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DOCKET NO. 52172

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

COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION ON FINANCIAL ASPECTS OF THE APPLICATION

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.

On January 11, 2022, the administrative law judge (ALJ) filed Order No. 10, establishing a deadline of January 21, 2022 for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a supplemental recommendation on the financial aspects of the application. Therefore, this pleading is timely filed.

I. COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION

Order No. 10 required Staff to address three issues: (1) whether Aqua Texas passes the operations and leverages tests based solely in reliance on its own financials; (2) whether Aqua Texas passes the operations and leverages tests by reliance upon Essential Utilities; and (3) whether a good cause exception to the rule requiring Aqua Texas to satisfy both the operations and leverage tests should be granted and if Staff is aware of other instances in which such an exception has been granted or denied.

After review of the materials filed by Aqua Texas on December 23 and 30, 2021 and January 7, 2022, and as supported by the attached memorandum of Fred Bednarski, Rate Regulation Division, Staff recommends approval of the application. Specifically, Staff recommends that Aqua Texas satisfies both the leverage and operations tests based on its own financial data.

Based on the evidence in this proceeding and applying the ALJ's interpretation of 16 TAC § 24.11, Aqua Texas does not pass the operations and leverage tests based on reliance on its parent company, Essential Utilities, as there is no written guarantee from Essential Utilities that it is

willing to cover any of Aqua Texas's operating shortages in the record. Staff therefore recommends that, applying the ALJs construction, Aqua Texas does not pass the leverage and operations tests based on reliance on its parent company, Essential Utilities. However, as stated above, Staff recommends that Aqua Texas satisfies both the leverage and operations tests based on its own financial data.

Finally, while the ALJs analysis need not reach the question of a good cause exception, as Aqua Texas cannot, under the ALJs construction, satisfy either the operations or leverage tests by relying on Essential Utilities, Staff does not recommend that a good cause exception would be appropriate in this instance, as Staff is unaware of any other such exception being granted. Further, a good cause exception is not necessary as it is Staff's recommendation that Aqua Texas satisfies both the leverage and operations tests based on its own financial data.

II. CONCLUSION

Staff respectfully recommends approval of Aqua Texas's application, relying on Aqua Texas's own financial data rather than that of its affiliate, Essential Utilities.

Dated: January 21, 2022

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 on January 21, 2022 in accordance with the Order Suspending Rules filed in Project No. 50664.

/s/ Merritt Lander
Merritt Lander

Public Utility Commission of Texas

Memorandum

TO: Merritt Lander, Attorney
Legal Division

FROM: Fred Bednarski III, Financial Analyst
Rate Regulation Division

DATE: January 21, 2022

RE: Docket No. 52172 – *Application of Aqua Texas, Inc. to Amend its Certificate of Convenience and Necessity in Collin County*

On May 27, 2021, Aqua Texas, Inc. (Aqua Texas) filed an application to add approximately 138 acres to its certificate of convenience and necessity (CCN) No. 13201 to provide water service. I provided my recommendation of approval for financial assurance for this application on October 19, 2021 based on Aqua Texas parent company, Essential Utilities, Inc.'s financial statements ending December 30, 2019. In light of Aqua Texas's financial statements¹ provided on November 23, 2021 and in response to Order No. 10, I submit this supplemental recommendation of approval.

I recommend that Aqua Texas demonstrates the financial and managerial capability needed to provide continuous and adequate service to the area subject to this application. My conclusions are based on information provided by Aqua Texas before the date of this memorandum and may not reflect any changes in Aqua Texas' status after this review.

Ability to serve: financial ability and stability (Texas Water Code (TWC) §§ 13.241(a) and 13.246(c)(6))

An owner or operator of a retail public utility must have the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and requested utility service areas, as established by 16 Texas Administrative Code (TAC) § 24.11. Aqua Texas must demonstrate that it meets one of the five leverage tests under 16 TAC § 24.11(e)(2) as well as the operations test under 16 TAC § 24.11(e)(3).

Leverage test

My analysis is based on the financial statements of Aqua Texas ending December 31, 2020.² Aqua Texas' financial statements report long-term debt of \$167,475,932 and equity of \$168,622,345. The debt-to-equity ratio is 0.993. Because the ratio is less than 1.0, Aqua Texas meets the leverage test specified in 16 TAC § 24.11(e)(2)(A).

¹ Applicant's Response to Order No. 7 at pdf pages 16 – 24 (Nov. 23, 2021).

² *Id.*

Operations test

An owner or operator must demonstrate sufficient available cash to cover projected cash shortages for operations and maintenance expense during the first five years of operations, as required by 16 TAC § 24.11(e)(3).

Aqua Texas' 2020 financial statements include net operating income of \$20,843,298 and cash in bank balance of \$216,974 that indicate Aqua Texas will have sufficient cash to cover projected shortages. Capital improvements needed to provide continuous and adequate service to the requested area will be paid for by the developer. Sufficient cash and net operating income available to cover possible future shortages provide an indication of financial stability and financial and managerial capability. Therefore, Aqua Texas meets the operations test specified in 16 TAC § 24.11(e)(3).

Financial assurance (TWC § 13.246(d))

Because Aqua Texas meets the financial tests, I do not recommend that the Commission require additional financial assurance.