)c-d), pp. 5-6). Mr. Bagdasarian elaborates on Aqua Texas' historical operations and financial health in his Affidavit 2 as follows:

Based upon my review of Aqua's records, and my personal experience in my various financial management and oversight positions with Aqua and Essential, *since Essential began operations in Texas in 2003, and acquired Aqua, there has been no period of time in which Aqua has had a cash shortfall, or otherwise been unable to meet its financial burdens, in operating its water*

or wastewater systems. Aqua's established record of sound operation has been documented in the Annual Class A Water Utility Reports Aqua has filed of record at the PUC and its predecessor, TCEQ, as well as recognized by the PUC in its granting of Aqua's many CCN applications and amendments both prior to and since the PUC assumed jurisdiction in September 2016. Based upon my review of Aqua's records, I am unaware of any instance in which either Aqua was actually unable, or the PUC has found, that Aqua has not met its burden of financial assurance.

See Exhibit No. 11 (Affidavit 2 at ¶ 8)d), pp. 5-6 (emphasis added)).

On the basis of the arguments in this Section II of the Response, Applicant urges the ALJ to find that Aqua Texas has satisfied the requirements of Rule 24.11 as previously recommended by PUC Staff.

III. MOTION TO ADMIT EVIDENCE

Applicant moves to admit the following document into the record of this Docket No. 52172:

Affidavit dated January 7, 2021, of Mr. Beirj Bagdasarian, Controller of Aqua Texas, Inc., Applicant in these proceedings ("Affidavit 2").

A true and correct copy of Mr. Bagdasarian's Affidavit 2 is attached hereto as Exhibit No. 11 and incorporated herein by reference for all purposes. *See* Exhibit No. 11. As with his prior Affidavit dated December 21, 2021 (referred to herein as "Affidavit 1"), Mr. Bagdasarian's background and personal knowledge of the facts is recited and documented in the attached Affidavit 2. Counsel for Aqua Texas has not had the opportunity of conference with PUC Counsel to determine whether the motion to admit Affidavit 2 will be unopposed. Counsel will supplement this filing with that limited information upon completion of conference with PUC Counsel.

Applicant requests the Administrative Law Judge admit into the record as supplemental evidence in support of Aqua Texas, Inc.'s Application to amend its CCN 13201 in this Docket 52172 the Affidavit 2 of Mr. Bagdasarian identified in the paragraph above.

IV.
RENEWAL OF MOTION TO ABATE

In the event the ALJ does *not* find that the Applicant has satisfied the financial assurance requirement of PUC Rule 24.11, including in the alternative granting Applicant's request to find that the requirements for Rule 24.11 have been met based upon reliance of the financial health of an Aqua Texas' Affiliate/Parent Essential Utilities, even in the absence of a written guarantee at this time, Applicant would renew its request that the ALJ temporarily abate taking action in this Docket No. 52172 pending Commission action in an Open Meeting on the Proposed Order in Docket No. 51407. Applicant believes that the Commission's final action on the issues regarding financial assurances from Affiliates set forth in the Proposed Order in Docket No. 51407 would be instructive on the common issues in this Docket No. 52172. Abatement would also avoid the necessity for requesting a contested case hearing on the issues and preserve the resources of both the PUC Staff and the Applicant.

V.
CONCLUSION & PRAYER

WHEREFORE, PREMISES CONSIDERED, Applicant, Aqua Texas, respectfully requests that the ALJ:

1. Grant both Applicant's prior December 30th motion to admit evidence into the record, and its motion herein to admit the following evidence into the record of this Docket No. 52172;
2. Find that the Applicant, Aqua Texas, has:
 - a. provided documentation demonstrating that (i) Aqua Texas, and/or, in the alternative, that its Affiliate/Parent Essential Utilities satisfies the financial assurance requirements of PUC Rule 24.11 (16 TAC), including demonstration that Essential Utilities is capable, available, and willing to cover temporary cash shortages and has sufficient cash available to satisfy the leverage test such that a "written guarantee is *not* necessary as recommended by PUC Staff Financial

Analyst Fred Bednarski (*see* Bednarski Memorandum dated October 19, 2021), incorporated into Staff’s Final Recommendation (PUC Interchange Filing No. 13, Document No. 13, dated October 19, 2021); and

- b. provided documentation demonstrating that (i) Aqua Texas, and/or its Affiliate/Parent Essential Utilities has demonstrated the availability of and access to funds adequate to cover any temporary cash shortages in the first five years of operations following issuance of the amended CCN, thereby satisfying the operations test of Rule 24.11 (16 TAC); and
 - c. demonstrated the financial capability and stability to pay for the facilities necessary to provide continuous and adequate service to the requested area; and
 - d. demonstrated satisfaction PUC Rule 24.11 (16 TAC), including both the “Leverage Test” and “Operations Test”; *OR*
 - e. in the alternative, find “good cause” pursuant to PUC Rule 24.11(e)(3) that Aqua Texas has satisfied at least one of the two tests and should be found to meet the requirements of Rule 24.11 (16 TAC); and
 - f. find that Aqua Texas’ Application should be granted consistent with the Final Recommendation of PUC Staff and the Parties’ Joint Proposed Notice of Appeal;
- 3. Conclude that it is *not* necessary for Applicant, Aqua Texas, to provide a bond or other financial assurance, including a “written guarantee” from its Affiliate/Parent Essential Utilities, under TWC § 13.246(d) or 16 TAC § 24.227(f);
 - 4. File a Proposed Order providing that the Commission grant the requested amendment to Aqua Texas’ CCN 13201, and issue the amended Certificate;
 - 5. ***In the alternative***, grant the Applicant’s request to abate taking action in this Docket No. 52172 pending Commission action in an Open Meeting on the Proposed Order in Docket No. 51407.

Respectfully submitted,

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By: /s/ Edmond R. McCarthy, Jr.
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ATTORNEYS FOR PETITIONER, AQUA TEXAS, INC.

CERTIFICATE OF SERVICE

I hereby certify by my signature below, that on this the 7th day of January, 2022, a true and correct copy of the foregoing pleading and attached Exhibits was:

- (i) electronically e-filed with the Commission pursuant to Rule 22.74 and the Commission’s Order in Docket No. 50664 addressing Covid-19 Pandemic conditions, and
- (ii) forwarded via e-mail to the Parties to Docket No. 52172, or their legal counsel, at the locations shown on the attached service list.

/s/ Edmond R. McCarthy, Jr.
Edmond R. McCarthy, Jr.

SERVICE LIST

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Representing Aqua Texas, Inc., Applicant

Exhibit No. “11”

**True and correct copy of Affidavit of Beirj Bagdasarian,
Controller for Aqua Texas, Inc. (Affidavit 2) dated January 7, 2022**

DOCKET NO. 52172

APPLICATION OF AQUA TEXAS, INC.	§	BEFORE THE PUBLIC UTILITY
TO AMEND ITS CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY IN	§	COMMISSION OF TEXAS
COLLIN COUNTY	§	

AFFIDAVIT OF BEIRJ BAGDASARIAN

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned official on this day personally appeared Beirj Bagdasarian, who is personally known to me and first being duly sworn according to law, upon his oath deposed and said:

1) My name is Beirj Bagdasarian. I am over the age of 18 years and reside in Travis County, Texas. I am of sound mind and fully competent to make this affidavit (“Affidavit 2”). I have personal knowledge of the facts stated herein, and they are true and correct.

2) I am the controller for Aqua Texas, Inc., *dba* Aqua Texas (“Aqua”). I have held this position since June 1, 2020. Prior to holding this position, I was employed by Essential Utilities, Inc. (“Essential”), the parent company of Aqua, in the role of Manager of Strategy and Corporate Development, a position I held since February 29, 2016.

3) I previously made an affidavit, filed December 23, 2021, (“Affidavit 1”) on behalf of Aqua as the Applicant in response to Order No. 8 in the above styled and numbered case before the Public Utility Commission of Texas (“PUC”). I incorporate my sworn statements in Affidavit 1, together with the Exhibits thereto, by reference as if the same were recited herein verbatim for all purposes.

4) In Affidavit 1 I addressed, in particular, the portion of Order No. 8 where the presiding Administrative Law Judge (“ALJ”) set forth his construction of 16 Texas Administrative Code (TAC) § 24.11(e)(3), as follows:

The applicant can normally pass the [operations] test by demonstrating that it has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations. Alternatively, the applicant “may” choose to pass the operations test by relying on the financial strength of its affiliate. If the applicant chooses this option, then the affiliate must pass the leverage test *and* must provide a written guarantee that it will cover any temporary cash shortages that the applicant may experience.

See Order No. 8 at 3

5) I concluded in Affidavit 1 that, in my professional opinion, based upon my personal knowledge, training and experience, and my review of the records of Aqua, including the historic application of Section 24.11(e)(3) in prior Aqua applications granted by the PUC, that the existing corporate structure and operating arrangement between Aqua as the “operating entity,” and its “corporate parent” Essential, satisfies the requirements of 16 TAC § 24.11(e)(3) for all applicable purposes, including in the event any temporary cash shortages should occur, even though none are anticipated here, or in my professional opinion likely to occur. *See* Affidavit 1, ¶ 5.

6) I supported my conclusion in Affidavit 1, which was based upon my personal knowledge, by providing the following:

- (i) an explanation of Aqua’s operations of water and wastewater facilities in Texas without cash shortages;
- (ii) the routine and regular approval of Aqua, as a Certificate of Convenience and Necessity (“CCN”) holder by the PUC, and the Texas Commission on Environmental Quality (“TCEQ”) before them; and
- (iii) an explanation of the common parent-subsidary intercompany arrangement between Essential and Aqua, as exemplified by Aqua/Essential Note No. 2021-3, dated October 31, 2021, a true and correct copy of which was attached thereto. *See* Affidavit 1 ¶¶ 5-6.

7) In my capacity as Aqua's controller, I am authorized to make this further affidavit ("Affidavit 2") on behalf of Aqua in the above-styled and numbered case. This Affidavit 2 will address Order No. 9 and, in particular, the portion thereof where the ALJ recognizes that in its response to Order No. 9, Aqua provided additional evidence to support the financial wherewithal of Aqua, and in response seeks for Aqua to clarify whether:

(i) [Aqua] continues to seek to prove that it satisfies the leverage and operations tests by relying upon the financial data of its affiliate; or

(ii) [Aqua] is now seeking to prove that it satisfies the leverage and operations tests by relying upon its own financial data, without regard to its affiliate.

8) Based upon (i) my training and education, (ii) my personal experience in financial managerial positions at both Aqua and Essential Utilities, (iii) my experience with the operation of regulated water and wastewater retail utility operations in Texas, and my review and knowledge of Aqua's Application to amend its CCN 13201 in this Docket No. 52172, in my professional opinion, Aqua satisfies the PUC's tests for financial assurance by relying either on its own financial data and operating history or by relying on Essential Utilities' financial data and operating history.

a) Based upon my personal knowledge, experience, training, and review of the records of Aqua, Aqua satisfies the leverage test by relying on its own financial data. Section 16 TAC § 24.11(e)(2), only requires that a utility meet *one* prong of the leverage test. *See* 16 TAC § 24.11(e)(2). Aqua satisfies *two* prongs of the leverage test with its own financial data: 16 TAC § 24.11(e)(2)(A) and 16 TAC § 24.11(e)(2)(B).

i. Aqua satisfies the prong defined in 16 TAC § 24.11(e)(2)(A), which requires Aqua to "have a debt to equity ratio of less than one, using long term debt and equity or net assets..." The debt to equity ratio of Aqua is 0.4983. The source of my calculation is Schedule 620 in the *Class A Water and Sewer Investor-Owned Utilities Annual Report of Aqua Texas, Inc.*, for the 12 months ending December 31,

2020, which was previously filed in this Docket No. 52172, and admitted into the record in ALJ Order No. 9 at p. 1. For convenient reference I have attached a true and correct copy of said Schedule 620 to this Affidavit as Exhibit A, and incorporated it herein by reference for all purposes. As set forth on line Exhibit A, which shows the total debt as a percent of total capital is 49.83% , the debt equity ratio is 0.4983, which is less than one.

ii. Aqua satisfies the prong defined in 16 TAC § 24.11(e)(2)(B), which requires Aqua to “have a debt service coverage ratio of more than 1.25 using annual net operating income before depreciation and non-cash expenses divided by annual combined long term debt payments...” The debt service coverage ratio of Aqua is 7.09. The source of my calculation is Schedule 400 in the *Class A Water and Sewer Investor-Owned Utilities Annual Report* for the 12 months ending in December 2020, previously admitted into the record as noted above. For convenient reference I have attached a true and correct copy of said Schedule 400 to this Affidavit as Exhibit B and incorporated it herein by reference for all purposes. My calculation of the Aqua “debt service coverage ratio” based upon the information in Schedule 400 is presented in Exhibit C attached hereto and incorporated by reference for all purposes. Simply put, to calculate the debt coverage ratio in accordance with 16 TAC § 24.11(e)(2)(B) requires one to subtract operating expenses on line 4 from total operating revenues on line 3 and divide the resulting net operating income by the interest expense on line 49. This calculation, which excludes depreciation, amortization, and taxes (including taxes other than income), results in a debt service coverage ratio of 7.09, which handily meets the requirements of this prong. I would emphasize that while this calculation is entirely consistent with the requirements of 16 TAC § 24.11(e)(2)(B), if one were to take an even *more* conservative approach and factor depreciation, amortization items, and taxes other than income, into the calculation, Aqua Texas would still meet the required debt service coverage ratio. A calculation of debt service coverage ratio that reduces total operating revenues by depreciation, amortization items, and taxes other than income, is provided on line 8 of Schedule 620, attached hereto as Exhibit A. That conservative “Pre-tax Interest Coverage” is 4.20, again which handily meets the requirements of 16 TAC § 24.11(e)(2)(B). Therefore, under either approach, Aqua Texas satisfies this prong.

b) Based upon my personal knowledge, experience, training, and review of the records of Aqua, Aqua satisfies the “operations test” by relying on its own financial data.

i. Aqua satisfies 16 TAC § 24.11(e)(3), which requires that Aqua “*demonstrate sufficient cash is available* to cover any projected operations and maintenance shortages in the first five years of operations.” (emphasis added). Aqua included as Exhibit A to Affidavit 1 a true and correct copy of the Aqua /Essential Utilities Note No. 2021-3, dated October 31, 2021.

ii. To elaborate upon my explanation in Affidavit 1 of the working relationship between Aqua and Essential, Aqua works collaboratively with Essential

each year to develop Aqua's annual budget. Aqua does not adopt its annual fiscal year operating budget until Essential has approved the projected revenue and expenses for the fiscal year. This coordination of the two companies in the development of Aqua's operating plans for the fiscal year period provides the foundation for the two entities to develop a "Note," similar to the Note included as Exhibit "A" to Affidavit 1. Relying upon that Note, expenses incurred by Aqua are forwarded for payment to Essential Utilities. Essential Utilities provides payment verification to Aqua.

c) Though Aqua can pass both the leverage and operations tests, based upon my personal knowledge, experience, and review of the records of Aqua, good cause exists for the Commission to require satisfaction of *only one* test as expressly authorized by Section 16 TAC § 24.11(e)(1):

[A]n owner or operator may demonstrate financial assurance by satisfying the leverage and operations tests that conform to the requirements of this section, unless the commission finds good cause exists to require *only one* of these tests.

16 TAC § 24(e)(1) (emphasis added).

d) "Good cause," in my professional opinion, is demonstrated by Aqua's documented long-term sound financial operation and management of its water and wastewater facilities throughout Texas. Based upon my review of Aqua's records, and my personal experience in my various financial management and oversight positions with Aqua and Essential, since Essential began operations in Texas in 2003, and formed Aqua, there has been no period of time in which Aqua has had a cash shortfall, or otherwise been unable to meet its financial burdens, in operating its water or wastewater systems. Aqua's established record of sound operation has been documented in the Annual Class A Water Utility Reports Aqua has filed of record at the PUC and its predecessor, TCEQ, as well as recognized by the PUC in its granting of Aqua's many CCN applications and amendments both prior to and since the PUC assumed jurisdiction in September 2016. Based upon my review of Aqua's records, I am unaware of any instance in which either Aqua was actually unable, or the PUC has found, that

Aqua has not met its burden of financial assurance.

e) Based upon my personal knowledge, experience, training, and review of the records of Aqua, and as previously set forth in Affidavit 1, in my professional opinion Aqua also satisfies both the leverage and operations tests by relying on the financial data of its affiliate Essential.

9) My opinions expressed herein are supported by Aqua's Application in this Docket No. 52172, inclusive of the other supporting information which has been admitted into the record as evidenced by ALJ Order Nos. 6 and 9, and the additional documentation Aqua moved to be admitted into the record by unopposed motion filed on December 30, 2021 (PUC Interchange Filing No. 24), *i.e.*,

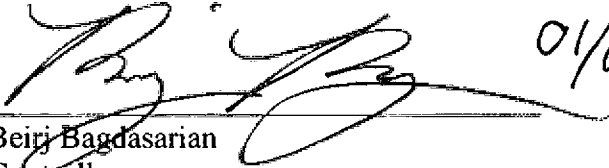
(i) The Essential Utilities, Inc., 2020 Annual Report, designated therein as Exhibit No. 10; a true and correct copy of which is attached to said pleading as Appendix "A," and

(ii) The Affidavit of Beirj Bagdasarian (Affidavit 1) previously designated as Exhibit No. 8 in Applicant's Response to Order No. 8 filed on December 23, 2021 (*see* PUC Interchange Filing No. 22 in Docket No. 52172), a true and correct copy of which is attached as Appendix "B" to said pleading.

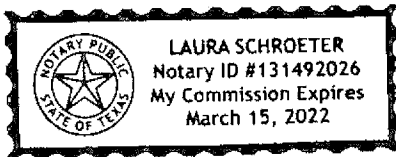
10) Affiant's statements in paragraphs 1) through 9) above, inclusive, and including the attached Exhibit A through C, are true and correct, and within Affiant's personal knowledge.

11) Affiant further ratifies and incorporates herein, as true and correct, his prior statements in Affidavit 1, inclusive of the Exhibits appended to said Affidavit 1.

Further Affiant sayeth not.


01/07/2022
Beirj Bagdasarian
Controller
Aqua Texas, Inc.

SUBSCRIBED AND SWORN TO BEFORE ME on this the 7th day of January, 2022, to which witness my hand and official seal.



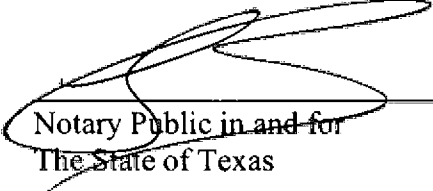

Notary Public in and for
The State of Texas

EXHIBIT A

True and correct copy of Schedule 620

Historical Financial Statistics
 (Texas-Jurisdictional Basis)

Note: If Texas-jurisdictional data from audited financial statements cannot be provided or unaudited financial statement are used, provide a complete identification and description of the alternative data used as the basis for the ratio calculations. All calculations should be provided

Line	Fiscal Year.	(20XX-4)	(20XX-3)	(20XX-2)	(20XX-1)	Monitoring Period (20XX)
1	Total Debt as a Percent of Total Capital	50.03%	49.83%	51.35%	51.04%	49.83%
2						
3	Construction Work in Progress as a Percent of Net Plant	3.00%	6.99%	6.12%	7.55%	8.73%
4						
5	Construction Expenditures as a	12.03%	9.55%	14.20%	8.53%	27.46%
6	Percent of Average Total Capital					
7						
8	Pre-Tax Interest Coverage	5.60	5.49	4.63	4.58	4.20
9						
10	Fixed Charge Coverage	5.21	5.11	4.32	4.27	3.96
11						
12	Return on Average Common Equity	14.39%	13.61%	12.83%	10.93%	9.59%

EXHIBIT B
True and correct copy of Schedule 400

INCOME STATEMENT

(Except for blue cells, the values in this table will populate automatically)

Line No.	Account Number and Title (a)	Schedule No (b)	Balance End of Year (c)	Normalization ¹ Adjustment (d)	End of Year Normalized Amount (e)
1	400.0 Operating Revenues-Water	401-W	\$60,125,281	\$0	\$60,125,281
2	500.0 Operating Revenues-Sewer	401-S	16,350,242	0	16,350,242
3	Total Operating Revenues		\$76,475,523	\$0	\$76,475,523
4	UTILITY OPERATING EXPENSES		XXX	XXX	XXX
5	401.0 Operating Expenses		32,700,574	0	32,700,574
6	403.0 Depreciation Expense		11,776,689	0	11,776,689
7	406.0 Amortization of Utility Plant Acquisition Adjustment		(168,931)	0	(168,931)
8	407.1 Amortization of Limited Term Plant		0	0	0
9	407.2 Amortization of Property Losses		0	0	0
10	407.3 Amortization of Other Utility Plant		(1,586,420)	0	(1,586,420)
11	407.4 Amortization of Regulatory Assets		3,214	0	3,214
12	408.0 Taxes Other Than Income		7,838,524	0	7,838,524
13	409.10 Federal Income Taxes, Utility Operating Income		5,133,193	0	5,133,193
14	409.11 State Income Taxes, Utility Operating Income		567,484	0	567,484
15	409.12 Local Income Taxes, Utility Operating Income		0	0	0
16	410.0 Deferred Income Tax		0	0	0
17	410.10 Federal		(632,100)	0	(632,100)
18	410.11 State		0	0	0
19	Total Deferred Income Tax		(\$632,100)	\$0	(\$632,100)
20	411.1 Provision for Deferred Income Taxes - Credit, Utility Operating Income		XXX	XXX	XXX
21	Tax Credits		XXX	XXX	XXX
22	412.1 Investment Tax Credit, Deferred to Future Periods, Utility Operating Income		XXX	XXX	XXX
23	412.2 Investment Tax Credits, Restored to Operating Income, Utility Operating Income		XXX	XXX	XXX
24	Total Tax Credits		0	0	0
25	TOTAL UTILITY OPERATING EXPENSES		\$55,632,227	\$0	\$55,632,227
26			XXX	XXX	XXX
27	NET UTILITY OPERATING INCOME (LOSS)		\$20,843,296	\$0	\$20,843,296
28			XXX	XXX	XXX
29	OTHER OPERATING INCOME (LOSS)		XXX	XXX	XXX
30	413.0 Income from Utility Plant Leased to Others		0	0	0
31	414.0 Gains (Losses) from Disposition of Utility Property		55,015	0	55,015
32	TOTAL OTHER OPERATING INCOME (LOSS)		\$55,015	\$0	\$55,015
33			0		0
34	NON-OPERATING INCOME		XXX	XXX	XXX
35	415.0 Revenues from Merchandising, Jobbing and Contract Work		600,678	0	600,678
36	419.0 Interest & Dividend Income		0	0	0
37	420.0 Allowance for Funds Used During Construction (AFUDC)		2,256,923	0	2,256,923
38	421.0 Non-Utility Income		5,858	0	5,858
39	TOTAL NON-OPERATING INCOME		\$2,863,458		\$2,863,458
40			0		0
41	NON-OPERATING DEDUCTIONS		XXX	XXX	XXX
42	408.2 Taxes Other Than Income, Other Income and Deductions (attach schedule)		0	0	0
43	409.2 Income Taxes, Other Income and Deductions		0	0	0
44	416.0 Costs & Expenses of Merchandising, Jobbing and Contract Work		0	0	0
45	426.0 Miscellaneous Non-Utility Expenses		(406,639)	0	(406,639)
46	TOTAL NON-OPERATING INCOME & DEDUCTIONS		\$2,456,819	\$0	\$2,456,819
47			0		0
48	INTEREST EXPENSE		XXX	XXX	XXX
49	427.0 Interest Expense		6,170,944	0	6,170,944
50	428.0 Amortization of Debt Discount & Expenses		0	0	0
51	429.0 Amortization of Premium on Debt		0	0	0
52	TOTAL INTEREST EXPENSE		\$6,170,944		\$6,170,944
53			XXX	XXX	XXX
54	EXTRAORDINARY ITEMS		XXX	XXX	XXX
55	433.0 Income		0	0	0
56	434.0 Deductions		0	0	0
57	409.3 Income Taxes		0	0	0
58	409.4 Other		0	0	0
59	TOTAL EXTRAORDINARY ITEMS		\$0	\$0	\$0
60	NET INCOME (LOSS)		\$17,184,186	\$0	\$17,184,186

1 Attach an explanation and calculations for all normalized adjustments. The reporting entity must use any normalization adjustment methodologies that were approved in the entity's most recent rate proceeding.

EXHIBIT C
Explanation of Affiant's calculation of Aqua's "debt service coverage ratio"

**Exhibit C to Affidavit of Beirj Bagdasarian dated January 7, 2022.
Debt Coverage Ratio for Aqua Texas Calculated Pursuant to 16 TAC §
24.11(e)(2)(B)¹**

Line No.	Account Number and Title (a)	Schedule No. (b)	End of Year Normalized
1	400.0 Operating Revenues - Water	401-W	\$60,125,281
2	500.0 Operating Revenues - Sewer	401-S	\$16,350,242
3	Total Operating Revenues		\$76,475,523
4	401.0 Operating Expenses ²		(\$32,700,574)
	Net Operating Income ^a		\$43,774,949
49	427.0 Interest Expense ^b		6,170,944
	Debt Coverage Ratio (net operating income ^a /interest expense ^b)		7.09372

Note 1. Prepared by Beirj Bagdasarian, January 7, 2022 with data from Schedule 400 of the Class A Water and Sewer Investor-Owned Utilities Annual Report of Aqua Texas, Inc. to the Public Utility Commission of Texas for the 12 Months Ending December 31, 2020.

Note 2. Excludes depreciation, amortization, non-cash expenses, interest expense as required by 16 TAC § 24.11(e)(2)(B).