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Received - 2022-01-11 04:33:55 PM
Control Number - 52172
ItemNumber - 26

DOCKET NO. 52172

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

ORDER NO. 10
ADDRESSING PENDING MOTIONS

I. ADMITTING SUPPLEMENTAL EVIDENCE

By motion filed on December 30, 2021, Aqua Texas, Inc. moves for the admission of additional evidence. The administrative law judge (ALJ) grants the motion and admits the following supplemental evidence into the record of this proceeding: (a) the 2020 Annual Report of Essential Utilities, Inc., which is attached as Appendix A to Aqua's December 30, 2021 pleading; and (b) the affidavit, dated December 21, 2021, of Beirj Bagdasarian, which is attached as Appendix B to Aqua's December 30, 2021 pleading.

By motion filed on January 7, 2022, Aqua Texas moves for the admission of additional evidence. The ALJ grants the motion and admits the following supplemental evidence into the record of this proceeding: the affidavit, dated January 7, 2022, of Mr. Bagdasarian, which is attached as Exhibit 11 to Aqua's January 7, 2022 pleading.

**II. REQUIRING MORE DETAILED ANALYSIS AND RECOMMENDATIONS
FROM COMMISSION STAFF**

In Order No. 9 filed on December 29, 2021, the ALJ directed Commission Staff to, by January 21, 2022, make a supplemental final recommendation, solely as to the financial aspects of the application at issue in this proceeding. That Order remains in effect. However, in a pleading filed by Aqua Texas on January 7, 2022, the company now asserts:

- 1) That it passes the leverage and operations tests solely in reliance on its own financial data, without regard to its affiliate, Essential Utilities; and
- 2) That it passes the leverage and operations tests in reliance on the financial data of Essential Utilities; or, alternatively,
- 3) That it should be granted a good cause exception, under 16 Texas Administrative Code (TAC) § 24.11(e)(1) and, therefore, be required to pass only the leverage test or the operations test, but not both.

In light of these new assertions, the ALJ orders Commission Staff to include, in its supplemental recommendation, discussion and analysis of the following:

- 1) Based on the evidence in the record of this proceeding, does Aqua Texas pass the leverage and operations tests solely in reliance on its own financial data, without reliance upon Essential Utilities?
- 2) Based on the evidence in the record of this proceeding, does Aqua Texas pass the leverage and operations tests by reliance upon Essential Utilities?¹
- 3) Based on the evidence in the record of this proceeding, should a good cause exception be granted, under 16 TAC § 24.11(e)(1), thereby requiring Aqua Texas to pass only the leverage test or only the operations test, but not both? If so, what is the good cause and which test should be applied? Additionally, is Commission Staff aware of other instances in which this type of good cause exception has been granted or denied?

III. DEFERRING RULING ON MOTION FOR ABATEMENT

It is not necessary to rule on Aqua Texas' motion to abate at this time.

Signed at Austin, Texas the 11th day January of 2022.

PUBLIC UTILITY COMMISSION OF TEXAS


HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE

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¹ In answering this question, Commission Staff must apply the ALJ's construction of 16 TAC § 24.11 as laid out in Order Nos. 7 and 8. The ALJ understands that Commission Staff may not agree with the ALJ's construction and nothing in this Order is intended to preclude Commission Staff from sticking with its construction of the rule and its initial recommendation. However, the ALJ would benefit from Commission Staff's analysis of the record applying the ALJ's construction.