



## Filing Receipt

**Received - 2021-09-15 11:53:47 AM**  
**Control Number - 52197**  
**ItemNumber - 20**

**PUC DOCKET NO. 52197**

<b>APPLICATION OF AQUA TEXAS, INC. TO AMEND A CERTIFICATE OF CONVENIENCE AND NECESSITY IN WILLIAMSON COUNTY</b>	<b>§ § §</b>	<b>PUBLIC UTILITY COMMISSION  OF TEXAS</b>
---	----------------------	--

**JONAH WATER SPECIAL UTILITY DISTRICT'S PROPOSED LIST OF ISSUES**

COMES NOW, Jonah Water Special Utility District ("Jonah") and files its Proposed List of Issues and, in support thereof, would respectfully show the following:

**I. BACKGROUND**

1. On June 1, 2021, Aqua Texas, Inc. ("Aqua") filed an Application to Obtain or Amend a Water or Sewer Certificate of Convenience and Necessity ("CCN") ("Application") pursuant to Texas Water Code ("TWC") §§ 13.242 to 13.250 and 16 Texas Administrative Code ("TAC") §§ 24.225 to 24.237. On July 1, 2021, Public Utility Commission of Texas ("Commission") Staff found Aqua's Application to be administratively complete.<sup>1</sup>

2. Jonah filed a Motion to Intervene in this proceeding on July 30, 2021, because the property that Aqua seeks to add to its sewer CCN No. 21116 is wholly within the service area of Jonah's water CCN No. 10970, and Jonah does not consent to Aqua providing sewer service in Jonah's CCN service area.<sup>2</sup> Jonah filed a Request for Hearing on September 8, 2021.

3. On September 9, 2021, Commission Staff requested that this proceeding be referred to the State Office of Administrative Hearings for a hearing on the merits. The same day, Commission Counsel Journeay issued an Order Requesting Lists of Issues, setting a deadline of September 15, 2021, for parties to file their list of issues to consider in this docket. This pleading is timely filed.

---

<sup>1</sup> Commission Staff's Recommendation of Administrative Completeness, Proposed Notice, and Proposed Procedural Schedule (July 1, 2021).

<sup>2</sup> See 16 TAC § 24.255(c) (prohibiting a retail public utility from providing "retail water or sewer utility service within the boundaries of a district that provides the same type of retail water or sewer utility service without the district's consent.").

## II. PROPOSED LIST OF ISSUES

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

1. Has Aqua given notice consistent with TWC § 13.246 and 16 TAC §24.235?
2. Has Aqua sought consent of Jonah consistent with TWC § 13.246 and 16 TAC §24.235 to provide sewer service in the service area of Jonah's water CCN No. 10970?
3. Has Aqua received consent from Jonah to provide sewer service in the service area of Jonah's water CCN No. 10970?
4. Does Aqua have a water CCN to serve the requested service area?
5. Does Aqua have the financial, managerial, and technical (FMT) capability to provide continuous and adequate service to the requested service area?
6. Does Aqua possess a TCEQ-approved system that is capable of meeting TCEQ's design criteria for sewer treatment plants, TCEQ rules, and the Texas Water Code? 16 TAC § 24.227(a)(2)?
7. Has Aqua entered into any agreements with any person or entity related to Aqua's provision of sewer service in the service area of Jonah's water CCN No. 10970?
8. Has Aqua received any requests for sewer service from any person or entity within the requested service area?
9. The Application states, "Jonah Water SUD (PWS ID: TX2460022) will provide water utility service to the development."<sup>3</sup> What is the basis for this statement?
10. Does Aqua have a discharge permit to serve the requested service area? Has Aqua applied for such a permit? What is the nature of the "discharge permit" issued to Aqua by the Texas Commission on Environmental Quality ("TCEQ")?<sup>4</sup>
11. What is the nature of Aqua's parent company, Essential Utilities, Inc. f/k/a/ Aqua America, Inc., which Aqua asserts provides "capital contributions" to Aqua?<sup>5</sup>

---

<sup>3</sup> Application at 4.

<sup>4</sup> *Id.* at 4.

<sup>5</sup> *Id.* at 5.

12. What facts necessitate the construction of a sewer system that is physically separate from the City of Georgetown or the City of Round Rock or Jonah in the requested service area?

13. Are there economic needs for additional sewer service in the requested service area?

14. Are there environmental needs for additional sewer service in the requested service area?

15. Would the requested service area require construction of a physically separate sewer system? If so, has Aqua proven that regionalization or consolidation with a retail public utility for sewer service is not economically feasible? TWC § 13.241(d) and 16 TAC 24.227(b).

16. Why did Aqua not request sewer service from the City of Georgetown or the City of Round Rock or Jonah for the requested service area?<sup>6</sup>

17. What is the effect, under TWC § 13.246(c)(3) and 16 TAC § 24.227(e)(3) of granting the requested sewer amendment on Aqua, landowners in the requested service areas, and retail public utilities that provides the same service and that is already serving any area within two miles of the boundary of the requested area?

18. What is the nature of the TCEQ enforcement actions against Aqua and what are Aqua's existing obligations to the TCEQ related to any such enforcement action?

19. Is it probable that sewer service would be improved or costs to consumers in that area would be lowered by granting the requested certificate? TWC § 13.246(c)(8) and 16 TAC § 24.227(e)(8).

20. How would the land in the requested service area be affected, if at all, by granting the requested certificate? TWC § 13.246(c)(9) and 16 TAC § 24.227(e)(9).

21. Should the Commission require Aqua, pursuant to TWC § 13.246(d) and 16 TAC § 24.227(f), to provide a bond or other financial assurance to ensure that continuous and adequate sewer service is provided in the requested service area?

### **III. ISSUES NOT TO BE ADDRESSED**

1. At this time, Jonah has not identified any issues not to be addressed in this proceeding.

---

<sup>6</sup> *Id.* at 6.

#### IV. THRESHOLD LEGAL OR POLICY ISSUES

1. At this time, Jonah has not identified any threshold legal issues to be addressed in this proceeding.

#### V. PRAYER

WHEREFORE, PREMISES CONSIDERED, Jonah respectfully prays that the Commission grant Jonah's Motion to Intervene, grant Jonah's Request for Hearing, and enter a Preliminary Order consistent with the proposed issues set forth above, as well as such other issues as may be relevant or arise in the future.

Respectfully submitted,


By: 

John J. Carlton  
State Bar No. 03817600  
Grayson E. McDaniel  
Stat Bar No. 24078966  
The Carlton Law Firm P.L.L.C.  
4301 Westbank Drive, Suite B-130  
Austin, Texas 78746  
(512) 614-0901  
Fax (512) 900-2855  
[john@carltonlawaustin.com](mailto:john@carltonlawaustin.com)  
[grayson@carltonlawaustin.com](mailto:grayson@carltonlawaustin.com)

ATTORNEYS FOR MERCY WATER  
SUPPLY CORPORATION

#### CERTIFICATE OF SERVICE

I hereby certify that I have served or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or Certified Mail Return Receipt Requested to all parties on this the 15<sup>th</sup> day of September 2021.



John Carlton