



## Filing Receipt

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**PUC DOCKET NO. 52197**

APPLICATION BY	§	
AQUA TEXAS, INC.	§	BEFORE THE PUBLIC UTILITY
TO AMEND ITS CERTIFICATE	§	
OF CONVENIENCE (CCN)	§	
AND NECESSITY NO. 21116	§	
FOR THE PROVISION OF	§	COMMISSION OF TEXAS
RETAIL SEWER UTILITY SERVICE	§	
IN WILLIAMSON COUNTY,	§	
TEXAS		

**THE CITY OF GEORGETOWN'S**  
**LIST OF ISSUES TO BE ADDRESSED**

**COMES NOW**, the City of Georgetown, Texas (the "City") and files this List of Issues in response to the September 9, 2021 Order Requesting Lists of Issues in the above-captioned proceeding.

**BACKGROUND**

1. On June 1, 2021, Aqua Texas, Inc. (the "Applicant") filed an Application to Amend a Certificate of Convenience and Necessity ("CCN") in Williamson County, Texas pertaining to its sewer CCN No. 21116 (the "Application").
2. On June 3, 2021, the Administrative Law Judge ("ALJ") issued Order No. 1 requiring Commission Staff to file comments on the administrative completeness of the Application and Proposed Notice, and requiring Commission Staff and the Applicant to file a recommendation regarding how to proceed with the Application and proposed a procedural schedule.
3. On July 1, 2021 the ALJ issued Order No. 2 finding the Application administratively complete, directing the Applicant to provide notice of the Application, and adopting a procedural schedule.

4. The City filed its first Motion to Intervene and Request for Hearing on July 29, 2021, before the expiration of the August 13, 2021 intervention deadline. The City's first Motion to Intervene and Request for Hearing was timely filed and is currently pending.

5. Jonah Water Special Utility District ("Jonah") filed a Motion to Intervene on July 30, 2021, before the expiration of the before the expiration of the August 13, 2021 intervention deadline. The Jonah's Motion to Intervene was timely filed and is currently pending.

6. On August 31, 2021, the ALJ Issued Order No. 3 finding notice sufficient and adopting a procedural schedule, including a deadline of September 10, 2021 to file requests for contested case hearings.

7. The City filed its Second Motion to Intervene and Request for Hearing on September 8, 2021 before the expiration September 10, 2021 deadline to file request for hearing established in Order No. 3. The City's Second Motion to Intervene and Request for Hearing is currently pending.

8. Jonah filed a Request for Hearing on September 8, 2021 before the expiration September 10, 2021 deadline to file request for hearing established in Order No. 3. Jonah's Request for Hearing is currently pending.

9. On September 9, 2021 the Commission Staff filed its request that this docket be referred to the State Office of Administrative Hearings ("SOAH") for a hearing on the merits.

10. On September 9, 2021 the Commission's OPDM issued an Order Requesting Lists of Issues requiring the Applicant and Commission Staff, and allowing any other interested party, to file by September 15, 2021 a list of issues to be addressed in this docket and also identify any issues not to be addressed and any threshold legal or policy issues that should be addressed.

11. This City's List of Issues to be Addressed is filed in response to the Commission's OPDM's September 9, 2021 Order and is timely filed.

### **LIST OF ISSUES TO BE ADDRESSED**

12. The City has identified the following preliminary issues to be address in this proceeding. This list is not intended to be exhaustive, and the City reserves the right to address additional issues raised by other parties or that may arise in the future and are not set forth below.

- (a) Does the Applicant possess the financial, managerial, and technical capability to provide continuous and adequate service as required by Texas Water Code ("TWC") § 13.241 and 16 Texas Administrative Code ("TAC") § 24.227(a)?
- (b) Does the Applicant possess a Texas Commission on Environmental Quality ("TCEQ")-approved system that is capable of meeting TCEQ's design criteria for sewer treatment plants, TCEQ rules, and the TWC in accordance with TWC § 13.241(c) and 16 TAC § 24.227(a)(2)(A)?
- (c) Does the Applicant have access to sewer treatment or capacity, or both, or a long-term contract for purchased sewer treatment or capacity, or both, with an entity whose system meets the requirements of 16 TAC § 24.227(a)(2)(A) in accordance with 16 TAC § 24.227(a)(2)(B)?
- (d) Has the Applicant given notice as required by TWC § 13.246(a) and (a-1) and 16 TAC § 24.235(a) through (d)?
- (e) Does the Application contain all relevant information required by TWC § 13.244(b) through (d) and 16 TAC §§ 24.233(a) and 24.257?
- (f) Does the requested area require the construction of a physically separate

sewer system? If so, has the Applicant proven that regionalization or consolidation with the City's public sewer system and service is not economically feasible as required by TWC § 13.241(d) and 16 TAC § 24.227(b)?

(g) Does the Applicant's requested sewer service area overlap with the extraterritorial jurisdiction of the City under TWC § 13.244(c) and 16 TAC § 24.233(a)(4)?

(h) Is the requested sewer CCN amendment necessary for the service, accommodation, convenience, or safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(d)?

(i) Does the balance of factors under TWC § 13.246(c) and 16 TAC § 24.227(e) weigh in favor of granting the Applicant a CCN amendment to include the requested area?

i. Is the requested area currently receiving adequate sewer service in accordance with TWC § 13.246(c)(1) and 16 TAC § 24.227(e)(1)?

ii. Does the requested area need sewer service or additional sewer service in accordance with but not limited to the following considerations under TWC § 13.246(c)(2) and 16 TAC § 24.227(e)(2)?

1. Have any landowners, prospective landowners, tenants, or residents in the requested area requested sewer service?
2. Are there economic needs for additional sewer service in the requested area?
3. Are there environmental needs for additional sewer service in the requested area?

4. Are there written applications or requests for sewer service?  
If so, from whom, for what part of the requested area, and for what service?
  5. Are there reports or market studies demonstrating existing or anticipated growth in the requested area?
- iii. Under TWC § 13.246(c)(3) and 16 TAC § 24.227(e)(3), what are the effects — including but not limited to regionalization, compliance, and economic effects — of granting the Applicant a CCN amendment to include the requested area on the following:
1. the Applicant,
  2. landowners in the requested area, and
  3. the City?
- iv. Taking into consideration the current and projected density and land use of the area, does the Applicant have the ability to provide adequate service, including meeting the standards of the TCEQ and the Commission, in accordance with TWC § 13.246(c)(4) and 16 TAC § 24.227(e)(4)?
- v. What is the feasibility of obtaining sewer service in the requested area from the City in accordance with TWC § 13.246(c)(5) and 16 TAC § 24.227(e)(5)?
- vi. Is the Applicant financially capable of paying for the facilities necessary to provide continuous and adequate sewer service in accordance with TWC § 13.246(c)(6) and 16 TAC § 24.227(e)(6)?
1. What additional facilities are needed to ensure that the

Applicant can provide continuous and adequate service to the requested area?

2. Who will own the facilities, if constructed?
3. Who will operate the facilities, if constructed?
4. Who will maintain the facilities, if constructed?
5. Under what existing contracts, agreements, permits, authorizations and rights will the facilities be constructed, operated, and maintained?
6. Has the Applicant entered into any agreements regarding the engineering or construction of the facilities? If so, does the Applicant have a timetable for when engineering and construction of the facilities will actually begin? If not, when does the Applicant expect engineering and construction will begin and conclude?
7. What are the projected costs of constructing the facilities, how will construction of the facilities be financed, by whom and under what terms and conditions?
8. How will the construction and operational costs associated with the facilities affect the bills of the Applicants existing customers and customers in the requested area?
9. What are the projected annual costs of maintaining the facilities, how will maintenance of the facilities be financed?
10. Does the Applicant possess the ability to finance facilities or upgrades to existing facilities through its retained earnings?

11. Is the Applicant financially stable in accordance with TWC § 13.246(c)(6) and 16 TAC § 24.227(e)(6)? If applicable, is the Applicant's debt-to-equity ratio adequate?

- (j) How would environmental integrity be affected by granting the Applicant a CCN amendment to include the requested area in accordance with TWC § 13.246(c)(7) and 16 TAC § 24.227(e)(7)?
- (k) What is the probable improvement of service or lowering of cost to consumers in the requested area resulting from granting the amendment in accordance with TWC § 13.246(c)(8) and 16 TAC § 24.227(e)(8)?
- (l) How would the land in the requested area be affected by granting the Applicant a CCN amendment to include the requested area in accordance with TWC § 13.246(c)(9) and 16 TAC § 24.227(e)(9)?
- (m) Should the Commission require the Applicant, in accordance with TWC § 13.246(d) and 16 TAC § 24.227(f), to provide a bond or other financial assurance to ensure that it provides continuous and adequate sewer service?
- (n) Does the Applicant provide water service or plan to provide water service in the future to the requested area?
  - i. If not, who provides water service to the requested area and under what contracts, agreements, terms or conditions?
  - ii. If the Commission grants the Applicant a CCN amendment for all or part of the requested area, what effect will the amendment have on future access to water service for landowners in the requested area?



### **CONCLUSION AND PRAYER**

Because the Commission has yet to rule on the City's Motion to Intervene and the City's Request for Hearing, the Commission should determine that the City has standing to intervene and grant its motion to intervene, that the City's hearing request be granted, and that the City's list of issues to be addressed at a contested case hearing be adopted together with such other issues as may arise or be added in the future.

Respectfully submitted,

/s/ Patricia Erlinger Carls

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**ATTORNEYS FOR  
THE CITY OF GEORGETOWN, TEXAS**

### CERTIFICATE OF SERVICE

I certify that notice of the filing of this document was provided to all parties of record via electronic mail on September 14, 2021, in accordance with the Order Suspending Rules issued in Project No. 50664, and sent via electronic mail to the following persons at the addresses shown below:

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