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Item Number: 1

Addendum StartPage: 0

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PUC DOCKET NO. \_\_\_\_\_

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APPLICATION OF AQUA WATER  
SUPPLY CORPORATION FOR SALE,  
TRANSFER, OR MERGER OF  
FACILITIES AND CERTIFICATE RIGHTS  
OF POLONIA WATER SUPPLY  
CORPORATION IN CALDWELL  
COUNTY, TEXAS

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PUBLIC UTILITY COMMISSION  
OF TEXAS

**APPLICATION OF AQUA WATER SUPPLY CORPORATION  
FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND  
CERTIFICATE OF CONVENIENCE AND NECESSITY OF POLONIA WATER  
SUPPLY CORPORATION IN  
CALDWELL COUNTY, TEXAS**

Aqua Water Supply Corporation (“Aqua WSC”), a non-profit water supply corporation, files this application for sale, transfer, or merger of facilities and water certificate rights of Polonia Water Supply Corporation (“Polonia WSC”) in Caldwell County (the “Application,” **Exhibit A**). In support of the Application, the Applicant shows the following:

**I. PURPOSE OF THE FILING**

Aqua WSC, holder of Water CCN Number 10294, and Polonia WSC, holder of Water CCN Number 10420, have entered into the Asset Transfer and Utility System Consolidation Agreement (“Asset Transfer and Utility System Agreement” attached as **Exhibit A, Attachment A**). Under the Asset Transfer and Utility System Agreement, Polonia WSC has agreed to sell and convey the existing retail water utility system serving the Polonia area in Caldwell County, Texas, and certificate of convenience and necessity (“CCN”) rights to Aqua WSC, subject to the Public Utility Commission of Texas’s (the “Commission”) approval of this Application. Applicant seeks authorization to proceed with the sale pursuant to the sale, transfer, or merger application (“STM Application”) attached hereto.



## **II. JURISDICTION**

Pursuant to TWC § 13.301 and the Texas Administrative Code (TAC) Title 16, § 24.239, the Commission shall investigate the sale, transfer, or merger of a water supply corporation and approve the sale, transfer, or merger if it is in the public's interest.

## **III. REQUEST FOR INSTRUCTION ON ISSUING NOTICE**

TWC § 13.301(a) and TAC Title 16, § 24.239(b) provides that the notice of an application for the sale, transfer, or merger of a retail public utility shall be on the form required by the Commission to customers and other affected parties, but that notice may be waived by the Commission for good cause.

Unless waived, notice must be given on or before the 120th day before the effective date of a sale, acquisition, or transfer of a retail water system owned by an entity required by law to possess a CCN. The STM Application Form requires an applicant to wait until the applicant's proposed notices or maps have been reviewed by Commission Staff, and Commission has notified the applicant in writing to issue the Commission Staff-approved notice. Applicant, therefore, requests further instruction on issuing notice.

## **IV. AUTHORIZED REPRESENTATIVES**

The Applicants' authorized representatives for service of all pleadings and other documents in this docket and legal representative is:

### **Aqua Water Supply Corporation:**

Ty H. Embrey  
Lloyd, Gosselink, Rochelle & Townsend, P.C.  
816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
Telephone: (512) 322-5829  
Facsimile: (512) 472-0532  
[tembrey@lglawfirm.com](mailto:tembrey@lglawfirm.com)

**Polonia Water Supply Corporation:**

Paul Pittman  
Polonia WSC  
2990 FM1185  
Lockhart, Texas 78644  
Telephone: (512) 559-2030  
[paulp@ranchwireless.com](mailto:paulp@ranchwireless.com)

All pleadings, motions and other documents in this proceeding should be served on the Applicants' authorized representatives.

**V. PENDING MATTERS / DOCKETS FOR POLONIA WSC**

Aqua WSC and Polonia WSC desire to make the Commission aware of two matters / dockets for Polonia WSC that are currently pending at the Commission. The first pending matter / docket is Docket Number 50585 and the second pending matter / docket is Docket Number 52016.

**VI. APPLICATION – AUTHORIZATION FOR SALE OF SYSTEM**

Aqua WSC, as the *transferee* water supply corporation, must file an application with the Commission prior to acquiring a water system. Attached hereto as **Exhibit A** is Aqua WSC and Polonia WSC's (*transferor*) *Application for Sale, Transfer, or Merger of a Retail Public Utility*.

Pursuant to 16 TAC § 24.239, Applicants hereby provide the following information in support of its petition:

1. A completed PUC Form, Application for Sale, Transfer, or Merger of a Retail Public Utility—**Exhibit A, and Attachments A-M.**
2. A copy of the executed Asset Transfer and Utility System Agreement – **Exhibit A, Attachment A.**
3. Polonia WSC Tariff and Rate Schedule – **Exhibit A, Attachment B.**
4. Aqua WSC Articles of Incorporation – **Exhibit A, Attachment C.**
5. Aqua WSC Bylaws – **Exhibit A, Attachment D.**
6. Aqua WSC Board of Directors Information – **Exhibit A, Attachment E.**

7. Aqua WSC 2020 Financial Audit – **Exhibit A, Attachment F.**
8. Aqua WSC Tariff – **Exhibit A, Attachment G.**
9. Polonia WSC TCEQ Compliance Correspondence – **Exhibit A, Attachment H.**
10. List of Aqua WSC Licensed Operators – **Exhibit A, Attachment I.**
11. General Location Map and Detailed Map of STM Area – **Exhibit A, Attachment J.**
12. Digital Mapping Data – **Exhibit A, Attachment K.**
13. Comparison of Aqua WSC and Polonia WSC Rate Schedules – **Exhibit A, Attachment L.**
14. Polonia WSC Independent Election Auditor Official Report for October 20, 2020 Membership Meeting – **Exhibit A, Attachment M.**

## **VII. CONCLUSION AND PRAYER**

Applicant respectfully requests that the Commission approve the sale of the Polonia System from Polonia WSC to Aqua WSC. If the Commission determines that the Application is insufficient for acceptance, Applicant respectfully requests that they be notified promptly and provided an opportunity to cure any deficiencies identified.

Respectfully submitted,

/s/ Ty H. Embrey  
Ty H. Embrey  
State Bar No. 24025346  
Lloyd, Gosselink, Rochelle & Townsend, P.C.  
816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
(512) 322-5800 phone  
(512) 472-0532 facsimile  
[tembrey@lglawfirm.com](mailto:tembrey@lglawfirm.com)  
ATTORNEY FOR  
AQUA WATER SUPPLY CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on June 24, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Ty H. Embrey  
Ty H. Embrey

## **TABLE OF CONTENTS**

### **EXHIBITS**

<b>Exhibit A</b>	Application for Sale, Transfer or Merger of a Retail Public Utility
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### **ATTACHMENTS**

<b>Attachment “A” – Question 1</b>	Asset Transfer and Utility System Consolidation Agreement between Aqua WSC and Polonia WSC
<b>Attachment “B” – Question 4</b>	Polonia WSC Tariff
<b>Attachment “C” – Question 7</b>	Aqua WSC Articles of Incorporation
<b>Attachment “D” – Question 7</b>	Aqua WSC Bylaws
<b>Attachment “E” – Question 9</b>	Aqua WSC Board of Directors Information
<b>Attachment “F” – Question 10</b>	Aqua WSC 2020 Financial Audit
<b>Attachment “G” – Question 15</b>	Aqua WSC Tariff
<b>Attachment “H” – Question 22</b>	Polonia TCEQ Compliance Correspondence
<b>Attachment “I” – Question 28</b>	List of Aqua WSC Licensed Operators
<b>Attachment “J” – Question 29</b>	General Location Small Scale Map and Detailed Large Scale Maps
<b>Attachment “K” – Question 29</b>	Digital Mapping Data
<b>Attachment “L” – Question 32</b>	Comparison of Aqua WSC and Polonia WSC Rate Schedules
<b>Attachment “M” – Question 13</b>	Polonia WSC Independent Election Auditor Official Report for October 20, 2020 Meeting

**EXHIBIT A**

**Application for Sale, Transfer, or Merger of Aqua WSC  
and Polonia WSC**



# Application for Sale, Transfer, or Merger of a Retail Public Utility

Pursuant to Texas Water Code § 13.301 and 16 Texas Administrative Code § 24.239

## Sale, Transfer, or Merger (STM) Application Instructions

- I. **COMPLETE:** In order for the Commission to find the application sufficient for filing, the Applicant should:
  - i. Provide an answer to every question and submit any required attachment applicable to the STM request (i.e., agreements or contracts).
  - ii. Use attachments or additional pages to answer questions as necessary. If you use attachments or additional pages, reference their inclusion in the form.
  - iii. Provide all mapping information as detailed in Part G: Mapping & Affidavits.
- II. **FILE:** Seven (7) copies of the completed application with numbered attachments. One copy should be filed with no permanent binding, staples, tabs, or separators; and 7 copies of the portable electronic storage medium containing the digital mapping data.
  - i. **SEND TO:** Public Utility Commission of Texas, Attention: Filing Clerk, 1701 N. Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326 (**NOTE: Electronic documents may be sent in advance of the paper copy, however they will not be processed and added to the Commission's on-line Interchange until the paper copy is received and file-stamped in Central Records.**)
- III. The application will be assigned a docket number, and an administrative law judge (ALJ) will issue an order requiring Commission Staff to file a recommendation on whether the application is sufficient. The ALJ will issue an order after Staff's recommendation has been filed:
  - i. **DEFICIENT (Administratively Incomplete):** Applicants will be ordered to provide information to cure the deficiencies by a certain date, usually 30 days from ALJ's order. ***Application is not accepted for filing.***
  - ii. **SUFFICIENT (Administratively Complete):** Applicants will be ordered by the ALJ to give appropriate notice of the application using the notice prepared by Commission Staff. ***Application is accepted for filing.***
- IV. Once the Applicants issue notice, a copy of the actual notice sent and an affidavit attesting to notice should be filed in the docket assigned to the application. Recipients of notice may request a hearing on the merits.
 

**HEARING ON THE MERITS:** An affected party may request a hearing within 30 days of notice. In this event, the application may be referred to the State Office of Administrative Hearings (SOAH) to complete this request.
- V. **TRANSACTION TO PROCEED:** at any time following the provision of notice, or prior to 120 days from the last date that proper notice was given, Commission Staff will file a recommendation for the transaction to proceed as proposed or recommend that the STM be referred to SOAH for further investigation. The Applicants will be required to file an update in the docket to the ALJ every 30 days following the approval of the transaction. The transaction must be completed within six (6) months from the ALJ's order (Note: The Applicants may request an extension to the 6 month provision for good cause).
- VI. **FILE:** Seven (7) copies of completed transaction documents and documentation addressing the transfer or disposition of any outstanding deposits. After receiving all required documents from the Applicants, the application will be granted a procedural schedule for final processing. The Applicants are requested to consent in writing to the proposed maps and certificates, or tariff if applicable.
- VII. **FINAL ORDER:** The ALJ will issue a final order issuing or amending the applicable CCNs.

### FAQ:

#### ***Who can use this form?***

Any retail public utility that provides water or wastewater service in Texas.

#### ***Who is required to use this form?***

A retail public utility that is an investor owned utility (IOU) or a water supply corporation (WSC) prior to any STM of a water or sewer system, or utility, or prior to the transfer of a portion of a certificated service area.

### Terms

**Transferor:** Seller

**Transferee:** Purchaser

**CCN:** Certificate of Convenience and Necessity

**STM:** Sale, Transfer, or Merger

**IOU:** Investor Owned Utility

## Application Summary

**Transferor:** Polonia Water Supply Corporation ("Polonia WSC")  
(selling entity)

**CCN No.s:** 10420

☒ Sale    ☐ Transfer    ☐ Merger    ☐ Consolidation    ☐ Lease/Rental

**Transferee:** Aqua Water Supply Corporation ("Aqua WSC")  
(acquiring entity)

**CCN No.s:** 10294 and 20962

☐ Water    ☐ Sewer    ☒ All CCN    ☐ Portion CCN    ☐ Facilities transfer

**County(ies):** Caldwell County, Texas

## Table of Contents

Sale, Transfer, or Merger (STM) Application Instructions .....	1
Part A: General Information .....	3
Part B: Transferor Information .....	3
Part C: Transferee Information .....	4
Part D: Proposed Transaction Details .....	6
Part E: CCN Obtain or Amend Criteria Considerations.....	8
Part F: TCEQ Public Water System or Sewer (Wastewater) Information .....	9
Part G: Mapping & Affidavits .....	10
Part H: Notice Information.....	12
Appendix A: Historical Financial Information (Balance Sheet and Income Schedule).....	15
Appendix B: Projected Information .....	18

### Please mark the items included in this filing

<input checked="" type="checkbox"/> Contract, Lease, Purchase, or Sale Agreement	Part A: Question 1
<input checked="" type="checkbox"/> Tariff including Rate Schedule	Part B: Question 4
<input type="checkbox"/> List of Customer Deposits	Part B: Question 5
<input type="checkbox"/> Partnership Agreement	Part C: Question 7
<input checked="" type="checkbox"/> Articles of Incorporation and By-Laws (WSC)	Part C: Question 7
<input type="checkbox"/> Certificate of Account Status	Part C: Question 7
<input checked="" type="checkbox"/> Financial Audit	Part C: Question 10
<input type="checkbox"/> Application Attachment A & B	Part C: Question 10
<input type="checkbox"/> Disclosure of Affiliated Interests	Part C: Question 10
<input type="checkbox"/> Capital Improvement Plan	Part C: Question 10
<input type="checkbox"/> List of Assets to be Transferred	Part D: 11.B
<input type="checkbox"/> Developer Contribution Contracts or Agreements	Part D: 11.D
<input type="checkbox"/> Enforcement Action Correspondence	Part E: Question 18 (Part D: Q12)
<input checked="" type="checkbox"/> TCEQ Compliance Correspondence	Part F: Question 22
<input type="checkbox"/> TCEQ Engineering Approvals	Part F: Question 24
<input type="checkbox"/> Purchased Water Supply or Treatment Agreement	Part F: Question 26
<input checked="" type="checkbox"/> Detailed (large scale) Map	Part G: Question 29
<input checked="" type="checkbox"/> General Location (small scale) Map	Part G: Question 29
<input checked="" type="checkbox"/> Digital Mapping Data	Part G: Question 29
<input checked="" type="checkbox"/> Signed & Notarized Oath	Page 13-14



### Part A: General Information

1. Describe the proposed transaction, including the effect on all CCNs involved, and provide details on the existing or expected land use in the area affected by the proposed transaction. Attach all supporting documentation, such as a contract, a lease, or proposed purchase agreements:

The Board of Directors of both Polonia WSC and Aqua WSC are interested in consolidating the two WSCs. The members of Polonia WSC voted by a margin of 272 votes FOR to 27 votes AGAINST to consolidate with Aqua WSC. Please see the attached Asset Transfer and Utility System Consolidation Agreement (Attachment A) for more information regarding the proposed transaction.

2. The proposed transaction will require (check all applicable):

For **Transferee** (Purchaser) CCN:

- ☐ Obtaining a NEW CCN for Purchaser  
☒ Transfer all CCN into Purchaser's CCN (Merger)  
☐ Transfer Portion of CCN into Purchaser's CCN  
☐ Transfer all CCN to Purchaser and retain Seller CCN  
☐ Uncertificated area added to Purchaser's CCN

For **Transferor** (Seller) CCN:

- ☒ Cancellation of Seller's CCN  
☐ Transfer of a Portion of Seller's CCN to Purchaser  
☐ Only Transfer of Facilities, No CCN or Customers  
☐ Only Transfer of Customers, No CCN or Facilities  
☐ Only Transfer CCN Area, No Customers or Facilities

### Part B: Transferor Information

Questions 3 through 5 apply only to the *transferor* (current service provider or seller)

3. A. Name: Polonia Water Supply Corporation

(individual, corporation, or other legal entity)

☐ Individual ☐ Corporation ☒ WSC ☐ Other: \_\_\_\_\_

- B. Mailing Address: P.O. Box 778, Lockhart, Texas 78644

Phone: (512) 559-2031

Email: pwsc@ranchwireless.com

- C. Contact Person. Please provide information about the person to be contacted regarding this application. Indicate if this person is the owner, operator, engineer, attorney, accountant, or other title.

Name: Paul L. Pittman

Title: General Manager

Mailing Address: P.O. Box 778, Lockhart, Texas 78644

Phone: (512) 217-2040

Email: pwsc@ranchwireless.com

4. If the utility to be transferred is an Investor Owned Utility (IOU), for the most recent rate change, attach a copy of the current tariff and complete A through B:

A. Effective date for most recent rates: \_\_\_\_\_

- B. Was notice of this increase provided to the Public Utility Commission of Texas (Commission) or a predecessor regulatory authority?

☒ No ☐ Yes Application or Docket Number: \_\_\_\_\_

**If the transferor is a Water Supply or Sewer Service Corporation, provide a copy of the current tariff.**

5. For the customers that will be transferred following the approval of the proposed transaction, check all that apply:

☐ There are no customers that will be transferred

☒ # of customers without deposits held by the transferor 9,567

☐ # of customers with deposits held by the transferor\* \_\_\_\_\_

\*Attach a list of all customers affected by the proposed transaction that have deposits held, and include a customer indicator (name or account number), date of each deposit, amount of each deposit, and any unpaid interest on each deposit.

### Part C: Transferee Information

Questions 6 through 10 apply only to the *transferee* (purchaser or proposed service provider)

6. A. Name: Aqua Water Supply Corporation

(individual, corporation, or other legal entity)  
☐ Individual ☐ Corporation ☒ WSC ☐ Other:

B. Mailing Address: 415 Old Austin Hwy, Drawer P, Bastrop, Texas 78602

Phone: (512) 303-3943 Email: info@aquawsc.com

C. Contact Person. Provide information about the person to be contacted regarding this application. Indicate if this person is the owner, operator, engineer, attorney, accountant, or other title.

Name: Ty H. Embrey Title: Attorney

Address: 816 Congress Avenue, Suite 1900, Austin, Texas 78701

Phone: (512) 322-5829 Email: tembrey@lglawfirm.com

D. If the transferee is someone other than a municipality, is the transferee current on the Regulatory Assessment Fees (RAF) with the Texas Commission on Environmental Quality (TCEQ)?

☐ No ☒ Yes ☐ N/A

E. If the transferee is an IOU, is the transferee current on the Annual Report filings with the Commission?

☐ No ☐ Yes ☒ N/A

7. The legal status of the transferee is:

☐ Individual or sole proprietorship

☐ Partnership or limited partnership (*attach* Partnership agreement)

☐ Corporation  
Charter number (as recorded with the Texas Secretary of State): \_\_\_\_\_

☒ Non-profit, member-owned, member controlled Cooperative Corporation [Article 1434(a) Water Supply or Sewer Service Corporation, incorporated under TWC Chapter 67]

Charter number (as recorded with the Texas Secretary of State): 25894701

☒ Articles of Incorporation and By-Laws established (*attach*)

☐ Municipally-owned utility

☐ District (MUD, SUD, WCID, FWSD, etc.)

☐ County

☐ Affected County (a county to which Subchapter B, Chapter 232, Local Government Code, applies)

☐ Other (please explain): \_\_\_\_\_

8. If the transferee operates under any d/b/a, provide the name below:

Name: N/A

9. If the transferee's legal status is anything other than an individual, provide the following information regarding the officers, members, or partners of the legal entity applying for the transfer:

Name: Please see Question 9 Attachment.

Position: \_\_\_\_\_ Ownership % (if applicable): 0.00%

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_ Ownership % (if applicable): 0.00%

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_ Ownership % (if applicable): 0.00%

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_ Ownership % (if applicable): 0.00%

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

10. **Financial Information**

The transferee Applicant must provide accounting information typically included within a balance sheet, income statement, and statement of cash flows. If the Applicant is an existing retail public utility, this must include historical financial information and projected financial information. However, projected financial information is only required if the Applicant proposes new service connections and new investment in plant, or if requested by Staff. If the Applicant is a new market entrant and does not have its own historical balance sheet, income statement, and statement of cash flows information, then the Applicant should establish a five-year projection taking the historical information of the transferor Applicant into consideration when establishing the projections.

**Historical Financial Information** may be shown by providing any combination of the following that includes necessary information found in a balance sheet, income statement, and statement of cash flows:

1. Completed Appendix A;
2. Documentation that includes all of the information required in Appendix A in a concise format; or
3. Audited financial statements issued within 18 months of the application filing date. This may be provided electronically by providing a uniform resource locator (URL) or a link to a website portal.

**Projected Financial Information** may be shown by providing any of the following:

1. Completed Appendix B;
2. Documentation that includes all of the information required in Appendix B in a concise format;
3. A detailed budget or capital improvement plan, which indicates sources and uses of funds required, including improvements to the system being transferred; or
4. A recent budget and capital improvements plan that includes information needed for analysis of the operations test (16 Tex. Admin. Code § 24.11(e)(3)) for the system being transferred and any operations combined with the system. This may be provided electronically by providing a uniform resource locator (URL) or a link to a website portal.

**Part D: Proposed Transaction Details**

**11. A.** Proposed Purchase Price: \$ 0.00

If the transferee Applicant is an investor owned utility (IOU) provide answers to B through D.

**B.** Transferee has a copy of an inventory list of assets to be transferred (*attach*):

☐ No ☐ Yes ☒ N/A

Total Original Cost of Plant in Service: \$

Accumulated Depreciation: \$

Net Book Value: \$

**C. Customer contributions in aid of construction (CIAC):** Have the customers been billed for any surcharges approved by the Commission or TCEQ to fund any assets currently used and useful in providing utility service? Identify which assets were funded, or are being funded, by surcharges on the list of assets.

☒ No ☐ Yes

Total Customer CIAC: \$

Accumulated Amortization: \$

**D. Developer CIAC:** Did the transferor receive any developer contributions to pay for the assets proposed to be transferred in this application? If so, identify which assets were funded by developer contributions on the list of assets and provide any applicable developer agreements.

☒ No ☐ Yes

Total developer CIAC: \$

Accumulated Amortization: \$

**12. A.** Are any improvements or construction required to meet the minimum requirements of the TCEQ or Commission and to ensure continuous and adequate service to the requested area to be transferred plus any area currently certificated to the transferee Applicant? Attach supporting documentation and any necessary TCEQ approvals, if applicable.

☒ No ☐ Yes

**B.** If yes, describe the source and availability of funds and provide an estimated timeline for the construction of any planned or required improvements:

N/A.

**13.** Provide any other information concerning the nature of the transaction you believe should be given consideration:

After careful consideration by the Polonia WSC Board of Directors and a Membership vote on October 20th 2020, it was decided it would be in the best interest of the Polonia WSC members to consolidate with Aqua WSC. The members of Polonia WSC voted by a margin of 272 votes FOR to 27 votes AGAINST to consolidate with Aqua WSC.

**14.** Complete the following proposed entries (listed below) as shown in the books of the Transferee (purchaser) after the acquisition. Debits (positive numbers) should equal credits (negative numbers) so that all line items added together equal zero. Additional entries may be made; the following are suggested only, and not intended to pose descriptive limitations:

Utility Plant in Service:	\$	0.00
Accumulated Depreciation of Plant:	\$	0.00
Cash:	\$	0.00
Notes Payable:	\$	0.00
Mortgage Payable:	\$	0.00
(Proposed) Acquisition Adjustment*:	\$	

\* Acquisition Adjustments will be subject to review under 16 TAC § 24 41(d) and (e)

Other (NARUC account name & No.):

Other (NARUC account name & No.):

**15. A.** Explain any proposed billing change (NOTE: If the acquiring entity is an IOU, the IOU may not change the rates charged to the customers through this STM application. Rates can only be changed through the approval of a rate change application.)

Aqua WSC's tariff will apply to the Polonia WSC System's customers after closing. Both Aqua WSC's tariff and Polonia WSC's tariff have been attached for convenient reference.

**B.** If transferee is an IOU, state whether or not the transferee intends to file with the Commission, or an applicable municipal regulatory authority, an application to change rates for some or all of its customers as a result of the transaction within the next twelve months. If so, provide details below:

N/A. Transferee is not an IOU.

**Part E: CCN Obtain or Amend Criteria Considerations**

16. Describe, in detail, the anticipated impact or changes in the quality of retail public utility service in the requested area as a result of the proposed transaction:

The parties anticipate the transfer of the Polonia WSC System to be seamless, with no impact on the quality of retail public utility service to the Polonia WSC customers. The infrastructure, which currently meets all State regulatory requirements, will be the same. If the consolidation / transaction is approved by the PUC, the Polonia WSC system will then be operated by the Aqua WSC staff which is as qualified if not more qualified to operate a retail public utility as the Polonia WSC staff.

17. Describe the transferee's experience and qualifications in providing continuous and adequate service. This should include, but is not limited to: other CCN numbers, water and wastewater systems details, and any corresponding compliance history for all operations.

Aqua WSC currently holds Water CCN No. 10294 and Sewer CCN No. 20962. Aqua WSC has been in operation since 1970 and currently provides retail water service to over 20,000 members in Bastop, Fayette, Travis, Caldwell, Williamson and Lee Counties. Aqua WSC has over 70 employees. Aqua WSC has 29 water wells with 19,196 gallons-per-minute combined capacity, 25 pump stations with 50,040 gallons-per-minute total capacity, 20 pressure planes, 6 Standpipes with 559,000-gallon capacity, 22 ground storage tanks with a total capacity of 7,611,800 gallons, 23 elevated storage tanks with a total capacity of 6,925,000 gallons and 15,185,800 total gallons of storage.

18. Has the transferee been under an enforcement action by the Commission, TCEQ, Texas Department of Health (TDH), the Office of the Attorney General (OAG), or the Environmental Protection Agency (EPA) in the past five (5) years for non-compliance with rules, orders, or state statutes? Attach copies of any correspondence with the applicable regulatory agency(ies)

☒ No ☐ Yes

19. Explain how the environmental integrity or the land will be impacted or disrupted as a result of the proposed transaction:

The environmental integrity of the land on which the Polonia WSC System is located will not be impacted or disrupted as a result of this transaction.

20. How will the proposed transaction serve the public interest?

Aqua WSC's service area and water system infrastructure is located in close proximity to the Polonia WSC System. Aqua WSC has the existing staff capacity to be responsive to customer needs, and the ability to provide cost-effective, continuous and adequate service to Polonia WSC System customers.

21. List all neighboring water or sewer utilities, cities, districts (including ground water conservation districts), counties, or other political subdivisions (including river authorities) providing the same service within two (2) miles from the outer boundary of the requested area affected by the proposed transaction:

The following water utilities are located within two (2) miles from the outer boundary of the affected area: Creedmoor Maha WSC, Goforth SUD, County Line SUD, the City of Lockhart, and Maxwell WSC.

**Part F: TCEQ Public Water System or Sewer (Wastewater) Information**

**Complete Part F for EACH Public Water or Sewer system to be transferred subject to approval of the transaction. Attach a separate sheet with this information if you need more space for additional systems being transferred.**

**22. A.** For Public Water System (PWS):

TCEQ PWS Identification Number: 0280020 (7 digit ID)

Name of PWS: Polonia WSC Water System

Date of last TCEQ compliance inspection: April 29, 2020 (attach TCEQ letter)

Subdivisions served: Polonia WSC System

**B.** For Sewer service:

TCEQ Water Quality (WQ) Discharge Permit Number: WQ - (8 digit ID)

Name of Wastewater Facility: \_\_\_\_\_

Name of Permittee: \_\_\_\_\_

Date of last TCEQ compliance inspection: \_\_\_\_\_ (attach TCEQ letter)

Subdivisions served: \_\_\_\_\_

Date of application to transfer permit submitted to TCEQ: \_\_\_\_\_

**23.** List the number of existing connections, by meter/connection type, to be affected by the proposed transaction:

Water				Sewer	
	Non-metered	3	2"		Residential
3,181	5/8" or 3/4"		3"		Commercial
4	1"		4"		Industrial
1	1 1/2"		Other		Other
Total Water Connections:		3,189		Total Sewer Connections:	

**24. A.** Are any improvements required to meet TCEQ or Commission standards?

☒ No ☐ Yes

**B.** Provide details on each required major capital improvement necessary to correct deficiencies to meet the TCEQ or Commission standards (attach any engineering reports or TCEQ approval letters):

Description of the Capital Improvement:	Estimated Completion Date:	Estimated Cost:

**C.** Is there a moratorium on new connections?

☒ No ☐ Yes:

**25.** Does the system being transferred operate within the corporate boundaries of a municipality?

☒ No ☐ Yes: \_\_\_\_\_ (name of municipality)

If yes, indicate the number of customers within the municipal boundary.

Water: \_\_\_\_\_ Sewer: \_\_\_\_\_

26. A. Does the system being transferred purchase water or sewer treatment capacity from another source?

☒ No ☐ Yes: If yes, attach a copy of purchase agreement or contract.

Capacity is purchased from: \_\_\_\_\_

Water: \_\_\_\_\_

Sewer: \_\_\_\_\_

B. Is the PWS required to purchase water to meet capacity requirements or drinking water standards?

☒ No ☐ Yes

C. What is the amount of water supply or sewer treatment purchased, per the agreement or contract? What is the percent of overall demand supplied by purchased water or sewer treatment (if any)?

	Amount in Gallons	Percent of demand
Water:		0 00%
Sewer:		0 00%

D. Will the purchase agreement or contract be transferred to the Transferee?

☒ No ☐ Yes:

27. Does the PWS or sewer treatment plant have adequate capacity to meet the current and projected demands in the requested area?

☐ No ☒ Yes:

28. List the name, class, and TCEQ license number of the operator that will be responsible for the operations of the water or sewer utility service:

Name (as it appears on license)	Class	License No.	Water or Sewer
Please see Question 28 Attachment.			

### Part G: Mapping & Affidavits

**ALL applications require mapping information to be filed in conjunction with the STM application.**

***Read question 29 A and B to determine what information is required for your application.***

29. A. For applications requesting to transfer an entire CCN, without a CCN boundary adjustment, provide the following mapping information with each of the seven (7) copies of the application:

1. A general location (small scale) map identifying the requested area in reference to the nearest county boundary, city, or town. The following guidance should be adhered to:
  - i. If the application requests to transfer certificated service areas for both water and sewer, separate maps must be provided for each.
  - ii. A hand drawn map, graphic, or diagram of the requested area is not considered an acceptable mapping document.



- iii. To maintain the integrity of the scale and quality of the map, copies must be exact duplicates of the original map. Therefore, copies of maps cannot be reduced or enlarged from the original map, or in black and white if the original map is in color.

- 2. A detailed (large scale) map identifying the requested area in reference to verifiable man-made and natural landmarks such as roads, rivers, and railroads. The Applicant should adhere to the following guidance:
  - i. The map must be clearly labeled and the outer boundary of the requested area should be marked in reference to the verifiable man-made or natural landmarks. These verifiable man-made or natural landmarks must be labeled and marked on the map as well.
  - ii. If the application requests an amendment for both water and sewer certificated service area, separate maps need to be provided for each.
  - iii. To maintain the integrity of the scale and quality of the map, copies must be exact duplicates of the original map. Therefore, copies of maps cannot be reduced or enlarged from the original map, or in black and white if the original map is in color.
  - iv. The outer boundary of the requested area should not be covered by any labels, roads, city limits or extraterritorial jurisdiction (ETJ) boundaries.
- B. For applications that are requesting to include area not currently within a CCN, or for applications that require a CCN amendment (any change in a CCN boundary), such as the transfer of only a portion of a certificated service area, provide the following mapping information with each of the seven (7) copies of the application:
  - 1. A general location (small scale) map identifying the requested area with enough detail to locate the requested area in reference to the nearest county boundary, city, or town. Please refer to the mapping guidance in part A 1 (above).
  - 2. A detailed (large scale) map identifying the requested area with enough detail to accurately locate the requested area in reference to verifiable man-made or natural landmarks such as roads, rivers, or railroads. Please refer to the mapping guidance in part A 2 (above).
  - 3. One of the following identifying the requested area:
    - i. A metes and bounds survey sealed or embossed by either a licensed state land surveyor or a registered professional land surveyor. Please refer to the mapping guidance in part A 2 (above);
    - ii. A recorded plat. If the plat does not provide sufficient detail, Staff may request additional mapping information. Please refer to the mapping guidance in part A 2 (above); or
    - iii. Digital mapping data in a shapefile (SHP) format georeferenced in either NAD 83 Texas State Plane Coordinate System (US Feet) or in NAD 83 Texas Statewide Mapping System (Meters). The digital mapping data shall include a single, continuous polygon record. The following guidance should be adhered to:
      - a. The digital mapping data must correspond to the same requested area as shown on the general location and detailed maps. The requested area must be clearly labeled as either the water or sewer requested area.
      - b. A shapefile should include six files (.dbf, .shp, .shx, .sbx, .sbn, and the projection (.prj) file).
      - c. The digital mapping data shall be filed on a data disk (CD or USB drive), clearly labeled, and filed with Central Records. Seven (7) copies of the digital mapping data is also required.

### Part H: Notice Information

The following information will be used to generate the proposed notice for the application.  
**DO NOT provide notice** of the application until it is found sufficient and the Applicants are ordered to provide notice.

30. Complete the following using verifiable man-made or natural landmarks such as roads, rivers, or railroads to describe the requested area (to be stated in the notice documents). Measurements should be approximated from the outermost boundary of the requested area: Requested Area 1 - 31,435 Acres Requested Area 2 - 6,486 Acres

The total acreage of the requested area is approximately: 37,920.00

Number of customer connections in the requested area: 3,189

Affected subdivision : Polonia WSC System

The closest city or town: City of Lockhart, Texas

Approximate mileage to closest city or town center: 2

Direction to closest city or town: North

The requested area is generally bounded on the North by:

Requested Area 1:	Requested Area 2:	
<u>North: Camino Real</u>	<u>North: FM 20</u>	on the <u>East</u> by:
<u>East: FM 20</u>	<u>East: Harwood Road</u>	on the <u>South</u> by:
<u>South: HWY 142</u>	<u>South: FM 1322</u>	
<u>West: FM 2720</u>	<u>West: Acorn Road</u>	on the <u>West</u> by:

31. A copy of the proposed map will be available at: Aqua WSC, 415 Old Austin HWY, Drawer P, Bastrop, TX 78602

32. What effect will the proposed transaction have on an average bill to be charged to the affected customers? Take into consideration the average consumption of the requested area, as well as any other factors that would increase or decrease a customer's monthly bill.

- ☐ All of the customers will be charged the same rates they were charged before the transaction.
- ☐ All of the customers will be charged different rates than they were charged before the transaction.
- ☐ higher monthly bill    ☐ lower monthly bill
- ☒ Some customers will be charged different rates than they were charged before  
(i.e. inside city limit customers)
- ☒ higher monthly bill    ☒ lower monthly bill

Some Polonia WSC customers will experience higher monthly bills, while other Polonia WSC customers will experience lower monthly bills. Please see Attachment M, a comparison of Aqua WSC and Polonia WSC's rate schedules.

## Oath for Transferee (Acquiring Entity)


STATE OF Texas

COUNTY OF Bastrop

I, Dave McMurry being duly sworn, file this application for sale, transfer, merger, consolidation, acquisition, lease, or rental, as General Manager  
(owner, member of partnership, title as officer of corporation, or authorized representative)

I attest that, in such capacity, I am qualified and authorized to file and verify such application, am personally familiar with the documents filed with this application, and have complied with all the requirements contained in the application; and, that all such statements made and matters set forth therein with respect to Applicant are true and correct. Statements about other parties are made on information and belief. I further state that the application is made in good faith and that this application does not duplicate any filing presently before the Commission.

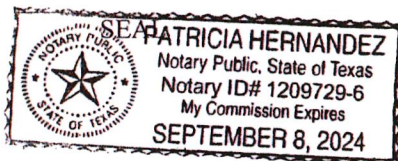
I further state that I have been provided with a copy of the 16 TAC § 24.239 Commission rules. I am also authorized to agree and do agree to be bound by and comply with any outstanding enforcement orders of the Texas Commission on Environmental Quality, the Public Utility Commission of Texas or the Attorney General which have been issued to the system or facilities being acquired and recognize that I will be subject to administrative penalties or other enforcement actions if I do not comply.

  
\_\_\_\_\_  
**AFFIANT**  
(Utility's Authorized Representative)

If the Affiant to this form is any person other than the sole owner, partner, officer of the Applicant, or its attorney, a properly verified Power of Attorney must be enclosed.

SUBSCRIBED AND SWORN BEFORE ME, a Notary Public in and for the State of Texas

this day the 10<sup>th</sup> of June, 20 21



  
\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR THE  
STATE OF TEXAS

Patricia Hernandez  
\_\_\_\_\_  
PRINT OR TYPE NAME OF NOTARY

My commission expires: September 8, 2024

**Oath for Transferor (Transferring Entity)**

STATE OF Texas

COUNTY OF Caldwell

I, Paul L. Pittman being duly sworn, file this application for sale, transfer,

merger, consolidation, acquisition, lease, or rental, as

General Manager

(owner, member of partnership, title as officer of corporation, or authorized representative)

I attest that, in such capacity, I am qualified and authorized to file and verify such application, am personally familiar with the documents filed with this application, and have complied with all the requirements contained in the application; and, that all such statements made and matters set forth therein with respect to Applicant are true and correct. Statements about other parties are made on information and belief. I further state that the application is made in good faith and that this application does not duplicate any filing presently before the Commission.

I further state that I have been provided with a copy of the 16 TAC § 24.239 Commission rules. I am also authorized to agree and do agree to be bound by and comply with any outstanding enforcement orders of the Texas Commission on Environmental Quality, the Public Utility Commission of Texas or the Attorney General which have been issued to the system or facilities being acquired and recognize that I will be subject to administrative penalties or other enforcement actions if I do not comply.

Paul L. Pittman

**AFFIANT**

(Utility's Authorized Representative)

If the Affiant to this form is any person other than the sole owner, partner, officer of the Applicant, or its attorney, a properly verified Power of Attorney must be enclosed.

**SUBSCRIBED AND SWORN BEFORE ME**, a Notary Public in and for the State of Texas

this day the 11 of June, 2011



Brenda Moore

**NOTARY PUBLIC IN AND FOR THE  
STATE OF TEXAS**

Brenda Moore

**PRINT OR TYPE NAME OF NOTARY**

**My commission expires:**

10-08-2022

**Attachment “A” – Question 1**

Asset Transfer and Utility System Consolidation Agreement  
of Aqua WSC and Polonia WSC



**ASSET TRANSFER AND UTILITY SYSTEM CONSOLIDATION AGREEMENT  
(Aqua WSC and Polonia WSC)**

THIS ASSET TRANSFER AND UTILITY SYSTEM CONSOLIDATION AGREEMENT (this "Agreement") by and between **Polonia Water Supply Corporation**, a nonprofit water supply corporation operating under Chapter 67 of the Texas Water Code and Chapter 22 of the Business Organizations Code ("Polonia") and **Aqua Water Supply Corporation**, a nonprofit water supply corporation operating under Chapter 67 of the Texas Water Code and Chapter 22 of the Business Organizations Code ("Aqua") is made and entered into effective as of the last date of execution below (the "Effective Date"). Polonia and Aqua are individually referred to herein as a "Party" and collectively as the "Parties".

**RECITALS**

**WHEREAS**, Polonia is the holder of retail water Certificate of Convenience and Necessity NO. 10420 ("Polonia CCN") as recognized by the Public Utility Commission of Texas ("PUC"); and

**WHEREAS**, Polonia currently has a membership comprised of approximately 3,500 members, and Aqua's membership is comprised of approximately 21,000 members; and

**WHEREAS**, Polonia owns and operates a public water system that serves members within and outside the Polonia CCN service area throughout Bastrop and Caldwell Counties, Texas; and

**WHEREAS**, Aqua is the holder of retail water Certificate of Convenience and Necessity NO. 10294 ("Aqua CCN") as recognized by the Public Utility Commission; and

**WHEREAS**, Aqua owns and operates a public water system that serves members within the Aqua CCN service area throughout Bastrop, Travis, Lee, Caldwell, Fayette, and Williamson counties, Texas; and

**WHEREAS**, Section 67.010 of the Texas Water Code authorizes water supply corporations to enter into contracts for the conveyance of water supply facilities and assets; and

**WHEREAS**, Section 13.301 of the Texas Water Code requires PUC approval for the sale, merger, or transfer of facilities or assets owned by an entity that is required by law to possess a water utility CCN; and

**WHEREAS**, Polonia desires and believes it is in its best interest to transfer and convey all of its assets, rights, and obligations to Aqua; and

**WHEREAS**, the Parties desire to enter into this Agreement in order to set forth the terms and conditions pursuant to which Polonia will convey to Aqua all of Polonia's right, title and interest in, to and under all of the assets of Polonia, and all duties, obligations and liabilities of Polonia.

## AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

### ARTICLE I RECITALS AND DEFINITIONS

Section. 1.1. **Recitals**. The Parties agree that the recitals above, including defined terms, are incorporated herein by reference for all purposes as if copied verbatim.

Section. 1.2. **Definitions**.

A. **Definitions**. Terms as used in this Agreement will have the following meanings:

***“Agreement”*** has the meaning assigned to such term on the first page hereof.

***“Aqua”*** has the meaning set forth on the first page hereof.

***“Aqua CCN”*** means the certificated water service territory of Aqua including the former Polonia CCN after transfer thereof to Aqua and final approval of such transfer by PUC in accordance with the terms of this Agreement.

***“Aqua Closing Certificate”*** means a document provided to Polonia by Aqua containing the items listed in Section 7.6(B).

***“Aqua Required Consents”*** has the meaning assigned to such term in Section 7.1.

***“Assets”*** has the meaning assigned to such term in Section 3.1.

***“Assignment”*** has the meaning assigned to such term in Section 9.3(B).

***“Assumed Liabilities”*** has the meaning assigned to such term in Section 3.4.

***“Best Efforts”*** means the efforts that a prudent Person desirous of achieving a result would use in similar circumstances to achieve that result as expeditiously as possible,

***“CCN”*** means a certificate of convenience and necessity.

***“Closing”*** has the meaning set forth in Section 9.1.

***“Closing Date”*** has the meaning set forth in Section 9.1.

***“Closing Escrow Agreement”*** means that certain agreement to be entered into by Aqua, Polonia, and an escrow agent substantially in the form attached hereto as Exhibit G for purposes of funding potential costs or expenses of Polonia that may arise after Closing.

***“Contracts”*** has the meaning assigned to such term in Section 3.2(B).



***“Deed”*** has the meaning assigned to such term in Section 9.3(A).

***“Effective Date”*** has the meaning set forth on the first page hereof.

***“Escrowed Assets”*** shall be those items described in Section 3.3.

***“Facilities”*** mean those items described in Section 3.2(A).

***“Insurance Proceeds”*** has the meaning assigned to such term in Section 8.1.

***“Member”*** means any retail water service customer of Polonia.

***“Other Assets”*** has the meaning assigned to such term in Section 3.2(D).

***“Permitted Exceptions”*** has the meaning assigned to such term in Section 4.4.

***“Person”*** an individual, partnership, corporation, business trust, limited liability company, limited liability partnership, joint stock company, trust, unincorporated association, joint venture or other entity, or a governmental body.

***“Polonia”*** has the meaning assigned to such term set forth on the first page hereof.

***“Polonia CCN”*** has the meaning set forth in Section 7.3(B).

***“Polonia Closing Certificate”*** means a document provided to Aqua by Polonia containing the items listed in Section 7.6(A).

***“Polonia Debt”*** means Polonia’s current debt obligations attributable to the Assets as described in Section 5.1.

***“Polonia Required Consents”*** has the meaning assigned to such term in Section 7.2.

***“Property”*** means the property described in Section 3.2(C).

***“PUC”*** means the Public Utility Commission of Texas.

***“Required Consents”*** mean those items described in Section 7.2.

***“Review Items”*** has the meaning assigned to such term in Section 4.1.

***“Review Period”*** has the meaning assigned to such term in Section 4.2.

***“Tangible Assets”*** has the meaning assigned to such term in Section 3.2(A).

***“Title Objections”*** has the meaning assigned to such term in Section 4.4.

B. Construction. When required by the context, the gender of words in this Agreement includes the masculine, feminine and neuter genders, and the singular includes the plural (and vice-versa). Unless otherwise specified, references in this Agreement to (i) s and Sections are to



Articles and Sections of this Agreement, (ii) Schedules, Exhibits or Annexes are to those attached hereto, each of which is incorporated herein and made a part hereof for all purposes, (iii) Article and Section headings are for convenience only and shall not affect the interpretation of this Agreement, (iv) the terms “herein,” “hereof,” “hereinafter” or similar derivations are to this Agreement as a whole and not to any particular Article or Section, and (v) the terms “include,” “including” or similar derivations are without limitation.

## ARTICLE II

### STATEMENT OF INTENT; STATEMENT OF AUTHORITY; PRIOR AGREEMENTS

Section. 2.1. **General.** The general purpose of this Agreement is to provide for the conveyance by Polonia to Aqua at Closing of all of Polonia’s right, title and interest in, to and under all of the Assets, and all duties, obligations and liabilities of Polonia.

Section. 2.2. **Prior Agreements.** As of the Closing Date, all contracts or other agreements entered into by and between Polonia and Aqua prior to the Effective Date shall terminate for all purposes and shall be of no further force or effect.

## ARTICLE III

### TRANSFER OF ASSETS AND LIABILITIES

Section. 3.1. **Transfer of Polonia Assets to Aqua.** Subject and pursuant to the terms and conditions set forth in this Agreement, on the Closing Date, Polonia will transfer and convey to Aqua, and Aqua will receive and accept from Polonia, all of Polonia’s right, title, and interest in, to and under all of the assets, properties, and rights of every kind and nature, whether real, personal, or mixed, tangible or intangible (including goodwill), wherever located and whether now existing or hereafter acquired which comprise, or are used or held for use in connection with, the water service provided by Polonia (collectively, the “Assets”). The Assets will be transferred on the Closing Date, AS-IS with no warranties, representations, guarantees, other than third-party warranties related to status or condition of the Assets to the extent same are assignable. Polonia shall use its Best Efforts to identify by not later than sixty (60) days after the Effective Date in writing to Aqua all third-party warranties related to the Facilities that are assignable to Aqua as part of the Contracts below. Specifically, except for the representations and warranties of Polonia set forth in Section 7.2, Polonia makes no representations to Aqua about the Assets or the Assumed Liabilities with respect to any defects, impairments, impediments, defaults, breaches, encumbrances or other similar problems existing, including but not limited to problems with:

- A. the quality, design, construction, layout, or physical condition or state of repair of the Assets;
- B. the location of the Assets in any flood plain, flood way, or flood prone hazard area;
- C. the Assets’ compliance with any laws, rules, ordinances, statutes, or regulations of any applicable governmental authority or regulatory agency, including zoning and other land use regulations; and



- D. the Assets' compliance with any applicable lawful, enforceable environmental protection, pollution, or related or similar land-use laws, rules, regulations, orders or requirements.

Section. 3.2. **Description of Assets.** The Assets include, without limitation, the Facilities, Contracts, Property, and Other Assets as follows:

- A. **Facilities.** All of the (i) water production, treatment, water lines, and distribution system facilities owned by Polonia as of Closing, together with all improvements, structures, storage facilities, service pumps, air compressors, electrical equipment, machines, and other equipment and Tangible Assets (collectively the "Facilities"). "Tangible Assets" shall include, but is not limited to, all equipment owned by Polonia as of Closing to directly or indirectly operate, own, maintain, acquire, or utilize the Facilities.
- B. **Contracts.** All contracts, leases, option rights, permits, certificates, licenses, reimbursement rights, service agreements, deposits, warranties from vendors or manufacturers or other third parties, regulatory correspondence, as-built plans and specifications, engineering reports, files, records, information, data, and other such assets of Polonia that are related to the ongoing operation and ownership of the Assets, including but not limited to those more particularly described on Exhibit A-1 attached hereto and incorporated herein for all purposes (collectively referred to herein as the "Contracts"). Polonia will cooperate with Aqua to obtain all necessary approvals for the assignment of any Contracts. The Contracts will be transferred on the Closing Date, AS-IS with no warranties, representations or guarantees, other than third-party warranties related to the Facilities to the extent same are assignable.
- C. **Property.** All land and interests therein, including without limitation contract rights, easements, licenses and rights-of-way owned or held by Polonia as of Closing, including but not limited to the land and interests more particularly described on Exhibit A-2 attached hereto and incorporated herein by reference for all purposes, together with all and singular the rights, privileges, and appurtenances, if any, pertaining to said land and interests therein, including any right, title, and interest of Polonia in and to adjacent streets, alleys, or rights-of-way, together with any improvements, fixtures, and personal property of Polonia situated on and attached to said land and interests therein (collectively referred to herein as the "Property"). The Property will be transferred, on the Closing Date, AS-IS, with no warranties, representations or guarantees.
- D. **Cash, Marketable Securities, and Other Assets.** All cash, cash equivalents, stocks, bonds, equity holdings, marketable securities, personal property, and other assets owned or held on behalf of Polonia as of Closing, including but not limited to the assets listed on Exhibit A-3 attached hereto and incorporated herein by reference for all purposes (collectively referred to as "Other Assets"). Other assets will be transferred on the Closing Date, AS-IS, with no warranties, representations, or guarantees. The Other Assets shall include the monies within any bank account or



deposit account of Polonia, but all such accounts shall be closed after transfer of funds to Aqua.

Section. 3.3. **Escrowed Assets.** At Closing, the Parties shall execute the Closing Escrow Agreement and Aqua shall deposit cash from the Other Assets (the "*Escrowed Assets*") into the escrow account established under the Closing Escrow Agreement. After Closing, the Polonia Board of Directors may cause the release of all or any portion of the Escrowed Assets to Polonia to fund costs or expenses of Polonia, including the defense of any claims or litigation filed against Polonia or its individual directors, in accordance with the terms of the Closing Escrow Agreement. Notwithstanding the foregoing, the existence of the Escrowed Assets shall not release or alter Aqua's obligation to assume and be responsible for any and all obligations of Polonia after Closing until dissolution, including all costs of operations, administration and costs of any claims against Polonia or its individual directors. Upon dissolution of Polonia, any Escrowed Assets shall be released to Aqua in accordance with the terms and conditions of the Closing Escrow Agreement.

Section. 3.4. **Assumption of Liabilities.** Subject to the terms and conditions set forth herein, on the Closing Date, Aqua shall assume and pay, perform and discharge all of Polonia's liabilities, obligations or commitments of any nature whatsoever, regardless of the date of occurrence giving rise to such liabilities, obligations or commitments, including but not limited to: (i) Polonia's obligations under the Contracts; and (ii) the costs of defense and any liability related to any claims, lawsuits or allegations against Polonia or its individual directors (current or former) made after Closing regardless of the date of the occurrence giving rise thereto or the nature of such claim (collectively, the "*Assumed Liabilities*"), which obligation shall survive Closing.

Section. 3.5. **Rights of Ownership, Possession and Assumption of Liabilities.** Upon and after the Closing Date, Aqua shall own and possess the Assets, including the Property, and shall use the Assets and Property for potable water to members served by the Assets in accordance with: (i) this Agreement; (ii) the terms and conditions of Contracts assigned by Polonia to Aqua at Closing; and (iii) applicable legal and regulatory requirements, including the Aqua CCN. In accordance with such ownership and possession, upon and after the Closing Date, Aqua shall have all of the rights necessary to own, operate, control, use, replace, repair and expand the Assets as needed for the provision of retail water services to the public in accordance with this Agreement, and the Contracts assigned by Polonia to Aqua at Closing.

#### ARTICLE IV REVIEW ITEMS

Section. 4.1. **Review Items.** Following the Effective Date, Polonia will make available at Aqua's request for reasonable inspection and copying (at Aqua's expense) by Aqua during normal working hours at the Facilities or at the offices of Polonia or its agents, the following (the "*Review Items*"):

- A. Copies of all books, records, operating reports, trade account reports, financial records, audits, accounts payable and receivable lists, utility service agreements, plans and specifications, deeds, easements, surveys, plats or descriptions, vendor contracts, management agreements, maintenance records, purchase or sale contracts, regulatory records and correspondence, deeds, easements, licenses, permits,



certificates, soil reports, inspection reports, and engineering reports (including, without limitation, endangered species, environmental, and governmental inspection reports of Polonia related to the ownership or operation of the Assets or relating to or in respect of the physical condition or operation of the Assets); and,

- B. Copies of work papers which reflect the revenues, expenses, cash flows, assets, and liabilities of the Assets and Polonia's most recent budget and forecast related to the Assets; and
- C. Copies of any other documents related to the Assets, excluding confidential attorney-client work product and privileged attorney-client communications of Polonia.

Section. 4.2. **Asset Review.** For a period of one hundred and eighty (180) days beginning on the Effective Date (the "Review Period"), Aqua will have the right, during normal business hours and upon reasonable prior notice to Polonia, to conduct any and all reviews, investigations, environmental assessments and/or examinations of the Review Items and the Assets, which Aqua determines necessary in Aqua's sole and absolute discretion. In the event that Aqua substantially disturbs or disrupts, or damages, any of the Assets during the Review Period, Aqua will be obligated to restore the Assets, at Aqua's sole cost and expense, or any item related thereto substantially to its prior condition to the extent Aqua's review, investigation, or examination changed same and this obligation will survive any termination of this Agreement. Aqua's review shall not disrupt or impair the provision of continuous and adequate water service by the Facilities. Polonia may, at Polonia's option, accompany Aqua during any such inspections. Notwithstanding any provisions herein or elsewhere to the contrary, Aqua will be entitled to terminate this Agreement on or before the expiration of the Review Period upon written notice to Polonia. If Aqua determines that any property owned by Polonia needs an environmental assessment, the parties may agree to an extension of time to the Review Period.

Section. 4.3. **Electronic Provision of Review Items.** Polonia will use reasonable efforts to make the Review Items available to Aqua in electronic format so that the Review Items may be viewed remotely. Aqua agrees that, for any Review Item that Polonia makes available to Aqua in electronic format, Polonia will have satisfied its obligations under this Section and Section 4.1; *provided, however*, that Polonia will make available to Aqua at the Facilities or offices of Polonia any hard copies of the Review Items at Closing.

Section. 4.4. **Title Commitment.** During the Review Period, Aqua, within its sole discretion and at its sole cost and expense, may also procure a commitment for title insurance on any of the Property set forth on Exhibit A-2 or any Property subsequently discovered. Polonia shall not be required to provide an owner's policy of title insurance for any portions of the Property, but Polonia shall otherwise cooperate with Aqua in the review by Aqua of any title commitment applied for, or obtained by, Aqua. Aqua will have thirty (30) days after receipt of the title commitment with respect to any particular portion of the Property to review such title commitment and to deliver to Polonia written notice by hand delivery or overnight delivery, receipt requested, of any objections to the matters set forth in such title commitment if such title matters demonstrate that Polonia has made any false or misleading covenants or representations in this Agreement. Any items to which Aqua does not object within this 30-day period will be deemed to be

*“Permitted Exceptions.”* As to items to which Aqua timely makes objections to in writing to Polonia (*“Title Objections”*), Polonia shall have a period of twenty (20) business days during which it may cooperate with Aqua to attempt to effectuate the cure of such objections such that Polonia’s covenants or representations in this Agreement are not false and misleading. At the end of said thirty (30) day period (if no objections are made by Aqua) or the twenty (20) business day period (if objections are made by Aqua), Aqua will have the right, as its sole and exclusive remedies, solely with respect to Title Objections not cured by Polonia that could reasonably be expected to have a material adverse effect on the operation of the Assets, to terminate this Agreement; all other Title Objections shall be deemed to have been waived by Aqua.

## **ARTICLE V POLONIA DEBT**

### **Section. 5.1. Calculation, Estimates, and True-Up of Defeasance Amount.**

- A. Loans. While Polonia has been approved for a loan with Co-Bank, Polonia has not drawn down or used any funds from the loan as of the Effective Date of this Agreement. Polonia may draw down loan monies from the Co-Bank loan between the date of this Agreement and Closing. If Polonia does so, it will provide an updated statement of the outstanding loan balance to Aqua not less than thirty (30) days prior to Closing. Within ten (10) days of receipt of such notice, Aqua shall notify Polonia as to whether it desires to proceed with Closing in which case it must assume or payoff the Co-Bank loan as a condition of Closing. If Aqua does not elect to assume or pay off the Co-Bank Loan and proceed with Closing, or fails to timely respond to Polonia’s notice, then this Agreement shall terminate for all purposes, and the Parties shall be without further obligation to each other.
- B. Payment. As of the Closing Date, Aqua shall provide payment as necessary to retire in full any Polonia Debt that it does not assume as of such date, and Aqua shall further pay any and all costs and expenses associated with such payoff, such that no Polonia Debt shall remain outstanding after Closing, except for any Polonia Debt transferred to, and assumed by, Aqua.

## **ARTICLE VI COVENANTS**

Section. 6.1. **Post-Closing Covenants.** As further consideration for the transfer of the Assets to Aqua, Aqua hereby covenants to comply with the flowing additional obligations:

- (i) Transfer of Members. Aqua shall issue certificates of membership or other means of admitting the members into membership in Aqua to those members who have executed membership agreements with Polonia. Aqua acknowledges and agrees that Polonia may not have executed membership agreements with some or all of its customers, and that service agreements have been used by Polonia for such purpose.

- (ii) Consideration of Former Polonia Members in Aqua Board Representation. Aqua shall consider the representation of the former members of Polonia when reviewing the composition of Aqua's Board of Directors.
- (iii) Member Classes; Initial Rates and Allocated Overhead. Aqua shall establish uniform rates as between the existing retail members of Aqua and the former members of Polonia. Aqua shall not create a separate member class that segregates the former residential members of Polonia from the Aqua residential member class.
- (iv) Use of Fund Balances. Aqua hereby covenants and agrees that it shall use Polonia's fund balances as of Closing for any lawful purpose directly related to the provision of service to the former members of Polonia, including without limitation, the repair or replacement of the Assets and/or funding of construction of capital improvements that directly serve the lands within the Polonia CCN.

## ARTICLE VII REPRESENTATIONS AND COVENANTS

Section. 7.1. **Aqua's Representations and Warranties.** Aqua represents and warrants to Polonia that the following are true, accurate, and complete as of the Effective Date: (a) each of the persons executing this Agreement on behalf of Aqua is duly authorized to do so; (b) Aqua has full right and authority to enter into this Agreement and to consummate the transaction described in this Agreement; (c) this Agreement constitutes the valid and legally binding obligations of Aqua and is enforceable against Aqua in accordance with its terms, subject to applicable law; (d) neither the execution or delivery of this Agreement nor the performance of Aqua's obligations under this Agreement violates, or will violate, any contract or agreement to which Aqua is a party or by which Aqua is otherwise bound; and (e) other than as set forth in Exhibit C (the "Aqua Required Consents"), there are no consents or approvals needed for Aqua to consummate the transactions contemplated by this Agreement; and (f) neither the execution or delivery of this Agreement nor the performance of Aqua's obligations under this Agreement shall cause, or require, Aqua to increase retail rates to former Polonia members in Aqua CCN as a part of closing the transaction described in this Agreement.

Section. 7.2. **Polonia's Representations and Warranties.** Polonia represents and warrants to Aqua that the following are true, accurate, and complete as of the Effective Date: (a) each of the persons executing this Agreement on behalf of Polonia is duly authorized to do so; (b) Polonia has full right and authority to enter into this Agreement and to consummate the transaction described in this Agreement; (c) this Agreement constitutes the valid and legally binding obligations of Polonia and is enforceable against Polonia in accordance with its terms, subject to applicable law; and (d) other than as set forth in Exhibit D (the "Polonia Required Consents") to the knowledge of Polonia, neither the execution or delivery of this Agreement nor the performance of Polonia's obligations under this Agreement violates, or will violate, any contract or agreement to which Polonia is a party or by which Polonia is otherwise bound; and, (e) other than the Polonia Required Consents and together with Aqua Required Consents, (collectively the "Required

Consents”), to the knowledge of Polonia there are no consents or approvals needed for Polonia to transfer the Assets to Aqua at Closing as contemplated herein.

Section. 7.3. **Consents and Approvals.**

- A. Unless otherwise provided herein, the Parties acknowledge that the Required Consents must be obtained as a condition of Closing. Beginning on the Effective Date, Aqua shall use commercially reasonable efforts to obtain all Required Consents, including the Polonia Required Consents, and keep Polonia informed of the status of same. Polonia agrees to cooperate with and assist Aqua in obtaining the Required Consents; *provided, however*, that such cooperation and assistance will not require any third-party expenditures or cash expenditures by Polonia. The Parties acknowledge that certain of the Contracts, including certain developer service agreements and water supply contracts, require the consent of another party as a condition of Polonia’s assignment of said agreements and Aqua’s assumption of Polonia’s rights and obligations under said Contracts. All third party consents require for assignment of the Contracts shall qualify as Required Consents. However, if Aqua is unable to secure all consents required for assignment of Contracts, Aqua and Polonia may mutually agree in writing to proceed to Closing without obtaining the consent for said agreements and contracts. If all Required Consents have not been received within one year after the Effective Date and the Parties do not mutually agree in writing to extend the period for securing the Required Consents, then this Agreement shall terminate.
- B. The Parties shall use their respective Best Efforts to obtain PUC approval for the transfer of Polonia certificate of convenience and necessity number 10420 (“Polonia CCN”) and the Assets to Aqua. Aqua shall be responsible to prepare and file the application to the PUC regarding the transfer of the CCN and Assets, as set forth in Section 7.5(A). The Parties acknowledge that Polonia has an outstanding loan to CoBank, and that in order to proceed with the proposed acquisition, this loan must be paid off or transferred to (and assumed by) Aqua at or prior to at Closing. Such matters shall be Required Consents for purposes of this Agreement.
- C. Polonia Membership Approval. Polonia agrees to use good faith efforts to conduct a membership meeting prior to the expiration of the Review Period pursuant to which it shall seek member approval for: (i) transfer of the Assets, debts, contractual rights, obligations of Polonia and the Polonia CCN to Aqua as contemplated in this Agreement; and (ii) dissolution of Polonia after Closing. If membership approval is not received prior to the expiration of the Review Period, then except as otherwise agreed by the Parties, this Agreement shall terminate as of expiration of the Review Period.
- D. Aqua acknowledges that Polonia does not maintain a list of membership fees paid by each member but instead, maintains a restricted fund balance at all times not less than the product obtained by multiplying Polonia’s \$100 membership fee by the number of members.

Section. 7.4. **Polonia's Covenants.** In addition to Polonia's and Aqua's other agreements and undertakings hereunder, Polonia hereby covenants and agrees with Aqua that:

- A. **Notices Received.** Polonia, at its sole cost and expense, will promptly deliver to Aqua copies of any written notices or promptly inform Aqua of any other notices received or of which Polonia gains actual knowledge and possession alleging the occurrence of any default or alleged default under any of the contracts included in the Assets, or any violation or alleged violation of any law, regulation, order, or other requirement of any governmental authority having jurisdiction over the Assets, including a proposed compliance order, or any tort claims relating to Polonia's ownership or operation of the Assets.

Section. 7.5. **Aqua's Covenants.** In addition to Polonia's and Aqua's other agreements and undertakings hereunder, Aqua hereby covenants and agrees with the Polonia that:

- A. **Notice and Application to Public Utility Commission of Texas.** Aqua, at Aqua's sole cost and expense, will deliver to the PUC or its successor , all required applications for approval, if any, with respect to the proposed change in ownership of the Assets and transfer of the Polonia CCN to Aqua within ninety (90) days after expiration of the Review Period. Aqua will seek diligently any PUC approval of same. Polonia will have the right to review any filings made with the PUC by Aqua prior to the filing of same. Polonia will otherwise cooperate and assist Aqua to the extent reasonably necessary in obtaining such approvals.
- B. **D&O Insurance.** It shall be a condition of Closing that Polonia obtain at or prior to the Closing Date one or more "tail" insurance policies, in a form acceptable to Polonia and an amount not less than \$5,000,000 (or such other amount determined appropriate by Polonia) with a claims period of at least five years (or such lesser period determined appropriate by Polonia) from the Closing Date or until Polonia is dissolved, whichever is sooner, with respect to directors' and officers' liability insurance for claims against Polonia directors arising from facts or events that occurred prior to the Closing Date, including any claims arising out of this Agreement.
- C. **Dissolution.** On or after the Closing Date, Aqua hereby agrees to undertake and fund the actions necessary to dissolve the Polonia and bear all costs associated with the dissolution. On and after the Closing Date and until dissolution, Aqua shall bear all costs associated with all of the remaining debts, audits, regulatory filings, insurance coverage, administration, existence and any other financial obligations of the Polonia until such time as it is dissolved, and shall fund or pay all such costs and expenses on a timely basis. Without limitation, Aqua will fund and pay costs of Polonia elections, premiums for the insurance required hereunder, and all costs and expenses arising from or related to, and defending against, any claims against Polonia and its individual directors. Aqua acknowledges and agrees that as of the Closing Date, Polonia shall have no funds, assets or access to financing available to it, except for the Escrowed Assets in accordance with the terms and conditions of the Closing Escrow Agreement.



- D. Operating Expenses. Except as otherwise agreed by the Parties, Polonia shall fund all reasonable and necessary operating and administrative costs and expenses incurred by Polonia prior to Closing.

Section. 7.6. Closing Updates.

- A. At Closing, Polonia will provide to Aqua, the Polonia Closing Certificate (so called herein) which will certify, represent, and warrant to Aqua, as of the date of Closing, that (i) each covenant contained in Section 7.4 has been fully satisfied, and (ii) each of the representations and warranties contained in Section 7.2 are and continue to be true and correct on the date of Closing, *provided*, should an event occurring during the pendency of this Agreement make any of such representations and warranties not correct on the date of Closing, such noncompliance will be indicated and described on the Polonia Closing Certificate. The obligation of Aqua to close this transaction is expressly conditioned upon the representations and warranties contained in Section 8.2 hereof being true and correct on the date of Closing and the covenants contained in Section 8.4 hereof being fully satisfied on the date of Closing.
- B. At Closing, Aqua will provide to Polonia an Aqua Closing Certificate (so called herein) which will certify, represent and warrant to Polonia, as of the date of Closing, that (i) each covenant contained in Section 7.5(A) and (B) has been fully satisfied, and (ii) each of the representations and warranties contained in Section 7.1 are and continue to be true and correct on the date of Closing, *provided*, should an event occurring during the pendency of this Agreement make any of such representations and warranties not correct on the date of Closing, such noncompliance will be indicated and described on Aqua Closing Certificate. The obligation of Polonia to close this transaction is expressly conditioned upon the representations and warranties contained on Section 7.1 being true and correct on the date of Closing and the covenants contained in Section 7.5(A) and (B) being fully satisfied on the date of Closing.

Section. 7.7. Employees. Upon Closing, the employment status of each of Polonia's employees shall be addressed as described in the Memorandum of Understanding dated June 4, 2020 attached hereto as Exhibit G. Polonia employees employed by Aqua shall be subject to Aqua's personnel policies and procedures. Polonia shall wind-up and appropriately fund at or prior to Closing the current retirement plan applicable to Polonia's employees.

## ARTICLE VIII CASUALTY PRIOR TO CLOSING

Section. 8.1. Casualty. In the event the Assets or any part thereof should be damaged by any casualty prior to Closing, Polonia will provide to Aqua, at Closing or any date of receipt of said funds after Closing, any funds actually received by Polonia from its third-party insurer as insurance proceeds relating to such casualty (the "Insurance Proceeds") for repair or replacement of the damaged property, and the sale will be closed without the Polonia repairing any such damage if repair or replacement is not necessary for continued operation of the Assets pending Closing. If

repair or replacement is necessary for the provision of continuous and adequate service by Polonia pending Closing, or if required to meet regulatory requirements, Polonia will repair or replace any damaged property necessary for continued operation of the Assets. Polonia will apply insurance proceeds received, if any, in replacement of the damaged property to such repair or replacement.

## ARTICLE IX CLOSING

Section. 9.1. **Time and Place of Closing.** Subject to the deadlines set forth in Section 9.2 below, the closing of the transaction contemplated by this Agreement (the “Closing”) shall take place on the later of (i) not longer than 90 days after all Required Consents are obtained; or (ii) such other date as may be agreed between the Parties or as provided in Section 10.2 below (such date, the “Closing Date”). The Closing will be held at 10:00 a.m., local time on the Closing Date, at the offices of Aqua or at such other time and place as may be agreed between Parties. All matters to take place at the Closing will take place simultaneously, and no delivery will be considered to have been made until all such proceedings have been completed.

Section. 9.2. **Conditions to Closing.** Notwithstanding anything in this Agreement to the contrary, it is specifically agreed that neither Polonia nor Aqua will be under any obligation to close the transaction(s), or any portion thereof, contemplated by this Agreement, until:

- A. the Polonia Debt has been paid off or assigned to (and assumed by) Aqua as of Closing;
- B. all required notices or governmental approvals, if any, including, without limitation, any notification to, consent by, or approval from PUC, have been given or obtained;
- C. the closing deliveries set forth in Section 9.3 and Section 9.5 have been delivered by the applicable Party;
- D. all Required Consents have been obtained by Aqua, as applicable.

If any or all of these conditions have not occurred within two years from the Effective Date, then the Closing Date may be extended by mutual written agreement of the Parties. If the Parties do not mutually agree in writing to such extension and Closing does not occur within two years after the Effective Date, then this Agreement shall automatically terminate two years after the Effective Date.

Section. 9.3. **Polonia Deliveries.** At the Closing, Polonia will deliver or cause to be delivered to Aqua, at Polonia’s sole cost and expense, each of the following items:

- A. A duly executed and acknowledged Deed and Assignment of Easements, in substantially the form attached hereto as Exhibit D (the “Deed”).
- B. A Bill of Sale and Assignment, in substantially the form attached hereto as Exhibit E (“Assignment”), duly executed by the Polonia.
- C. The Polonia Closing Certificate duly executed and acknowledged by Polonia.

- D. Copies of documents evidencing that Polonia has obtained all the Polonia Required Consents.
- E. Any other additional documents and instruments as in the mutual opinion of Aqua's counsel and Polonia's counsel are reasonably necessary to the proper consummation of this transaction.
- F. All combinations and/or keys to all locks related to the Assets.
- G. To the extent reasonably available, the originals of all matters agreed to be transferred to Aqua at Closing, unless otherwise noted, pursuant to Section 4.1.

Section. 9.4. **Polonia's Disclaimer of Warranty.** NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, AQUA ACKNOWLEDGES AND AGREES THAT UPON THE CLOSING, IT IS ACCEPTING THE ASSETS IN THEIR "AS-IS, WHERE-IS" CONDITION "WITH ALL FAULTS" AND DEFECTS AS OF THE CLOSING AND SPECIFICALLY AND EXPRESSLY WITHOUT ANY WARRANTIES, REPRESENTATIONS, OR GUARANTEES, EITHER EXPRESS OR IMPLIED, AS TO THEIR LOCATION, CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY, OR ANY OTHER WARRANTY OF ANY KIND, NATURE, OR TYPE WHATSOEVER FROM OR ON BEHALF OF POLONIA OTHER THAN THIRD-PARTY WARRANTIES RELATED TO THE SYSTEM TO THE EXTENT SAME ARE ASSIGNABLE. Any instruments of transfer for the Assets and the debt will reference this agreement.

Section. 9.5. **Aqua Delivery.** At the Closing, Aqua will deliver to Polonia the following items:

- A. The Closing Certificate.
- B. The Assignment duly executed by Aqua.
- C. The Deed duly executed by Aqua.
- D. Evidence satisfactory to Polonia that Aqua has assumed or paid the Polonia Debt and any costs and expenses associated with the assumption or repayment of the Polonia Debt.
- E. Such evidence or documents as may reasonably be required by Polonia evidencing the authority of the person or persons who are executing the various documents on behalf of Aqua in connection with the sale of the Assets.
- F. Copies of documents evidencing that Aqua has obtained all Required Consents.
- G. Evidence that each agreement to which Polonia is a party will either terminate or assign to Aqua the rights and obligations of the underlying agreement and such termination or assignment will release and fully discharge Polonia from any obligations under or related to the underlying agreement.

- H. Any other additional documents or instruments as in the mutual opinion of Aqua's counsel and Polonia's counsel are reasonably necessary to the proper consummation of this transaction.

Section. 9.6. **Title and Possession.** Title and possession of the Assets will be delivered to Aqua by Polonia at the Closing.

Section. 9.7. **Costs and Expenses.** Unless otherwise set forth herein, all costs and expenses in connection with the transaction contemplated by this Agreement will be borne by Aqua, including but not limited to costs of assuming or paying Polonia Debt.

## ARTICLE X TERMINATION & REMEDIES

Section. 10.1. **Term.** This Agreement shall remain in full force and effect until final dissolution of Polonia, except as otherwise provided in Section 10.2 below. Any covenants that relate to Aqua's obligations after Closing shall survive Closing.

Section. 10.2. **Termination Prior to Closing.** Notwithstanding anything in this Agreement to the contrary, this Agreement may not be terminated prior to Closing except as follows:

- A. by mutual consent in writing of Aqua and the Polonia;
- B. by Aqua, if Polonia breaches in any material respect any of the representations, warranties, covenants or other agreements of Polonia contained in this Agreement, which breach has not been waived in writing or cannot be or has not been cured within fifteen (15) days after the giving of written notice by Aqua to Polonia specifying such breach;
- C. by Polonia, if Aqua breaches in any material respect any of the representations or warranties, covenants or other agreements of Aqua contained in this Agreement, which breach has not been waived in writing or cannot be or has not been cured within fifteen (15) days after the giving of written notice by Polonia to Aqua specifying such breach;
- D. by Polonia, if any lawsuit is filed against Polonia or against any of the individual members of the Board of Directors of Polonia challenging the validity of this Agreement, the authority of Polonia to enter into or perform its obligations under this Agreement, or challenging the transactions that are contemplated herein;
- E. by either Polonia or Aqua, if any court or any other governmental authority issues a final and non-appealable order prohibiting such Party from consummating the sale and purchase of the Assets as provided herein;
- F. by either Polonia or Aqua, if satisfaction of any of the conditions in Section 9.2 is or becomes impossible and the other Party has not waived such condition in writing; *provided*, that in each case the failure to satisfy the applicable condition or

conditions has occurred by reason other than (i) through the failure of terminating Party to comply with its obligations under this Agreement or (ii) the terminating Party's failure to provide its closing deliveries on the Closing Date as a result of the terminating Party not being ready, willing and able to close the transaction contemplated in this Agreement on the Closing Date;

G. automatically if the Closing has not occurred by the second anniversary of the Effective Date, unless the Parties mutually agree in writing to extend the Closing Date beyond the second anniversary of the Effective Date; and

H. by Aqua pursuant to Section 4.2 and Section 4.4.

Section. 10.3. **Effect of Termination.** In the event that this Agreement is terminated pursuant to Section 10.2, all further obligations of the Parties under this Agreement shall terminate without further liability of any party to another; *provided*, that (a) the provisions of this Section 10.3 shall survive any such terminations and (b) in the event this Agreement is terminated pursuant to Section 10.2B or Section 10.2C nothing in this Section 10.3 shall relieve Aqua or Polonia of any liability for an intentional breach of any representation, warranty, covenant or other agreement herein on or prior to the date of termination and the Parties shall be entitled to seek the remedy of specific performance of this Agreement.

Section. 10.4. **Aqua's Remedies:** Notwithstanding any provision of this Agreement to the contrary, in the event Polonia fails or refuses to timely comply with Polonia's obligations hereunder or is unable to do so as the result of Polonia's act or failure to act, or at Closing any of Polonia's representations, warranties or covenants contained herein is untrue, has been breached, or is unsatisfied, Aqua shall have the following options: (i) to terminate the Agreement by giving Polonia timely written notice of termination prior to or at Closing, and thereupon this Agreement shall terminate according to the terms of Section 10.3 of this Agreement, or (ii) to waive, prior to or at Closing, as applicable, the applicable objection or condition and proceed to close the transaction contemplated hereby in accordance with the remaining terms hereof.

Section. 10.5. **Polonia's Remedies.** Notwithstanding any provision of this Agreement to the contrary, in the event Aqua fails or refuses to timely comply with Aqua's obligations hereunder or is unable to do so as the result of Aqua's act or failure to act, Polonia shall have the following options: (i) to terminate the Agreement by giving Aqua timely written notice of termination prior to or at Closing, and thereupon this Agreement shall terminate according to the terms of Section 10.3 of this Agreement, or (ii) to waive, prior to or at Closing, as applicable, the applicable objection or condition and proceed to close the transaction contemplated hereby in accordance with the remaining terms hereof.

## ARTICLE XI INDEMNIFICATION AND RELEASE

Section. 11.1. **Indemnification and Release of Polonia.** **AS OF THE CLOSING DATE AND TO THE EXTENT ALLOWED BY LAW, AQUA, FOR ITSELF, ITS LEGAL REPRESENTATIVES AND ASSIGNS, DOES HEREBY AGREE TO RELEASE,**

ACQUIT, FOREVER DISCHARGE AND AGREE TO INDEMNIFY AND DEFEND POLONIA, ITS SUCCESSORS, ASSIGNS, DIRECTORS, OFFICERS, AGENTS, ATTORNEYS AND EMPLOYEES FROM ANY AND ALL MANNER OF ACTIONS, CAUSES OF ACTION, SUITS, CLAIMS, DEMANDS, JUDGMENTS, DAMAGES, LIABILITIES, AND CLAIMS FOR DAMAGES OF EVERY KIND AND CHARACTER, KNOWN AND UNKNOWN, PAST, PRESENT, AND FUTURE, INCLUDING, BUT NOT LIMITED TO CLAIMS OF POLONIA'S OWN NEGLIGENCE, GROSS NEGLIGENCE, STRICT, COMPARATIVE, OR JOINT ENTERPRISE LIABILITY IN CONNECTION WITH, RESULTING FROM OR ARISING OUT OF (A) ANY ENVIRONMENTAL CONDITION EXISTING ON OR PRIOR TO THE CLOSING DATE WHETHER KNOWN OR UNKNOWN, (B) ANY TITLE OBJECTIONS; (C) ANY CONTRACTUAL OBLIGATIONS AND REQUIREMENTS IMPOSED UPON AQUA IN ANY OF THE CONTRACTS OR BY THE ASSETS, AND (D) ANY ALLEGED BREACH OR MISREPRESENTATION IN THIS AGREEMENT, OR OTHERWISE RELATING TO OR ARISING OUT THIS AGREEMENT, THE ASSETS TRANSFERRED TO AQUA, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. THE OBLIGATION OF AQUA AND AQUA TO INDEMNIFY AND DEFEND POLONIA SHALL SURVIVE UNTIL POLONIA IS DISSOLVED.

## ARTICLE XII GENERAL PROVISIONS

Section. 12.1. **Notices.** All notices and other communications hereunder will be in writing and will be delivered by one of the following means: hand delivery; expedited courier delivery; mailed by registered or certified mail, return receipt requested, postage prepaid; or, electronic mail, *provided*, that a duplicate of the same notice or communication is also mailed by first-class mail on the same date of the electronic mail. All notices and communications hereunder will be addressed as follows, and will be effective upon actual delivery if delivered by hand or by expedited courier delivery or, if mailed, three (3) business days after deposit in the United States mail:

- (a) If to Polonia, to:

General Manager  
2990 FM1185  
Lockhart, TX 78644

- (b) If to Aqua, to:

General Manager  
415 Old Austin Hwy  
Bastrop, TX 78602

Any party may change its address for receiving notice by giving notice of a new address in the manner herein; *provided, however*, if mailed, notice of such new address will be effective only upon actual receipt by the other parties.



Section. 12.2. **Headings and Defined Terms.** Descriptive headings are for convenience only and will not control or affect the meaning or construction of any provision of this Agreement.

Section. 12.3. **Assignment.** Assignment of this Agreement by the Parties is prohibited without the prior written consent of the other party. This Agreement will be binding upon and inure to the benefit of the Parties and their successors and assigns.

Section. 12.4. **Governing Law and Forum.** This Agreement will be construed and interpreted in accordance with the law of the State of Texas and the obligations of the Parties hereto are and will be performable in Caldwell County. By executing this Agreement, each party hereto expressly (a) consents and submits to personal jurisdiction and venue consistent with the previous sentence, (b) waives, to the fullest extent permitted by law, all claims and defenses that such jurisdiction and venue are not proper or convenient, and (c) consents to the service of process in any manner authorized by Texas law.

Section. 12.5. **No Oral Modification.** This Agreement may not be modified or amended, except by an agreement in writing signed by all of the Parties to this Agreement.

Section. 12.6. **No Oral Waiver.** The parties may waive any of the conditions contained herein or any of the obligations of the other party hereunder, but any such waiver will be effective only if in writing and signed by the party waiving such conditions or obligations. No waiver or waivers of any breach or default (or any breaches or defaults) of any term, covenant, condition or liability under this contract, or of performance by the other parties of any duty or obligation under this contract, will be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstances.

Section. 12.7. **Time of Essence.** Time is of the essence of this Agreement.

Section. 12.8. **Entire Agreement.** This Agreement, including the Exhibits hereto, constitutes the entire agreement among the Parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings of the Parties in connection therewith. No representation, warranty, covenant, agreement, or condition not expressed in this Agreement will be binding upon the Parties hereto or will affect or be effective to interpret, change, or restrict the provisions of this Agreement except by an amended agreement in writing signed by the Parties.

Section. 12.9. **Partial Invalidity.** If any clause or provision of this Agreement is or should ever be held to be illegal, invalid, or unenforceable under any present or future law applicable to the terms hereof, then and in that event, it is the intention of the Parties hereto that the remainder of this Agreement will not be affected thereby, and that in lieu of each such clause or provision of this Agreement that is illegal, invalid, or unenforceable, there be added as part of this Agreement a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable such that the intention of the Parties is effected as closely as is possible.

Section. 12.10. **Counterpart Execution.** This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which shall constitute but one agreement. Delivery of a signature to this Agreement by facsimile transmission or electronic

mail in “portable document format” shall have the same effect as physical delivery of the paper document bearing the original signature.

Section. 12.11. **Holidays**. In the event that the date upon which any duties or obligations hereunder to be performed will occur upon a Saturday, Sunday or legal holiday, then, in such event, the due date for performance of any duty or obligation will thereupon be automatically extended to the next succeeding business day.

Section. 12.12. **Exhibits**. The following Exhibits are attached hereto:

Exhibit A-1	Contracts and Agreements
Exhibit A-2	Property
Exhibit A-3	Other Assets
Exhibit B	Aqua Required Consents
Exhibit C	Polonia Required Consents
Exhibit D	Deed and Assignment of Easements
Exhibit E	Bill of Sale and Assignment
Exhibit F	Closing Escrow Agreement
Exhibit G	Memorandum of Understanding dated June 4, 2020

Section. 12.13. **Third Party Beneficiaries**. Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the Parties hereto and their successors and assigns, any benefits, rights or remedies under or by reason of this Agreement.

IN WITNESS WHEREOF, each party hereto has signed this Agreement or caused this Agreement to be signed in its corporate name by its officer thereunto duly authorized, all as of the date first above written.

*[Signature pages to follow]*



POLONIA WATER SUPPLY CORPORATION

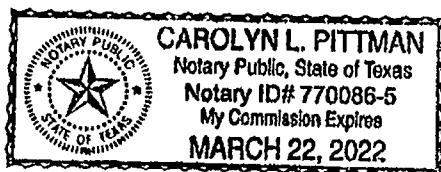
By: [Signature]  
Name: Joe M. Kelly, Jr.  
Title: President

[Signature]  
Secretary/Treasurer  
Forrest Laughlin

ACKNOWLEDGEMENT

STATE OF TEXAS           §  
                                     §  
COUNTY OF CALDWELL   §

This instrument was acknowledged before me on this 20<sup>th</sup> day of October, 2020 by Joe M. Kelly, Jr., Forrest Laughlin of Polonia Water Supply Corporation, a Texas nonprofit water supply corporation, on behalf of said corporation.



[Signature]  
Notary Public, State of Texas

AQUA WATER SUPPLY CORPORATION

By: Dave McMurry

Name: Dave McMurry

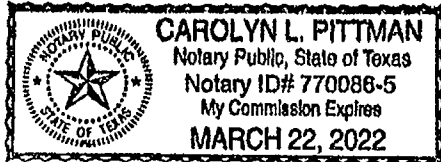
Title: General Manager

ACKNOWLEDGEMENT

STATE OF TEXAS §

COUNTY OF Caldwell §

This instrument was acknowledged before me on this 20<sup>th</sup> day of October, 2020, by Dave McMurry of Aqua Water Supply Corporation, a Texas nonprofit water supply corporation, on behalf of said corporation.



Carolyn L. Pittman  
Notary Public, State of Texas

## EXHIBIT A

# EXHIBIT G

## MEMORANDUM OF UNDERSTANDING

DATED JUNE 4, 2020

BETWEEN

AQUA WATER SUPPLY CORPORATION AND  
POLONIA WATER SUPPLY CORPORATION

**Purpose:** As Polonia Water Supply Corporation ("Polonia") is considering and planning on a consolidation with Aqua Water Supply Corporation ("Aqua"), the General Manager of Polonia (Paul Pittman) wishes to secure a beneficial outcome for Polonia's current employees. To this end, Paul Pittman and the General Manager of Aqua (Dave McMurry) met on June 2, 2020 to discuss and decide Aqua's employment of Polonia's current employees at the time of consolidation. If the consolidation of Aqua and Polonia is approved, Aqua commits to hiring Polonia's current employees as described below.

**Mutual Understanding:** Aqua and Polonia agreed to the following employment actions at the closing time of consolidation for the listed Polonia employees.

**Bud Cheatham** -- Aqua will hire Bud Cheatham to aid in the transition, if he is willing, at current salary for a period not to exceed six (6) months.

**Rosie Cheatham** -- Aqua will hire Rosie Cheatham at current salary.

**Carolyn Pittman** -- Aqua will hire Carolyn Pittman, if she is willing, at current salary until she reaches age of retirement.

**Bryan Guynes** -- Aqua will hire Bryan Guynes at current salary.

**Stephen Till** -- Aqua will hire Stephen Till at current salary.

**Emiterio Lopez Jr.** -- Aqua will hire Emitterio Lopez at current salary.

**Taylor Till** -- Aqua will not hire Taylor Till.

**Term of Agreement:** This Memorandum of Understanding remains in effect through completion of the consolidation of Polonia Water Supply Corporation and Aqua Water Supply Corporation.

### Signatures and Dates:

Aqua Water Supply Corporation

By: *Dave McMurry*

Name: *Dave McMurry*

Title: *General Manager*

Date: *June 17, 2020*

Polonia Water Supply Corporation

By: *Paul L Pittman*

Name: *Paul L Pittman*

Title: *General Manager*

Date: *6-24-2020*

**Attachment “B” – Question 4**

Polonia WSC Tariff

# TARIFF

Polonia Water Supply Corporation  
P. O. Box 778 Lockhart, Texas 78644  
512-559-2030

**Revised January 15, 2019**

## TABLE OF CONTENTS

SECTION A.	<u>RESOLUTION AND AUTHORITY</u>
SECTION B.	<u>STATEMENTS</u>
SECTION C.	<u>DEFINITIONS</u>
SECTION D.	<u>GEOGRAPHIC AREA SERVED</u>
SECTION E.	<u>SERVICE RULES AND REGULATIONS</u> <ol style="list-style-type: none"><li>1. Service Entitlement</li><li>2. Service Location and Classification</li><li>3. Service Requirements</li><li>4. Activation of Standard Service</li><li>5. Activation of Non-Standard Service</li><li>6. Changes in Service Classification</li><li>7. Membership</li><li>8. Owners and Renters (Section C., Miscellaneous Transaction Forms)</li><li>9. Denial of Service</li><li>10. Applicant's or Transferee's Recourse</li><li>11. Insufficient Grounds for Refusal of Service</li><li>12. Deferred Payment Agreement (Miscellaneous Transaction Forms)</li><li>13. Charge Distribution and Payment Application</li><li>14. Due Dates, Delinquent Bills, and Service Disconnection Date</li><li>15. Rules for Disconnection of Service</li><li>16. Billing Cycle Changes</li><li>17. Back-Billing</li><li>18. Disputed Bills</li><li>19. Inoperative Meters</li><li>20. Bill Adjustment Due to Meter Error</li><li>21. Meter Tampering and Diversion</li><li>22. Meter Relocation</li><li>23. Prohibition of Multiple Connections to a Single Tap</li><li>24. Member's Responsibility</li><li>25. Main Extension Policy</li></ol>
SECTION F.	<u>DEVELOPER, SUBDIVISION, and</u> <u>NON-STANDARD SERVICE REQUIREMENTS</u> Part I. General Requirements This section details the requirements for all types of non-standard service request. <ol style="list-style-type: none"><li>1. Corporation's Limitations</li><li>2. Purpose</li></ol>

3. Application of Rules
4. Non-Standard Service Application (see Sample Application Packet)
5. Design
6. Non-Standard Service Contract
7. Construction of Facilities by Applicant Prior to Execution of Service Contract
8. Property and Right-of-Way (See Sample Application Packet)
9. Bids for Construction
10. Pre-Payment for Construction and Services
11. Construction

Part II Request for service to Subdivided Property

In addition to Part I requirements, this section contains additional requirements for developers and persons purchasing property within subdivisions.

1. Service to Subdivided Property

SECTION G.

RATES AND SERVICE FEES

1. Service Investigation Fee
2. Membership Fee
3. Easement Fee (Sample Application Packet)
4. Installation Fee
5. Capital Improvement Fee (Section C., also Miscellaneous Section)
6. Water Development and Capacity Fee
7. Monthly Charges
8. Late Payment Fee
9. Returned Check Fee (Miscellaneous Transaction Form)
10. Reconnect Fee
11. Service Trip Fee
12. Equipment Damage Fee
13. Customer History Report Fee
14. Meter Test Fee (Miscellaneous Transaction Fee)
15. Transfer Fee (Miscellaneous Transaction Fee)
16. Non-Disclosure Fee
17. Customer Service Inspection Fee
18. Other Fees

SECTION H.

DROUGHT CONTINGENCY PLAN

1. Declaration of Policy, Purpose, and Intent
2. Public Involvement
3. Public Education
4. Coordination with Regional Water Planning Groups
5. Authorization
6. Application
7. Definitions



8. Triggering Criteria for Initiation and Termination of Drought Response Stages
9. Drought Response Stages
10. Enforcement
11. Adoption of Drought Contingency Plan
12. Variances
13. Severability

#### SAMPLE APPLICATION PACKET

1. Standard Application and Agreement Form ( RUS-TX Bulletin 1780-9) (Rev. 09/02)
2. Specific Type Right-of-Way Easement (Form FmHA 442-8)
3. General Type Right-of-Way Easement (Form FmHA 442-9)
4. Non-Standard Application and Agreement

#### MISCELLANEOUS TRANSACTION FORMS

1. Alternate Billing Agreement for Rental Accounts
2. Confidentiality of Utility Records Form
3. Customer Notice (For Rationing)
4. Deferred Payment Agreement
5. Installment Agreement
6. Line Extension Refund Agreement
7. Membership Mortgage Agreement
8. Membership Transfer Authorization
9. Meter Test Authorization and Test Report
10. Notice to Owner of Rental Property
11. Notice of Requirement to comply with the Subdivision and Service Extension Policy
12. Notice of Returned Check
13. Request for Service Discontinuance
14. Right-of-Way Easement Denial Form and Affidavit
15. Equipment and Line Dedication Agreement
16. Termination Notice

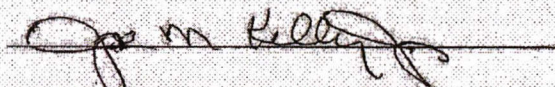


**SECTION A.**  
**RESOLUTIONS**

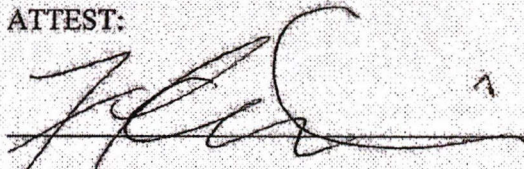
THE BOARD OF DIRECTORS OF POLONIA WATER SUPPLY CORPORATION ESTABLISHES THAT :

1. This Tariff of the Polonia Water Supply Corporation, serving in Caldwell and Bastrop Counties consisting of Sections A. through H. and forms inclusive, is adopted and enacted as the current regulations and policies effective as of May 21, 2019.
2. Only those preexisting written contracts or agreements executed by the present or previous Board of Directors shall remain in effect, unless the contract or agreement requires compliance with changes of the tariff from time to time.
3. The adoption of this tariff does not prohibit or limit the Corporation from enforcing previous penalties or assessments from before the current effective date.
4. An official copy of this and all policies or records shall be available during regular office hours of the Corporation. The Secretary of the Corporation shall maintain the original copy as approved and all previous copies for exhibit.
5. Rules and regulations of state or federal agencies having jurisdiction shall supersede any terms of this policy. If any section, paragraph, sentence, clause, phrase, word, or words of this policy are declared unconstitutional or invalid for any purpose, the remainder of this policy shall not be affected.

PASSED and APPROVED this 21<sup>st</sup> day of May, 2019.

  
\_\_\_\_\_  
President, Polonia Water Supply Corporation

SEAL

ATTEST:  
  
\_\_\_\_\_  
Secretary, Polonia Water Supply Corporation



## **SECTION B.**

### **STATEMENTS**

1. **Organization.** The Polonia Water Supply Corporation is a member-owned, non-profit corporation incorporated pursuant to the Texas Water Code Chapter 67, Nonprofit Water Supply Corporations and as supplemented by the Texas Non-Profit Corporation Act, Tex. Rev. Civ. Stat. Ann., Article 1396-1.01, et seq. (West 1980, Vernon Supp. 1996 as amended) for the purpose of furnishing potable water and or sewer utility service. Corporation operating policies, rates, and regulations are adopted by the Board of Directors elected by the Members of the Corporation.
2. **Non-Discrimination Policy.** Membership in the Corporation and service is provided to all Applicants who comply with the provisions of this Tariff regardless of race, creed, color, national origin, sex, disability, or marital status.
3. **Policy and Rule Application.** These policies, rules, and regulations apply to the water provided by the Polonia Water Supply Corporation, also referred to as Polonia WSC. Failure on the part of the Member, Consumer, or Applicant to observe these policies, rules and regulations gives the Corporation the authority to deny or discontinue service according to the terms of this Tariff as amended from time to time by the Board of Directors of the Corporation.
4. **Corporation Bylaws.** The Corporation Members have adopted bylaws (see Article 1396-2.09) which establish the make-up of the Board of Directors and other important regulations of the Corporation. The bylaws are on file at the Corporation's office.
5. **Fire Protection Responsibility.** The Corporation does not provide nor imply that fire protection is available on any of the distribution system. All hydrants or flush valves are for the operation and maintenance of the system and may be used for refill only by authorized fire departments. The Corporation reserves the right to remove any hydrant, due to improper use or detriment to the system as determined by the Corporation, at any time without notice, refund, or compensation to the contributors unless such hydrants are installed pursuant to the terms of a Non-Standard Service Contract as provided for in Section F, in which event the terms and conditions of the Contract shall apply.
6. **Damage Liability.** The Polonia WSC is not liable for damages caused by service interruptions, events beyond its control, and for normal system failures. The limits of liability of Polonia WSC is the extent of the cost of service provided. By acceptance of Membership, Member consents to waiver of such liability.
7. **Information Disclosure.** The records of the Corporation shall be kept in the Corporation office in Caldwell County, Texas. All information collected, assembled, or maintained by or for the Corporation shall be disclosed to the public in accordance with the Texas Open Records Act. An individual customer may request in writing that their name, address, telephone number, or social security number be kept confidential. Such confidentiality does



not prohibit the utility from disclosing this information to an official or employee of the state or a political subdivision of the state acting in an official capacity or an employee of the Corporation acting in connection with the employee's duties. Further, such confidentiality does not prohibit the Corporation from disclosing the name and address of each member on a list to be made available to the Corporation's voting members, or their agents or attorneys, in connection with a meeting of the Corporation's members. The Corporation shall give its applicants and customers notice of rights to confidentiality under this policy and all prevailing associated fees for such request.

8. ***Customer Notice Provisions.*** The Corporation shall give written notice of monthly rate changes by mail or hand delivery to all consumers at least 30 days prior to the effective date of the new rate. The notice shall contain the old rates, new rates, effective date of the new rate, date of Board authorization, and the name and phone number of the Corporation's contact person designated to address inquiries about the rate change.
9. ***Grievance Procedures.*** Any Member of the Corporation or individual demonstrating an interest under the policies of this Tariff in becoming a Member of the Corporation shall have an opportunity to voice concerns or grievances to the Corporation by the following means and procedures:
  - a. By presentation of concerns to the Corporation's manager or authorized staff member. If not resolved to the satisfaction of the aggrieved party then,
  - b. By presenting a letter to the Board of Directors stating the individual's grievance or concern and the desired result.
  - c. The Board of Directors shall respond to the complaint by communicating the Board's decision in writing.
  - d. Any charges or fees contested as a part of the complaint in review by the Corporation under this policy shall be suspended until a satisfactory review and final decision has been made by the Board of Directors.
10. ***Customer Service Inspections.*** The Corporation requires that a customer service inspection certification be completed prior to providing continuous water service to new construction and for all new members as part of the activation of standard and some non-standard service. Customer service inspections are also required on any existing service when the corporation has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction or addition to the members' water distribution facilities. This inspection is limited to the identification and prevention of cross connections, potential contaminant hazards and illegal lead materials. (30 TAC 290.46(i-j))
11. ***Submetering Responsibility.*** Submetering and Non-Submetering by Master Metered Accounts may be allowed in the Corporation's water distribution system provided the Master Metered Account customer complies with the Texas Commission on Environmental Quality Chapter 291 Subchapter H rules pertaining to Submetering. The Corporation has no jurisdiction or responsibility to the tenants; tenants receiving water under a Master Metered Account are not considered customers of the Corporation. Any interruption or impairment of water service to the tenants is the responsibility of the Master Metered Account Customer.

Any complaints regarding submetering should be directed to the Texas on Environmental Quality Commission.

**NOTE:** The system should check with the Master Metered Account Customer to:

1. See if they have registered with the TCEQ, (Chapter 13 Texas Water Code Subchapter M.)
2. See that they do not charge their tenants more than the total amount of charges that you have billed. If the aggregate bill is greater than the Corporation's charge, the Master Metered Account Customer is considered by the TCEQ to be a separate Public Water System and will be required to comply with all TCEQ regulations.
3. Protect the System's CCN. Should the Master Metered Account Customer continue to violate these or other State regulations, the Corporation will need to request a Cease and Desist Order from the TCEQ. (Texas Water Code Chapter 13.252 and 30 TAC Chapter 291.118 )



## **SECTION C. DEFINITIONS**

**Active Service** -- The status of any Member receiving authorized service under the provisions of this Tariff.

**Applicant** -- A person, partnership, cooperative corporation, corporation, agency, public or private organization of any type applying for service with the Polonia Water Supply Corporation.

**Board of Directors** -- The governing body elected by the Members of the Polonia Water Supply Corporation. (Article 1396-1.02 (7))

**Bylaws** -- The rules pertaining to the governing of the Polonia Water Supply Corporation adopted by the Corporation Members. (Article 1396-1.02 (5))

**Certificate of Convenience and Necessity (CCN)** -- The authorization granted under Chapter 13 Subchapter G of the Texas Water Code for Polonia Water Supply Corporation to provide water utility service within a defined territory. Polonia Water Supply Corporation has been issued Certificate Number 10420. Territory defined in the CCN shall be the Certificated Service Area. (See Section D. Certificated Service Area Map)

**Corporation** -- The Polonia Water Supply Corporation. (Section B. 3 of this Tariff)

**Developer** -- Any person, partnership, cooperative corporation, corporation, agency, or public or private organization who subdivides land or requests more than two (2) water connections on a single contiguous tract of land [as defined in Chapter 13.2502 (e)(1) of the Water Code].

**Disconnection of Service** -- The discontinuance of water service by the Corporation to a Member/Customer.

**Easement** -- A private perpetual dedicated right-of-way for the installation of water pipelines and necessary facilities which allows access to property for future operation, maintenance, facility replacement, facility upgrades, and/or installation of additional pipelines (if applicable).

**Capital Improvement Fee** -- A fee assessed to each new Applicant for service in order to defray the costs of expanding the Corporation's water system to meet the anticipated capital costs required to serve future service connections. (Tariff Section G. 5., also see Miscellaneous)

**Water Development and Supply Fee** -- A fee assessed to developers for the purpose of development and/or acquisition of additional water supplies required to meet service demands arising out of the subdivision of property by developers. This fee is charged for each meter equivalent or service unit for which non-standard service has been requested by a developer or to the purchaser of real property if not previously paid by the developer. The fee is levied in order to recover a pro rata share of the costs of development and/or acquisition of additional water

supplies necessitated by the subdivision of property or requests for more than two service connections on a single tract of land.

**Final Plat** -- A complete plan for the subdivision of a tract of land. The Polonia Water Supply Corporation shall determine if a plat submitted for the purpose of this Tariff shall qualify as a final plat. (30 TAC 291.85)

**Hazardous Condition** -- A condition that jeopardizes the health and welfare of the Members/Consumers of the Corporation as determined by the Corporation or regulatory authority.

**Liquidated Membership** -- A Membership that has been canceled due to delinquent charges exceeding the Membership Fee or for other reasons as specified in this Tariff.

**Member** -- Any person, partnership, cooperative corporation, corporation, agency, or public or private organization that has qualified for service and received a Membership in accordance with the Corporation's Tariff.

**Membership** -- A non-interest bearing stock purchased from the Corporation evidencing a Member's interest in the Corporation. (See Tariff Section E. 7 b and Article 1396-2.08 D)

**Membership Fee** -- A fee qualified as such under the terms of the tariff and the bylaws of the Corporation assigned to the real estate designated to receive service. The membership fee shall be refundable upon termination of service and surrendering the Membership. (30 TAC 291.3 Definitions, Texas Water Code 13.043(g))

**Proof of Ownership** -- Texas Water Code 67.016 (d) gives authority to the Corporation to require ownership of real estate designated to receive service as a condition of membership and service. For the purpose of this Tariff, applicants for service and membership shall provide proof of ownership by deed of trust, warranty deed, or other recordable documentation of fee simple title to real estate to be served.

**Rural Utilities Service (RUS)** -- An Agency of the United States Department of Agriculture Rural Development Mission Area that provides loan and grant funds for development of rural water systems serving communities with a population of less than ten thousand (10,000) people.

**Renter** -- A consumer who rents or leases property from a Member or who may otherwise be termed a tenant. (See Tariff Section E. 8.)

**Re-Service** -- Providing service to an Applicant at a location for which service previously existed. Costs of such re-servicing shall be based on justifiable expenses. (See Tariff Section E. 3. b., E. 4. b.,)

**Reserved Service Charge** -- A monthly charge assessed for each property where service is being reserved. (See Tariff Section F. 6. d., e)



**Service Availability Charge** -- (Also known as "minimum monthly charge", "minimum", or the "base rate") the monthly charge assessed each Member/Customer for the opportunity of receiving service. The Service Availability Charge is a fixed rate based upon the meter, service size, or equivalent dwelling unit(s). (See definition of Reserved Service Charge)

**Service Application and Agreement** -- A written application and agreement for standard service between the Member/Applicant and the Corporation defining the specific type of service requirements requested on the current service application and agreement form, and the responsibilities of each party required before service is furnished.

**Service Investigation Fee** -- A fee paid by an Applicant for Non-Standard Service for the purpose of funding the Corporation's costs associated with reviewing an Application for Non-Standard Service.

**Service Unit** -- The base unit of service used in facilities design and rate making. For the purpose of this Tariff, a service unit is a 5/8" X 3/4" water meter.

**Subdivide** -- To divide the surface area of land into lots intended primarily for residential use. (Local Government Code Chapter 232, Section 232.021 Definitions)

**Subdivider** -- An individual, firm, corporation, or other legal entity that owns any interest in land and that directly or indirectly subdivides land into lots as a part of a common promotional plan in the ordinary course of business. (Local Government Code Chapter 232, Section 232.021 Definitions)

**Subdivision** -- An area of land that has been subdivided into lots for sale or lease. (Local Government Code Chapter 232, Section 232.021 Definitions)

**Tariff** -- The operating policies, service rules, service extension policy, service rates, rationing policies, sample application packet, and miscellaneous transaction forms adopted by the Board of Directors. A copy of this Board approved tariff is on file at the Corporation office and as required since September 1, 1989 at the TCEQ or Public Utility Commission.

**Temporary Service** -- The classification assigned an applicant that is in the process of construction. This could also apply to service for uses other than permanent (agricultural, road construction, drilling, livestock, etc.). The Board will set the length of time associated with this classification. This classification will change to permanent service after requirements in Section E. 1, E. 2, E. 3, and E. 5 are met. Applicant must have paid an Indication of Interest Fee.

**Texas Public Utility Commission (TPUC)** -- State regulatory agency having certain jurisdiction of water and sewer service utilities and appellate jurisdiction over the rates and fees charged by Non-Profit Water and Sewer Service Corporations.

**Transferee** -- An Applicant receiving a Polonia WSC Membership by legal means from a person or entity desiring to forfeit and transfer current rights of Membership to another person or entity. (See Tariff Section E. 7 c., Miscellaneous Transaction Forms)

**Transferor** -- A Member who transfers Membership by legal means to another person or entity desiring to qualify for service at a property for which the Membership is currently issued or to the Corporation. (Texas Water Code, Chapter 67.016)



**SECTION D.**  
**GEOGRAPHIC AREA SERVED**

**CERTIFICATE OF CONVENIENCE AND NECESSITY**

To Provide Water Service Under V.T.C.A., Water Code  
and Texas Commission on Environmental Quality Substantive Rules

**Certificate No. 10420**

**I. Certificate Holder:**

Name: Polonia Water Supply Corporation

Address: P. O. Box 778  
Lockhart, Texas 78644

**II. General Description and Location of Service Area:**

The area covered by this certificate is located mostly in Caldwell, County, Texas.

**III. Certificate Maps:**

The certificate holder is authorized to provide water service in the area identified on the Commission's official service area map, WRS-255, maintained in the offices of the Texas Commission on Environmental Quality, 12015 Park 35 Circle, Austin, Texas with all attendant privileges and obligations.

This certificate is issued under Application No. 30999-C and subject to the rules and orders of the Commission, the laws of the State of Texas, conditions contained herein and may be revoked for violations thereof. The certificate is valid until amended or revoked by the Commission.

Issued Dated: 11-01-1979

ATTEST:

Paul L. Bettman  
General Manager

For the Commission



# Public Utility Commission of Texas

By These Presents Be It Known To All That

POLONIA WATER SYSTEM

having duly applied for certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

## Certificate of Convenience and Necessity

numbered 10420, to provide water utility service to that service area or those service areas designated by final Order or Orders duly entered by this Commission, which Order or Orders are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these

presents do evidence the authority and the duty of this Grantee to provide such utility service in accordance with the laws of this State and the Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this 1st day of November, 1979.



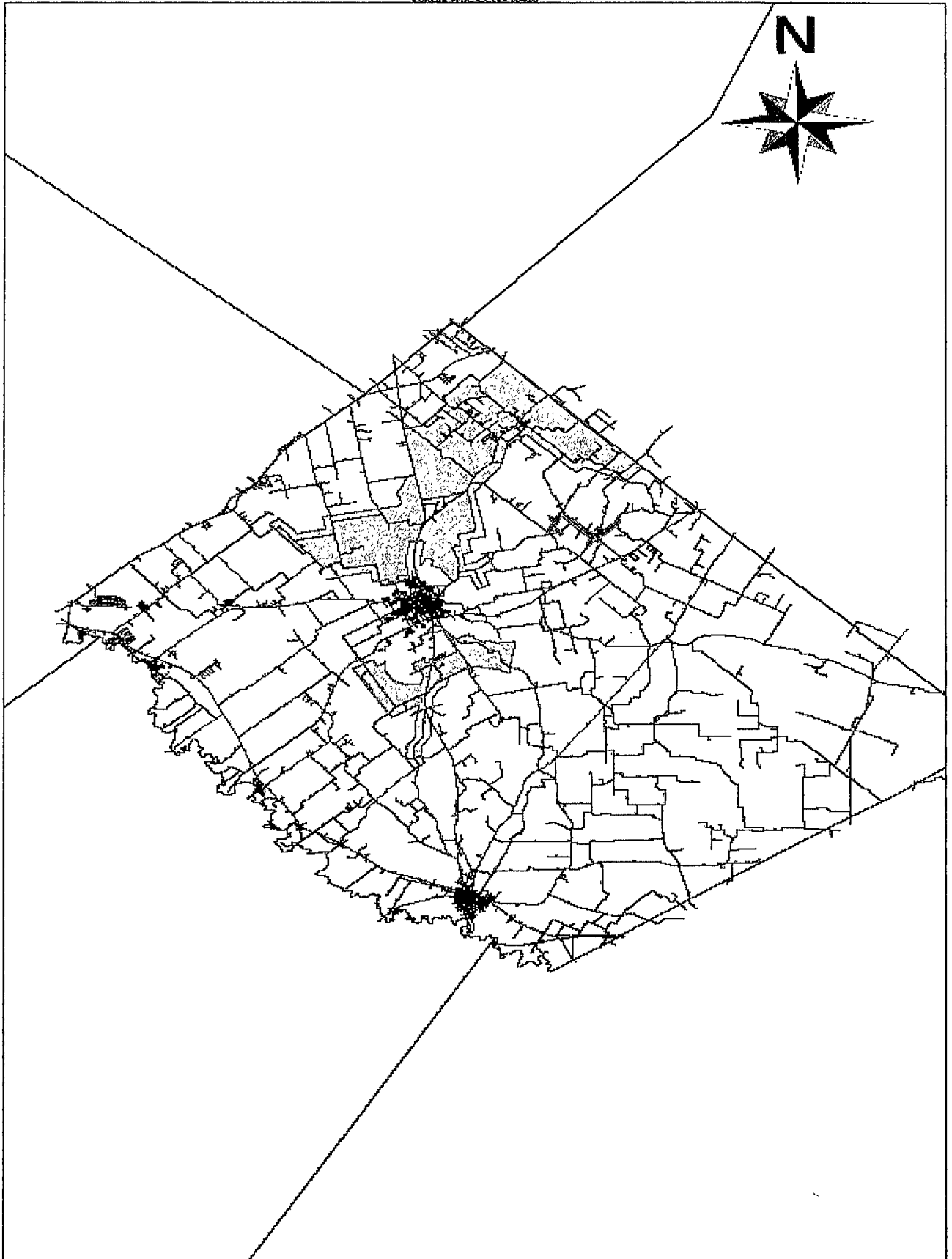
*Philip F. Ricketts*

Philip F. Ricketts  
SECRETARY OF THE COMMISSION





## MAP OF CCN AREA ID# 10420



## **SECTION E.**

### **SERVICE RULES AND REGULATIONS**

1. ***Service Entitlement.*** The Applicant(s) shall be considered qualified and entitled to water utility service when proper application has been made, terms and conditions of Service and Membership have been met and continue to be met, and all fees have been paid as prescribed. (30 TAC 291.85 (a))
2. ***Service Location and Classification.*** For the purposes of this Tariff, service requested by the Applicant(s) shall be for real estate designated to receive the service provided by the Corporation. Service shall be through a meter tap located on that designated real estate unless otherwise approved by the board. Service shall be divided into the following two classes:
  - a. **Standard Service** is defined as service on an existing pipeline where pipeline or service facility extensions are not required and special design and/or engineering considerations are not necessary. Typically, this would include 5/8" X 3/4" or 3/4" sized water meter services set on existing pipelines.
  - b. **Non-Standard Service** is defined as any service request which requires a larger meter service, service to a Master Metered Account (see E. 3. c. of this section), or an addition to the supply, storage and/or distribution system. The service requirements as prescribed by Section F of this Tariff shall be required of the Non-Standard Service Applicant prior to providing service.
3. ***Service Requirements.*** The Corporation's Service Application and Agreement Form shall be completed in full and signed by the Applicant(s). Where applicable in addition to the applicant any other person sharing an ownership interest in and receiving service at that property shall sign the Service Application and Agreement Form (Typically this would be the applicant's spouse). (See Sample Application RUS-TX Bulletin 1780-9 (Rev. 09/02))
  - a. A Right-of-Way Easement Form, required by the Corporation, must be completed by the Applicant for the purpose of allowing future facility additions. (See Sample Application - RUS-TX Bulletin 1780-9 (Rev. 09/02), 30 TAC 290.47 Appendix C.)  
**NOTE:** This requirement may be delayed for Non-Standard Service requests.
  - b. The Applicant shall provide proof of ownership to property for which service has been requested in a manner acceptable to the Corporation. Proof of ownership shall consist of warranty deed, deed of trust or other recordable documentation of fee simple title to the real estate designated to receive service. (Texas Water Code 67.016 (e), and 13.002 (11)).
  - c. On the request by the property owner or owner's authorized agent, the Corporation shall install individual meters owned by the Corporation in an apartment house, manufactured home rental community, multiple use facility, or condominium on which construction begins after January 1, 2003, unless the Corporation determines that installation of individual meters are not feasible. If the Corporation determines that installation of meters is not feasible, the property owner or manager shall install a plumbing system that is compatible with the installation of submeters or individual

meters. The Corporation shall be entitled to the payment of costs, including the costs of individual meter installations, as provided in Section F.4. The cost of individual meter installation shall be prepaid by the property owner as well as the cost of any additional facilities or supply occasioned by the total water service demand represented by full occupancy of the property, as determined under applicable provisions of Section F. It shall be the responsibility of the property owner to obtain the memberships required for each individual meter. The Corporation shall consider master metering service to apartments, condos, trailer /RV parks, or business centers and other similar type enterprises at an Applicant's request provided the total number of units to be served are all:

- owned by the same person, partnership, cooperative, corporation, agency, public or private organization of any type but not including a family unit,
  - directly inaccessible to public right-of-way, and
  - considered a commercial enterprise i.e. for business, rental, or lease purposes.
- d. Notice of application approval and costs of service determined by the Corporation shall be presented to the Applicant in writing and shall remain in effect for a period not to exceed thirty (30) days. After that time the Applicant must re-apply for service. (30 TAC 291.81 (a) (1))
- e. If the water main has been located in the public right-of-way and is adjacent to Applicant's property due to the current or previous landowner's refusal to grant easement to the Corporation for the purpose of installing the water main and appurtenances, and the Corporation has documentation of such refusal, the Applicant, prior to receiving the requested service, shall grant easement required under this Tariff and in addition to the normally required fees for new customer service, shall pay such sums as are reasonably necessary to cap the existing line in the ROW and construct the appropriate line or lines within that easement for the Corporation's system-wide service. (see Miscellaneous Transaction Forms)

#### **4. *Activation of Standard Service.***

- a. **New Tap** -- The Corporation shall charge a non-refundable service installation fee as required under Section G of this tariff. The service installation fee shall be quoted in writing to the Applicant. All fees shall be paid in advance of installation. (30 TAC 291.86 (a)(1)(A))
- b. **Re-Service** -- On property where service previously existed, the Corporation shall charge (where the Membership Fee has been liquidated or refunded), a membership fee, reconnection cost, and a Service Trip Fee.
- c. **Performance of Work** -- All tap and equipment installations specified by the Corporation shall be completed by the Corporation staff or designated representative after all application requirements have been met. The tap for a standard service request shall be completed within five (5) working days whenever practicable, but not later than 10 working days. This time may be extended for installation of equipment for Non-Standard Service Request. (see Section F)
- d. **Inspection of Customer Service Facilities** -- The property of the Applicant/ Member shall be inspected to insure compliance with state required Minimum Acceptable Operating Practices For Public Drinking Water Systems as promulgated by the Texas Commission on Environmental Quality or successor agency. The customer must, at his or

her expense, properly install, inspect, test, maintain and provide all required documentation of any approved backflow prevention device required by the Corporation. (30 TAC 290.46(j); Service Agreement Form)

**5. Activation of Non-Standard Service.** Activation of Non-Standard Service shall be conducted as prescribed by terms of Section F of this Tariff.

**6. Changes in Service Classification.** If at any time the Corporation determines that the customer service needs changed from those originally applied for to a different service classification and the Corporation determines that additional or different facilities are necessary to provide adequate service, the Corporation shall require the Applicant/Member to re-apply for service under the terms and conditions of this Tariff. Applicant/Members failing to comply with this provision shall be subject to the Disconnection with Notice Provisions of this Tariff, Section E.15.

**7. Membership.**

- a. **Eligibility** - Eligibility for Membership shall not guarantee service to the Applicant or Transferee; however, qualification for service is a prerequisite to Membership eligibility for new Applicants or continued Membership for Transferees.
- b. **Membership** - Upon qualification for service, qualification for Membership, and payment of the required fees, the Corporation shall certify the Applicant as a Member. The Membership shall entitle the Member to one (1) connection to the Corporation's water utility service and one (1) share of Corporation Stock. The Membership entitles the Member to one (1) vote in the election of directors and in such other matters requiring the approval of the Corporation's Members at any Annual or Special Membership Meeting of the Corporation as prescribed by the Corporation Bylaws. Ownership of more than one (1) Membership shall not authorize the Member to cast more than one (1) vote at any annual or special meeting. Each Membership and Stock thereby represented may be assigned to the specified parcel of land originally designated to receive service at the time of application. (Texas Water Code 67.016) **NOTE (1):** In the event that the Corporation is conducting a potential Members survey for indications of interest in future service for the purpose of determining the feasibility of an initial construction or expansion project under RUS guidelines (see Sample Application Packet), regular application procedures may be modified. An Indication of Interest Fee may be required prior to qualifications for receipt of service by the Applicant but shall only be used or applied as a Membership Fee for Membership purposes (upon issuance of a Membership) if service is ultimately received or reserved by the Applicant as a result of the planned project facilities. If service is not provided within the scope of this project, Indication of Interest Fees shall be refunded, less expenses, within sixty (60) days of the loan closing with the Rural Utilities Service. **NOTE (2):** In the event the applicant is in the process of construction the Membership will be considered TEMPORARY until such time as the final Customer Service Inspection is completed and the forms are returned as required. (See Section C., Section E. Sub-Section 1. Service Entitlement)
- c. **Transfers of Membership.** (Texas Water Code 67.016)
  - 1) A Member is entitled to transfer Membership in the Corporation only under the following circumstances:

- (a) The Membership is transferred by will to a person related to the Transferor within the second degree by consanguinity; or
  - (b) The Membership is transferred without compensation to a person related to the Transferor within the second degree by consanguinity; or
  - (c) The Membership is transferred without compensation or by sale to the Corporation; or
  - (d) The Membership is transferred as a part of the conveyance of real estate from which the Membership arose.
- 2) In the event that Membership is transferred pursuant to the provisions of Sub-Section 7.c. (1) such transfer shall not be completed or recorded on the books and records of the Corporation until such time as the transferor has provided satisfactory evidence to the Corporation of such transfer. A transfer of Membership shall not be binding on the Corporation until such transfer has been approved as provided by Sub-Section 7.c. (3).
- 3) Qualifications for service upon transfer of Membership set forth in Sub-Section 7.c.(1) and 7.c.(2) shall be subject to approval of the Corporation and shall be recorded on the books and records of the Corporation only upon the following terms and conditions:
  - (a) A Transfer Authorization Form has been completed by the Transferor and Transferee;
  - (b) The Transferee has completed the required Application Packet;
  - (c) All indebtedness due the Corporation has been paid; and
  - (d) The Transferee demonstrates satisfactory evidence of ownership of the property designated to receive service and from which the Membership originally arose.
- 4). If the application packet and other information is not completed on the day transfer of membership is requested the corporation will give the transferee written notice of 10 additional days to produce completed documentation to the corporation office. Service will be disconnected on the day following the 10<sup>th</sup> day according to disconnection with notice requirements. Additional time may be allowed at the directions of the manager or board.
- d. **Cancellation of Membership** -- To keep a Membership in good standing, a Service Availability Charge or a Reserved Service Charge must be paid monthly to the Corporation, whether or not water is used. Failure to pay this monthly charge to the Corporation shall jeopardize the Member's Membership standing and give rise to liquidation of the Membership Fee and forfeiture of the Membership. A Member may be relieved of this obligation to pay by surrendering the Membership, properly documented, to the Corporation. The Member shall also complete a Service Discontinuance Request Form prior to termination of service. (See Misc. Transaction Forms.) However, a Member is not relieved of any obligations incurred prior to the date of surrender of a properly endorsed Membership prior to termination of service. Rights to future service at this tap shall be extended on an as-available basis and subject to the terms of the Activation of Service Sub-Section E.3.of this Tariff. (Texas Water Code 67.016)
- e. **Liquidation Due To Delinquency** – When a member is two months past due, the Membership Fee shall be liquidated and applied as a disconnect fee, and the Membership canceled and transferred back to the Corporation. In the event the Member leaves a balance due on an account guaranteed under the terms of a Service Application and Agreement, and the delinquent Member owns more than one Membership, the



Corporation may liquidate as many of the Member Guarantor's Membership Fees as necessary to satisfy the balance due the Corporation, provided proper notice has been given (see Tariff Section E, Subsection 16.). The Corporation shall collect any remaining account balances by initiation of legal action. Re-instatement of service shall be subject to the terms of the Activation of Service Sub-Section E. 3. of this Tariff.

- f. **Cancellation Due To Policy Non-Compliance** -- The Corporation may cancel a Membership anytime a Member fails to comply with policies of the Corporation, including but not limited to Member's failure to provide proof of ownership of the property from which the Membership arose. (Texas Water Code 67.016)
- g. **Re-assignment of Canceled Membership** -- The Corporation, upon cancellation of Membership under the provisions of this Tariff, may re-assign the Membership rights thereby granted to any person who satisfactorily demonstrates eligibility for Membership, including but not limited to proof of ownership of the property from which the Membership arose. (Texas Water Code 67.016)
- h. **Mortgaging of Memberships** -- Nothing herein shall preclude a Member from mortgaging his/her Membership. However, notification to the holder of any security interest (mortgagee/lien-holder) of account status of Member/mortgagor will be provided only upon satisfactory completion of requirements for such conditions under the Membership Mortgage Agreement (See Miscellaneous Transaction Forms). Prior to the cancellation of any Membership as provided under Sub-Section E. 7.d. (Cancellation of Membership), the Corporation will notify the holder of any security interest in the Membership. The holder of the security interest also must hold a security interest in the real property at which water service is provided under the Membership. The Corporation may transfer the Membership to the holder of such security interest in lieu of cancellation, provided the holder of the security interest pays in full all delinquent and unpaid obligations and provided further that the holder of the security interest has secured title to the real property from which the Membership arose. The Corporation may withhold cancellation of a Membership pending the resolution of any foreclosure proceedings or similar legal proceedings by the holder of the security interest.
- i. **Cancellation and Re-Assignment of Membership as a Result of Bankruptcy Proceedings** -- Upon notice of the filing of a petition in bankruptcy, the Corporation may require the posting of a deposit or other form of security, acceptable to the Corporation, as a condition for continuing utility service. Unless special circumstances require otherwise, the amount of security shall equal the amount of charges for the month of greatest use during the preceding 12 months. The Corporation shall not require the payment of any security prior to the expiration of 20 days following the date on which the petition is filed. Failure to provide this security by the date specified by the Corporation may result in termination of service according to the Disconnection with Notice Provisions of Section E (16) of this tariff, with a copy of the notice to the bankruptcy Trustee.
- j. **Cancellation and Re-Assignment of Membership as a Result of Divorce (or Dissolution of Joint Tenancy)** -- The Corporation shall transfer the membership to a spouse (or joint tenant) who has been awarded the property designated to receive service. The Corporation must be provided adequate documentation of the ownership rights of the spouse (or joint tenant) requesting transfer, such as final divorce decree, temporary court order, or agreement. In no event shall any membership(s) be

transferred if the transferee does not otherwise meet the qualifications for membership and for service.

8. ***Owners and Renters.*** Any Member, renting or leasing real estate property designated to receive service according to the terms of this tariff to other parties, is responsible for all charges due the Corporation. The Corporation may bill the renter or lessee for utility service (at Member Request) as a third party, but the Member is fully responsible for any and all unpaid bills left by the renter/lessee. The owner shall be required to sign an Alternate Billing Agreement. (See Miscellaneous Transaction Forms.) The Member shall take responsibility for any necessary deposits from the renter/lessee to ensure payment of a past due bill. The Corporation will notify the Member of the renter's past due payment status. Such notification will be subject to a service charge (see Section: Miscellaneous Transaction Forms).
9. ***Denial of Service.*** The Corporation may deny service for the following reasons:
  - a. Failure of the Applicant or Transferee to complete all required easements, forms and pay all required fees and charges;
  - b. Failure of the Applicant or Transferee to comply with rules, regulations, policies, and bylaws of the Corporation;
  - c. Existence of a hazardous condition at the Applicant's property which would jeopardize the welfare of the Members/Users of the Corporation upon connection;
  - d. Failure of Applicant or Transferee to provide representatives or employees of the Corporation reasonable access to property, for which service has been requested;
  - e. Failure of Applicant or Transferee to comply with all governmental rules and regulations of the Corporation's tariff on file with the state regulatory agency governing the service applied for by the Applicant;
  - f. Failure of Applicant or Transferee to provide proof of ownership, to the satisfaction of the Corporation, of property for which the tap has been requested, and/or
  - g. Applicant's service facilities are known to be inadequate or of such character that satisfactory service cannot be provided.
  - h. Failure of Applicant to comply with the Customer Service Inspection Rules & Regulations Rule 290.46J by sending in the completed and signed customer service inspection certificate within 30 days after water usage begins.
10. ***Applicant's or Transferee's Recourse.*** In the event the Corporation refuses to serve an Applicant under the provisions of these rules, the Corporation must notify the Applicant, in writing, on the basis of its refusal. The Applicant may file for an appeal, in writing, with the Board of Directors of the Corporation.
11. ***Insufficient Grounds for Refusal of Service.*** The following shall not constitute sufficient cause for the refusal of service to an Applicant:
  - a. Failure to pay a bill to correct previous underbilling due to misapplication of rates more than six (6) months prior to the date of application;
  - b. Violation of the Corporation's rules pertaining to operation of non-standard equipment or unauthorized attachments which interferes with the service of others, unless the customer has first been notified and been afforded reasonable opportunity to comply with said requirements;

- c. Failure to pay a bill of another customer as guarantor thereof unless the guarantee was made in writing to the Corporation as a condition precedent to service;
- d. Failure to pay the bill of another customer at the same address except where the change of customer identity is made to avoid or evade payment of a utility bill;
- e. Delinquency in payment for service by a previous occupant of the premises to be served.

12. ***Deferred Payment Agreement.*** The Corporation may offer a deferred payment plan to a Member who cannot pay an outstanding balance in full and is willing to pay the balance in reasonable installments as determined by the Corporation, including any Late Penalty Fees or interest on the monthly balance to be determined as per agreement. (See Miscellaneous Transaction Forms) Failure to make required and timely payments as provided in any deferred payment agreement will void that agreement and service will be discontinued. The Corporation may consider another deferred payment agreement provided payments will be made by automatic bank draft. Non-payment of any amount under an additional deferred payment agreement will cause service to be disconnected immediately and service will not be restored until the account is paid in full and all other charges resulting from the disconnection of service are fully paid.

13. ***Charge Distribution and Payment Application.***

- a. **The Service Availability Charge or the Minimum Monthly Charge** is for the billing period from the 1st day of the month to the last day of the month. Billings for this amount shall be mailed on or about the 1<sup>st</sup> of the month preceding the month for which this charge is due. All services shall be subject to this charge whether or not the service is in use by the Member. See E 8-12.
- b. **Gallonge Charge** shall be billed at the rate specified in Section G and billing shall be calculated in ten (10) gallon increments. Water charges are based on monthly meter readings and are calculated from reading date to reading date.
- c. **Posting of Payments** -- All payments shall be posted against previous balances prior to posting against current billings.
- d. **Forms of Payment:** The Corporation will accept the following forms of payment: cash, personal check, cashier's check, money order, automatic debit on customer's bank account, or draft on bank. The Corporation will not accept two-party checks, pay checks, or any other instrument of payment that is not made out to the Corporation. The Corporation reserves the right to require exact change and may refuse to accept payments made using more than \$1.00 in coins.

14. ***Due Dates, Delinquent Bills, and Service Disconnection Date.*** The Corporation shall mail all bills on or about the 1st of the month. All bills are considered the responsibility of each person signing the Service Application and Agreement Form. All bills shall be due and payable upon receipt and are past due beyond the date indicated on the bill (allowing approximately fifteen (15) days to pay), after which time a penalty shall be applied as described in Section G. A bill is delinquent if not paid on or before the past due date. Payments made by mail will be considered late if postmarked after the past due date. A 5 day grace period may then be allowed for delayed payments prior to mailing of final notices. Final notices shall be mailed allowing ten (10) additional days for payment prior to disconnection. The ten (10) additional days shall begin on the day the final notice is deposited with the U.S. Postal Service with sufficient postage. If the

past due date for the regular or final billing is on a weekend or holiday, the past due date for payment purposes shall be the next day the Corporation office is open for business after said weekend or holiday. For all disputed payment deadlines, the date postmarked on each bill will determine the beginning of each billing cycle or final notice mailings.

- Upon written request, any residential customer 60 years of age or older who occupies the entire premises of a dwelling receiving water utility service from the Corporation shall receive extension of the past due date, without penalty. The extension shall not exceed 10 days beyond the usual 15 day payment period for a total of no more than 25 days from the date the bill is issued. The request may specify extension of the late payment periods for current and subsequent billings. (Reference Utilities Code Section 182.001 - 182.005)

**15. *Rules for Disconnection of Service.*** The following describes the rules and conditions for disconnection of service.

**a. *Disconnection with Notice*** -- Water utility service may be disconnected for any of the following reasons after proper notification has been given.

- 1) **Returned Checks or Bank Drafts** -- The Corporation shall mail, via the U.S. Postal Service, a notice requiring redemption of the returned instrument within ten (10) days of the date of the notice to be made in the Corporation office. Redemption of the returned instrument shall be made by cash, money order, or certified check. Failure to meet these terms shall initiate disconnection of service. (see Miscellaneous Transaction Forms) Any such instruments returned as insufficient or non-negotiable for any reason for any two billing periods within a 12-month period shall be considered evidence of bad credit risk by the Corporation. The Member/Customer in violation shall be placed on a "cash-only" basis for a period of 12 months. **NOTE:** "cash only," means certified check, money order, or cash. The exception to this rule is if the Member was on the disconnect list and the disconnect date has past, no notice shall be given before the meter is locked.
- 2) Failure to pay a delinquent account for utility service, failure to timely provide a deposit or other security under Section E (7) (i), or failure to comply with the terms of a deferred payment agreement (Miscellaneous Transaction Forms);
- 3) Violation of the Corporation's rules pertaining to the use of service in a manner which interferes with the service of others or the operation of non-standard equipment if a reasonable attempt has been made to notify the Member and the Member is provided with a reasonable opportunity to remedy the situation;
- 4) Failure of the Member to comply with the terms of the Corporation's Service Agreement, Tariff (including, where appropriate, Section H), Bylaws, or Special Contract provided that the Corporation has given notice of said failure to comply, and Member has failed to comply within a specified amount of time after notification.
- 5) Failure to provide access to the meter under the terms of this Tariff or to property at which water service is received when there is reason to believe that a hazardous condition or policy violation exists for which access is necessary to verify.
- 6) Misrepresentation by any Applicant or Transferee of any fact on any form, document, or other agreement required to be executed by the Corporation.
- 7) Failure of Member to re-apply for service upon notification by the Corporation that Member no longer meets the terms of the service classification originally applied for

under the original service application.

- 8) Cancellation of membership by Member on an account that the Member holds for water service to the Member's renter/lessee, even if the renter/lessee has kept the account balance current under an Alternate Billing Agreement. (Note: The cancellation of membership must be in writing and signed by the Member. CORPORATION ASSUMES NO LIABILITY TO RENTER/LESSEE; MEMBER IS SOLELY RESPONSIBLE FOR COMPLIANCE WITH, AND LIABILITY UNDER ANY FEDERAL, STATE OR LOCAL LAW CREATING OR PROTECTING RIGHTS OF RENTERS/LESSEES.)
- b. **Disconnection Without Notice** -- Water utility service may be disconnected without notice for any of the following conditions:
- 1) A known dangerous or hazardous condition exists for which service may remain disconnected for as long as the condition exists, including but not limited to a public health nuisance under Chapter 341 of the Health and Safety Code, or there is reason to believe a dangerous or hazardous condition exists and the Member refuses to allow access for the purpose of confirming the existence of such condition and/or removing the dangerous or hazardous condition (30 TAC 290.46 (j) );
  - 2) Service is connected without authority by a person who has not made application for service or who has reconnected service without authority following termination of service for nonpayment; and
  - 3) In instances of tampering with the Corporation's meter or equipment, by-passing the meter or equipment, or other diversion of service.  
**NOTE:** Where reasonable, given the nature of the reason for disconnection, a written statement providing notice of disconnection and the reason therefore shall be posted at the place of common entry or upon the front door of each affected residential unit as soon as possible after service has been disconnected.
  - 4) If a member is scheduled to be locked off due to delinquency and a check is given for payment and is returned from their bank as insufficient or otherwise nonnegotiable and the disconnect date has past, the meter will be locked off immediately without notice (except on a Friday, weekend, or day before a holiday).
- c. **Disconnection Prohibited** -- Utility service may not be disconnected for any of the following reasons:
- 1) Failure of the Member to pay for merchandise or charges for non-utility service provided by the Corporation, unless an agreement exists between the Applicant and the Corporation whereby the Member guarantees payment of non-utility service as a condition of service;
  - 2) Failure of the Member to pay for a different type or class of utility service unless a fee for such service is included in the same bill;
  - 3) Failure of the Member to pay charges arising from an underbilling occurring due to any misapplication of rates more than six (6) months prior to the current billing;
  - 4) Failure of the Member to pay the account of another Member as guarantor thereof, unless the Corporation has in writing the guarantee as a condition precedent to service;
  - 5) Failure of the Member to pay charges arising from an underbilling due to any faulty metering, unless the meter has been tampered with or unless such underbilling charges are due under the Inoperative Meters subsection E. 20. of this tariff.
  - 6) Failure of the Member to pay estimated bill other than a bill rendered pursuant to an



approved meter reading plan, unless the Corporation is unable to read the meter due to circumstances beyond its control.

- d. **Disconnection on Holidays and Weekends** -- Unless a dangerous condition exists or the Member requests disconnection, service shall not be disconnected on a day, or on a day preceding a day, when personnel of the Corporation are not available to the public for the purpose of making collections and reconnecting service.
- e. **Disconnection Due to Utility Abandonment** -- The Corporation may not abandon a Member or a Certificated Service Area without written notice to its Members and all similar neighboring utilities and approval from the Texas Commission on Environmental Quality.
- f. **Disconnection for Ill and Disabled** -- The Corporation may not discontinue service to a delinquent residential Member permanently residing in an individually metered dwelling unit when that Member establishes that discontinuance of service will result in some person at that residence becoming seriously ill or more seriously ill if service is discontinued. Each time a Member seeks to avoid termination of service under this Sub-section, the Member must have the attending physician call or contact the Corporation within sixteen (16) days of issuance of the bill. A written statement must be received by the Corporation from the physician within twenty-six (26) days of the issuance of the utility bill. The prohibition against service termination shall last sixty-three (63) days from the issuance of the utility bill or such lesser period as may be agreed upon by the Corporation and Member's physician. The Member shall enter into a Deferred Payment Agreement (see Miscellaneous Transaction Forms).
- g. **Disconnection of Master-Metered Accounts** -- When a bill for water utility services is delinquent for a master-metered service complex (defined as a complex in which a single meter serves two (2) or more residential dwelling units), the following shall apply: (30 TAC SUBCHAPTER H. 291.126)
  - 1) The Corporation shall send a notice to the Member as required. This notice shall also inform the Member that notice of possible disconnection will be provided to the tenants of the service complex in five (5) days if payment is not rendered before that time.
  - 2) At least five (5) days after providing notice to the Member and at least five (5) days prior to disconnection, the Corporation shall post at notices, stating "Termination Notice" in public areas of the service complex notifying the residents of the scheduled date for disconnection of service.
  - 3) The tenants may pay the Corporation for any delinquent bill in behalf of the owner to avert disconnection or to reconnect service to the complex.
- h. **Disconnection of Temporary Service** -- When an applicant with a Temporary service fails to comply with the conditions stated in the Service Application and Agreement Form or other rules of this Tariff service may be terminated with notice.

16. **Billing Cycle Changes.** The Corporation reserves the right to change its billing cycles if the workload requires such practice. After a billing period has been changed, the billings shall be sent on the new change date unless otherwise determined by the Corporation.

17. **Back-billing.** The Corporation may back-bill a Member for up to four (4) years (48 months) for meter error, misapplied meter multiplier, incorrect meter readings, or error in computing a



Member's bill. Failure to pay the most recent six (6) months billing will result in disconnection of service. Back-billing shall not extend beyond current Membership except in cases involving the transfer of a Membership conditioned upon payment of delinquent obligations by the Transferee, as provided in Section E. 7. h.

18. ***Disputed Bills.*** In the event of a dispute between the Member and the Corporation regarding any bill, the Corporation shall forthwith make and conduct an investigation as shall be required by the particular case, and report the results in writing thereof to the Member. All disputes under this Subsection must be submitted to the Corporation, in writing, prior to the due date posted on said bill except in cases involving the transfer of a Membership conditioned on payment of delinquent obligations by the Transferee, as provided under Section E. 7. h.
19. ***Inoperative Meters.*** Water meters found inoperative will be repaired or replaced within a reasonable time. If a meter is found not to register for any period, unless by-passed or tampered with, the Corporation shall make a charge for units used, but not metered, for a period not to exceed three (3) months, based on amounts used under similar conditions during the period preceding or subsequent thereto, or during corresponding periods in previous years.
20. ***Bill Adjustment Due To Meter Error.*** The Corporation shall test any Member's meter upon written request of the Member. In the event the meter tests within the accuracy standards of The American Water Works Association, a test fee as prescribed in Section G of this Tariff shall be imposed. In the event the test results indicate that the meter is faulty or inaccurate, the test fee shall be waived, the meter shall be calibrated or replaced, and a billing adjustment may be made as far back as six (6) months but not extending beyond current Membership except in cases involving the transfer of a Membership conditioned on payment of delinquent obligations by the Transferee, as provided under Sub-Section 7.h. The billing adjustment shall be made to the degree of the meter's inaccuracy as determined by the test. The Member shall complete a Meter Test Request Form prior to the test. (See Misc. Transaction Forms.)
21. ***Meter Tampering and Diversion.*** For purposes of these Sections, meter-tampering, by-passing, or diversion shall all be defined as tampering with the Corporation's service equipment, by-passing the same, or other instances of diversion, such as:
  - a. removing a locking or shut-off device used by the Corporation to discontinue service,
  - b. physically disorienting the meter,
  - c. attaching objects to the meter to divert service or to by-pass,
  - d. inserting objects into the meter, and
  - e. other electrical and mechanical means of tampering with, by-passing, or diverting service.The burden of proof of meter-tampering, by-passing, or diversion is on the Corporation. Photographic evidence or any other reliable and credible evidence may be used; however, any evidence shall be accompanied by a sworn affidavit by the Corporation's staff when any action regarding meter-tampering as provided for in these Sections is initiated. A court finding of meter tampering may be used instead of photographic or other evidence, if applicable. Unauthorized users of services of the Corporation shall be prosecuted to the extent allowed by law under the Texas Penal Code 28.03.
22. ***Meter Relocation.*** Relocation of services shall be allowed by the Corporation provided

that:

- a. The relocation is limited to the existing property designated to receive service;
- b. A current easement for the proposed location has been granted to the Corporation; and
- c. The Member pays the actual cost of relocation plus administrative fees.

**23. *Prohibition of Multiple Connections To A Single Tap.*** No more than one (1) residential, commercial, or industrial service connection is allowed per meter. The Corporation may consider allowing an apartment building or mobile home/RV park to apply as a "Master Metered Account" and have a single meter (This refers to Section E. 3. c. Any unauthorized sub-metering or diversion of service shall be considered a Multiple Connection and subject to disconnection of service. If the Corporation has sufficient reason to believe a Multiple Connection exists, the Corporation shall discontinue service under the Disconnection with Notice provisions of this Tariff. (see Sample Application Packet RUS-TX Bulletin 1780-9 (Rev. 09/02))

**24. *Member's Responsibility.***

- a. The Member shall provide access to the meter as per the easement and service agreement. If access to the meter is hindered or denied preventing the reading of the meter, an estimated bill shall be rendered to the Member for the month; and a notice shall be sent to the effect that access could not be gained. If access is denied for three (3) consecutive months after proper notification to the Member, then service shall be discontinued and the meter removed with no further notice.
- b. The Member shall be responsible for compliance with all utility, local, and state codes, requirements, and regulations concerning on-site service and plumbing facilities.
  - 1) All connections shall be designed to ensure against on-site sewage contamination, back-flow or siphonage into the Corporation's water supply. In particular, livestock water troughs shall be plumbed above the top of the trough with air space between the discharge and the water level in the trough. (30 TAC 290.46, Health & Safety Code Chapter 366)
  - 2) The use of pipe and pipe fittings that contain more than 8.0% lead or solder and flux that contain more than 0.2% lead is prohibited for any plumbing installation or repair of any residential or non-residential facility providing water for human consumption and connected to the Corporation's facilities. Customer service pipelines shall be installed by the applicant. (30 TAC 290.46 )
- c. A Member owning more than one (1) Membership shall keep all payments current on all accounts. Failure to maintain current status on all accounts shall be enforceable as per Service Application and Agreement executed by the Member.
- d. The Corporation's ownership and maintenance responsibility of water supply and metering equipment shall end at the meter or other service equipment. Therefore, all water usage registering upon and/or damages occurring to the metering equipment owned and maintained by the Corporation shall be subject to charges as determined by the Corporation's Tariff as amended from time to time by the Board of Directors.
- e. The Corporation shall require each Member to have a cut-off valve on the Member's side of the meter for purposes of isolating the Member's service pipeline and plumbing facilities from the Corporation's water pressure. The valve shall meet AWWA standards (a ball valve is preferred). The Member's use of the Corporation's curb stop or other

similar valve for such purposes is prohibited. Any damage to the Corporation's equipment shall be subject to service charges. (This cut-off valve may be installed as a part of the original meter installation by the Corporation.)

25. ***Main Extension Policy.***

- a. The Applicant shall be responsible for the cost of any extension(s), including looping, from existing Corporation mains determined by the Corporation's engineer to be necessary to bring adequate water utility service to meet the anticipated service demands of a new customer or of a new meter for an existing customer. The Corporation shall be responsible for any oversizing of the main necessary to meet the service needs of other Members or system reliability.
- b. The customer is responsible for constructing his service line from the point of water consumption to the meter. The customer shall own and maintain his own customer service line. Any leak or defect in the customer's service line must be repaired immediately in order to avoid possible contamination or hazard to the public water supply.
- c. Distribution and transmission main sizes shall be determined solely by the Corporation's Engineer based upon the reasonably anticipated needs of the utility in the area to be served.  
Minimum distribution system line size shall be six (6) inch diameter C-900, DR-18 PVC unless otherwise recommended by the Corporation's engineer, for extensions within the Corporation's service area. Looping or cross-connecting distribution lines may be a smaller size only if approved by the Corporation's engineer. Minimum transmission line size shall be eight (8) inch diameter C-900, DR 18 PVC unless otherwise recommended by the Corporation's engineer. If larger minimum main sizes are required by TCEQ regulations or applicable municipal building codes, the larger minimum main size shall control.
- d. Dead End Mains. All new water mains designed and constructed shall be required to be constructed in a loop as to avoid dead end mains. The Corporation's engineer shall determine final configuration. This requirement may be waived by the Corporation's Board of Directors as a part of an overall plan of phased transmission and/or distribution main upgrades.

## SECTION F.

### NON-STANDARD SERVICE REQUIREMENTS

1. ***Corporation's Limitations.*** All Applicants shall recognize that the Corporation must comply with local, state, and federal rules and regulations as promulgated from time to time, and with covenants of current indebtedness. The Corporation is not required to extend retail utility service to an Applicant in a subdivision where the responsible party (Applicant) of the applicable property (subdivision) has failed to comply with the terms of this policy. Section 13.2502 of the Texas Water Code requires that notice be given herein or by publication (see Miscellaneous Transaction Forms) or by alternative means to the Developers/Applicants. (Also see Section F. 11.)
2. ***Purpose.*** It is the purpose of this Section to define the process by which the specific terms and conditions for service to subdivisions are determined including the Developer's and the Corporation's respective costs.
3. ***Application of Rules.*** This Section is applicable to subdivisions, additions to subdivisions, developments, the provision of more than two water service connections on a single contiguous tract of land, or whenever additional service facilities are required to be constructed for the provision of service to an Applicant. For the purposes of this Tariff, Applications subject to this Section shall be defined as Non-Standard. This Section may be altered or suspended for planned facility expansions when the Corporation extends its indebtedness. The Board of Directors of the Corporation shall interpret on an individual basis whether or not an Applicant's service request shall be subject to all or part of the conditions of this Section.
4. ***Non-Standard Service Application.*** The Applicant shall meet the following requirements prior to the initiation of a Non-Standard Service Contract by the Corporation:
  - a. The Applicant shall provide the Corporation a completed Service Application and shall include therein a description of all service needs. The Application must be completed by the owner of the land to receive water service, or an authorized representative of the owner. The Applicant shall furnish any additional information requested by the Corporation related to the provision of water service to the property that is the subject of the Application.
  - b. At the time the Applicant submits the Application, a Service Investigation Fee (See Section G) to cover initial administrative, legal and engineering fees incurred by the Corporation in connection with evaluation of the service request and preparation of a Non-Standard Service Contract shall be paid to the Corporation. In the event the Corporation's actual costs are less than the Fee, the Corporation shall refund any excess sums to the Applicant. In the event the Corporation's actual costs exceed the amount of the Non-Standard Service Investigation Fee, the Applicant shall be required to provide additional payment upon request to fund all costs and expenses of the Corporation.



- c. If after the service investigation has been completed, the Corporation determines that the Applicant's service request is for property outside the area described in the Corporation's Certificate of Convenience and Necessity, the Corporation shall determine in its sole discretion whether to extend service to the property. Service may be extended provided that:

- 1). The point of ultimate use is within one-fourth (1/4) mile of the Corporation's Certificated Service Area;
- 2). The service location is not in an area receiving similar service from another utility; and
- 3). The service location is not within another utility's water Certificate of Convenience and Necessity.

The Corporation may also agree to provide retail water service to the property contingent upon amendment of the Corporation's Certificate of Convenience and Necessity to include the property. Under such circumstances, the Applicant shall be required to support and pay all costs and expenses associated with any such amendment. The terms and conditions relating to amendment of the Corporation's Certificate of Convenience and Necessity will be set forth in the Non-Standard Service Contract.

5. ***Service Availability Letter.*** Upon completion of the service investigation, the Corporation or its Engineer will prepare a "Service Availability Letter" specifying what improvements to the Corporation's water system are required to make service available to the property in accordance with the request, and to otherwise specify the general terms and conditions on which service may be made available to the property. The Service Availability Letter does not constitute a contract or commitment for the Corporation to provide service, and the Corporation is not obligated to provide service except in accordance with a Non-Standard Service Contract entered into by the parties.
6. ***Design Standards.*** All physical facilities to be constructed or acquired by the Corporation in connection with a request for Non-Standard Service will be designed by the Corporation's Engineer or by a qualified registered professional engineer retained by the Applicant and approved by the Corporation. The Applicant shall be responsible for all costs and expenses associated with preparation of the plans and specifications. The Non-Standard Service Contract will specify responsibility for preparation of the plans and specifications. The design will be subject to the approval of the Corporation and all governmental agencies with jurisdiction, and must be designed so as to provide continuous and adequate service and so as to ensure their compatibility with Corporation's water system. Any variance to the plans or specifications approved by the Corporation is subject to the Corporation's sole discretion and approval. If any facilities constructed by or on behalf of an Applicant are not in compliance with the agreed specifications approved by the Corporation, then the Corporation may require replacement of the facilities as a condition of service.
7. ***Non-Standard Service Contract.***



- a. All Applicants requesting or requiring Non-Standard Service shall enter into a written contract, prepared by the Corporation, defining the terms of service prior to construction of required service facilities and the provision of service. The Non-Standard Service Contract shall include, but is not limited to, the following terms and conditions:
- (1) The responsibility for the administration, design, construction, and inspection of facilities required for the Corporation to make service available to the Applicant's property;
  - (2) Payment of the Monthly Reserve Service Charge, the Capital Improvement Fee, the Water Development and Supply Fee, and other fees and charges by the Applicant and/or by customers within the property;
  - (3) Payment of any costs and expenses incurred by the Corporation in connection with the request for Non-Standard Service Agreement and preparation of the Non-Standard Service Contract not funded by the Service Investigation Fee;
  - (4) Requirements relating to insurance and bonding to ensure that the Applicant completes construction of all facilities for which it is responsible and to protect the Corporation from any claims or liability with respect to such construction;
  - (5) Indemnification provisions pursuant to which the Applicant will indemnify the Corporation from all claims, damages, costs and lawsuits relating to the project or Applicant's breach of the agreement;
  - (6) Dedication of all facilities constructed by or on behalf of the Applicant to the Corporation and the terms and conditions pursuant to which the Corporation shall assume operation and maintenance responsibility for the facilities, including the enforcement of warranties;
  - (7) The conveyance by the Applicant to the Corporation of all easements and other real property interests determined necessary by the Corporation for the construction and operation of all facilities required to make service available to the property and/or easements within the property required for the Corporation to make service available to other properties within the Corporation's service territory; and
  - (8) The terms and conditions under which the Corporation will commence the provision of service, including the final subdivision platting of all property that must be platted under the laws of the State of Texas.
- b. In the event that any Applicant or developer fails to comply the terms of the Non-Standard Service Contract, or fails to comply with the Non-Standard Service policies set forth in this Tariff, such failure shall constitute a violation of the Corporation's subdivision extension requirements. Pursuant to Section 13.2502 of the Texas Water Code, the Corporation may refuse to furnish retail service to any subsequent Applicants for service within the affected property.



8. ***Construction of Facilities by Applicant Prior to Execution of Non-Standard Service Contract.*** The Corporation and the Applicant must execute a Non-Standard Service Contract prior to the purchase of supplies and materials or initiation of construction of facilities by the Applicant. Under no circumstances may any person tap into the Corporation's water system without the prior written approval of the Corporation set forth in a Non-Standard Service Contract. In the event that the Applicant commences construction of any facilities prior to execution of a Non-Standard Service Contract with the Corporation, then the Corporation may refuse to accept ownership of the facilities and may refuse to provide service to an Applicant until facilities are properly constructed in accordance with a Non-Standard Service Contract. In accordance with Section 13.2502 of the Texas Water Code, the Corporation may refuse to provide service to any person (including any purchaser of a lot within a subdivision) who applies for retail water service for property the Developer of which has failed to execute a Non-Standard Service Contract. Alternatively, the Corporation may require a service Applicant to pay the full cost of replacing or repairing any facilities constructed without prior execution of a Non-Standard Service Contract as a condition of service. At a minimum, the Corporation will require that all facilities be uncovered by the Developer for inspection by the Corporation, require that any facilities not approved by the Corporation be replaced, and take any other lawful action determined appropriate by the Board of Directors of the Corporation.
9. ***Property and Right-of-Way Acquisition.*** The Corporation may require, as a condition of service to a new subdivision, that the developer provide permanent recorded easements or fee sites to and throughout the subdivision sufficient for the Corporation to construct, install, maintain, replace, upgrade, inspect or test any facility necessary to serve the subdivision's anticipated service demands.
  - a. All easements and property titles shall be researched, validated, and filed by the Corporation at the expense of the Applicant.
  - b. In the event an Applicant is unable to secure the required real property interests located outside of the property for which service is requested, the Corporation may, but is not required to, acquire such real property rights by condemnation. In the event the Corporation proceeds with condemnation, the Applicant shall pay all costs and expenses incurred by the Corporation in connection therewith, including legal, appraisal and other professional fees, and the condemnation award.
  - c. In the event the Applicant is unable to secure the required real property interests located outside of the property for which service is requested and the Corporation agrees that facilities may be constructed within existing right-of-way, the Applicant shall be responsible for payment of all costs associated therewith, including road bores and TxDOT approvals.
  - c. All Easements and facilities sites conveyance instruments for the Corporation's pipeline and facility installations shall be prepared by the Corporation and at the expense of the Applicant.



10. ***Bids for Construction.*** The Non-Standard Service Contract may specify the terms and conditions for solicitation of bids from qualified contractors for the construction of the facilities, including whether the Corporation or Applicant shall be responsible for construction of facilities. Generally, the Corporation shall construct any offsite improvements or extensions to its water system required for the provision of service, and the Applicant shall be responsible for the construction of onsite internal transmission and distribution lines. The Corporation reserves the right to reject any bid or contractor. For facilities constructed by the Applicant, the Corporation shall have the right to approve the contractor prior to award of a contract by the Applicant based on the contractor's competency, bid, references and experience. The Non-Standard Service Contract may include, but is not limited to, the following requirements with respect to bidding and contracting for construction of facilities required to meet the requested service:

- a. That the Contractor provide an adequate bid bond under terms acceptable to the Corporation;
- b. That the Contractor secure and post adequate performance, payment and maintenance bonding for the project under terms acceptable to the Corporation;
- c. That the Contractor supply favorable references acceptable to the Corporation; and
- d. That the Contractor shall provide adequate certificates of insurance as required by the Corporation.

11. ***Payment of Construction Costs.***

- a. General. The Applicant is generally responsible for the costs of all improvements to the Corporation's System required to make water service available in response to a request for Non-Standard Service, whether such facilities are constructed by the Corporation or by the Applicant. The Non-Standard Service Contract shall specify the terms and conditions for payment of costs and expenses by the Applicant. With respect to construction of any facilities by the Corporation, the Applicant shall be required to provide payment of all costs and expenses associated with construction of the facilities prior to, and as a condition of, award of a contract by the Corporation for construction of the facilities. In the event of any change orders that increase the costs of construction, the Applicant shall be responsible for payment of all change order costs except for change orders requested by the Corporation to increase the capacity of improvements for service to other customers of the Corporation.
- b. Oversizing. The Corporation may require the installation of oversized mains and related facilities beyond the Corporation's minimum standards and specifications. Any requirements for oversizing will be set forth in the Non-Standard Service Contract. Oversized projects must be competitively bid. The Corporation will reimburse the Applicant for the cost differential upon completion of construction. Reimbursement may be made by payment to the Applicant or through subsequent user fees collected from customers for which the oversized facilities are directly used and useful for a term



not to exceed ten years (or until reimbursement is accomplished), and/or by credit to be applied against other fees and charges owed to the Corporation. The terms of reimbursement will be set forth in the Non-Standard Service Contract. Reimbursement for oversized construction costs will be calculated based on the incremental cost of the oversized construction. The incremental cost for mains will be equal to the differential between alternative bids obtained for the standard size main and the oversized main.

12. ***General Construction Matters.***

- a. Responsibility for Construction The responsibility for construction of facilities required to make Non-Standard Service available will be set forth in the Non-Standard Service Contract. Generally, the Applicant will be responsible for construction of all internal facilities located within the subdivision or property that is the subject of the request. The Corporation will generally construct, at Developer's expense, all offsite facilities or improvements to its system that are required to make service available to the property that is the subject of the request. All connections and reconnections (including taps) to the Corporation's System shall be made only by an authorized representative of the Corporation unless prior written approval is received from the Corporation.
- b. Plans and Specifications All facilities to be constructed must be designed by a professional engineer licensed in the State of Texas at the applicant's expense. The Corporation must approve the plans and specifications prior to the commencement of construction. The Applicant must provide payment to the Corporation for review of each set of plans and specifications reviewed by the Corporation's engineer. Construction plans and specifications shall be strictly adhered to, but the Corporation reserves the right to change order any specifications, due to unforeseen circumstances during the design or construction of the proposed facilities, or as otherwise authorized by applicable laws, to better facilitate the operation of the facility. All expenses and costs associated with a change order shall be charged to the Applicant except for capacity increases requested by the Corporation solely for the provision of service to other customers of the Corporation.
- c. Insurance and Bonding. The contractor shall provide adequate certificates of insurance demonstrating the types and amounts of insurance specified by the Corporation. The contractor shall also provide payment and performance bonds in a form approved by the Corporation.
- d. Notification. The Applicant shall notify the Corporation at least two (2) weeks in advance of commencing with construction. The Applicant or contractor is required to give the Corporation forty-eight (48) hours advance notice before making any tap into the Corporation's water lines. The Corporation may require that any lines that are covered without prior Corporation approval be uncovered for inspection.
- e. Governmental Approvals. The Applicant is responsible for obtaining all necessary county permits or other required governmental approvals before commencing with construction.
- f. Inspections.

(i) The Applicant is responsible for full-time on-site inspection and must provide the Corporation with a letter upon the completion of construction which is signed and sealed by a professional engineer registered in the State of Texas. This letter shall certify that the construction was completed in accordance with the approved plans and specifications. Any discrepancies or changes made to plans or specifications should also be noted at this time.

(ii) The Corporation shall also perform inspections as it deems necessary to confirm that facilities are constructed in accordance with Corporation's standards. The Corporation's inspection, and any acceptance of facilities upon completion, does not represent acknowledgement or approval that facilities were constructed properly. The Applicant is required to pay the Corporation an inspection fee for all inspections.

(iii) With respect to any major transmission line or other improvements to the Corporation's System required to make service available in response to a request, whether constructed by the Corporation or the Applicant, the Corporation may require that a full-time inspector be retained at the Applicant's expense.

g. Testing

(i) Prior to acceptance of any facilities, the Corporation shall perform one bacteriological test per fifteen hundred feet of water line or as otherwise determined by the Corporation's engineer or operator.

(ii) The applicant shall provide the Corporation with pressure test results of all lines. The applicant shall notify the Corporation forty-eight (48) hours prior to the pressure test. The Corporation will provide a supervisor to oversee the pressure test.

h. As-Built Drawings The Applicant must provide the Corporation with complete sets of reproducible as-built engineering drawings in the format specified by the Corporation.

13. ***Limitation on Service Obligations.***

- a. The Corporation's obligation to provide service to any customer located within a Subdivision is strictly limited to the level and manner of the nonstandard service specified in the Non-Standard Service Contract.
- b. In accordance with Section 13.2502 of the Texas Water Code, the Corporation shall have no obligation to extend service within a subdivision for which the Developer has failed to comply with the requirements the Corporation's service extension policies set forth in this Section F.
- c. If a Developer or Applicant fails to comply with the required subdivision process for non-standard service, pay all applicable costs or fees, construct all facilities required for the extension of service, or otherwise fail to comply with the requirements of this Subchapter F, the Corporation has the right to require payment of these fees and costs by any one or more of the persons purchasing lots or homes within the subdivision as a condition of



service to any applicant for service the Subdivision. Without limitation, an applicant for service to subdivided land for which the Developer failed to comply with the requirements of this Section F shall be subject to payment of a Capital Improvement Fee and Water Development and Supply Fee for its service connection in the amount that should have been paid by the Developer/ Applicant for the connection had proper application for non-standard service been received. Further, an Applicant for service to such subdivided land may be subject to funding and construction of facilities required to make service available to the subdivision in accordance with the Corporation's non-standard service policies.

- d. Applicants for non-standard service and Developers are advised that purchasers of lots may have legal recourse against the Applicant under Texas law, including but not limited to Section 13.257, Texas Water Code and the Texas Deceptive Trade Practices-Consumer Protection Act, Chapter 17, Subchapter E, Business and Commerce Code, as a result of any Developer's failure to comply with the Corporation's subdivision service extension policies set forth herein.

## **SECTION G.**

### **RATES AND SERVICE FEES**

Unless specifically defined in this Tariff, all fees, rates, and charges as stated shall be non-refundable.

1. ***Service Investigation Fee.*** The Corporation shall conduct a service investigation for each service application submitted at the Corporation office. An initial determination shall be made by the Corporation, without charge, as to whether the service request is Standard or Non-Standard. An investigation shall then be conducted and the results reported under the following terms:

- a. All Standard Service requests shall be investigated without charge and all costs for providing service shall be quoted in writing to the Applicant within ten (10) working days of application.
- b. All Non-Standard Service requests shall be subject to a fee to cover projected administrative, legal, and engineering fees associated with investigation of the non-standard service request (See Section F.) The initial Service Investigation Fee must be received by the Corporation in full prior to commencement of evaluation of an Application for Non-Standard Service. The Corporation may require the Applicant for Non-Standard Service to pay additional sums to the Corporation for evaluation of the Non-Standard Service request in the event the Corporation's actual costs and expenses exceed the amount of the initial Service Investigation Fee. An Applicant for Non-Standard Service shall remain responsible for payment of all legal and engineering costs incurred by the Corporation in response to a Non-Standard Service regardless of whether the parties enter into a Non-Standard Service Contract. The Service Investigation Fee for Non-Standard Service shall be determined by the Corporation based on estimated costs to be incurred in connection with the investigation of a non-standard service request, but shall be not less than the amounts set forth below:

i.	1 - 10 residential units	\$1,500.00
ii.	11 - 100 residential units	\$2,000.00
iii.	101 and greater residential units	\$3,000.00
iv.	Commercial and other non-residential requests (including RV Parks):	\$3,000.00

2. ***Membership Fee.*** At the time the application for service is approved, a refundable Membership Fee must be paid before service shall be provided or reserved for the Applicant by the Corporation.
  - a. The Membership Fee for water service is \$100.00 for each membership.
3. ***Easement Fee.*** When the Corporation determines that private right-of-way easements and/or facilities sites are necessary to provide service to the Applicant, the Applicant shall be required to

make good faith efforts to secure the necessary easements or real property sites on behalf of the Corporation and/or pay all costs incurred by the Corporation in securing the required easements and real property interests. The costs shall include all legal fees and expenses incurred by the Corporation to secure such real property rights in response to the Applicant's Non-Standard Service request, in addition to the purchase price (or condemnation cost) of the real property. The terms for payment of costs shall be set forth in the Non-Standard Service Contract.

4. **Installation Fee.** The Corporation shall charge an Installation Fee for construction or installation of a water service tap, meter and required appurtenances as follows:

- |  |  |
|--|--|
| a. If excavation of the water main is required for the new tap:                | \$850.00<br>(includes Service Trip Fee, meter installation, and all valves and fittings) |
| b. Installation of Meter Only<br>(where service previously existed):           | \$280.00<br>(includes Service Trip Fee)  |
| c. Installation of Meter plus Related Fittings:                                | \$425.00<br>(includes Service Trip Fee)  |
| d. Installation of Meter plus Related Fittings<br>and Pressure Reducing Valve: | \$565.00<br>(includes Service Trip Fee)  |

5. **Capital Improvement Fee.** Each Applicant for a new service connection shall be required to contribute capital in an amount projected to defray the cost of upgrading system facilities to meet growth demands created by adding customers. The fee is to be paid by an Applicant prior to and as a condition of service on a per residential meter equivalent basis. In the case of Non-Standard Service, the terms and conditions for payment of the Capital Improvement Fee shall be set forth in the Non-Standard Service Contract.

- a. The Capital Improvement Fee is \$2,500.00

6. **Water Development and Supply Fee.** Each Developer of property shall be required to pay a Water Development and Supply Fee for each service connection arising out of the proposed subdivision of real property or the installation of multiple service connections on a single contiguous tract of land. The terms for payment of the Water Development and Supply Fee shall be incorporated into the Non-Standard Service Contract entered into by the Developer and the Corporation pursuant to Section F of this Tariff. In the event a Developer subdivides property or requests more than two meters for a single tract of land without complying with the Corporation's subdivision service extension policies, then each new Applicant for service within the tract of



land will be subject to payment of the Water Development and Supply Fee, in addition to the Capital Improvement Fee, as a condition of service.

- a. Water Development and Supply Fee is \$3,500.00

**7. Base Monthly Charge and Volumetric Rates.**

- a. **Residential Rate and Fee Schedule** (applies to service to a single-family residence or dwelling)

Meter Size	Meter Equivalent	Base Monthly Fee	Volumetric Rates
5/8" x 3/4"	1.0	\$26.86	0-5,000 gallons: \$2.93 per 1,000 5,001-10,000 gallons: \$3.66 per 1,000 10,001 – 15,000 gallons: \$4.94 per 1,000 15,001 – 20,000 gallons: \$6.66 per 1,000 20,001 – 30,000 gallons: \$9.33 per 1,000 30,001 gallons and above: \$13.53 per 1,000
3/4"	1.5	\$40.29	Same as Above
1"	2.5	\$67.15	Same as Above
1 1/2"	5.0	\$134.30	Same as Above
2"	8.0	\$214.88	Same as Above
3" Disp.	9.0	\$241.74	Same as Above
3" Compound	16.0	\$429.76	Same as Above
3" Turb.	17.5	\$470.05	Same as Above
4" Compound	25.0	\$671.50	Same as Above
4" Turb.	30.0	\$805.80	Same as Above

- b. **Commercial Rate and Fee Schedule** (applies to service to any service other than to a single-family residence or dwelling).

Meter Size	Meter Equivalent	Base Monthly Fee	Volumetric Rates
5/8" x 3/4"	1.0	\$26.86	0-5,000 gallons: \$5.80 per 1,000 5,001-10,000 gallons: \$5.80 per 1,000 10,001 – 15,000 gallons: \$5.80 per 1,000 15,001 – 20,000 gallons: \$7.25 per 1,000 20,001 – 30,000 gallons: \$9.06 per 1,000 30,001 gallons and above: \$11.33 per 1,000
3/4"	1.5	\$40.29	Same as Above
1"	2.5	\$67.15	Same as Above
1 1/2"	5.0	\$134.30	Same as Above
2"	8.0	\$214.88	Same as Above
3" Disp.	9.0	\$241.74	Same as Above
3" Compound	16.0	\$429.76	Same as Above
3" Turb.	17.5	\$470.05	Same as Above
4" Compound	25.0	\$671.50	Same as Above
4" Turb.	30.0	\$805.80	Same as Above



8. **Regulatory Assessment Fee.** The Corporation shall, as required by Section 5.235, Water Code of the State of Texas, collect from each of its retail customers a regulatory assessment equal to one-half of one percent of the charge for retail water service. This charge shall be collected in addition to other charges for utility service. This fee is collected on all charges pertaining to Section G.6. Monthly Charges of this tariff. (30 TAC 291.76 d.(3) (i) )
9. **Late Payment Fee.** Once per billing period, a penalty of \$10.00 or 10%, whichever is larger, shall be applied to delinquent bills. This Late Payment Fee shall be applied to any unpaid balance exceeding one-half a Minimum Monthly Charge during any one billing period.
10. **Returned Check Fee.** In the event a check, draft, or any other similar instrument is given by a person, firm, corporation, or partnership to the Corporation for payment of services provided for in this Tariff, and the instrument is returned by the bank or other similar institution as insufficient or non-negotiable for any reason, the account for which the instrument was issued shall be assessed a return check charge of \$25.00.
11. **Reconnect Fee.** The Corporation shall charge a fee of \$60.00 for reconnecting service after the Corporation has previously disconnected the service for any reason provided in this Tariff.
12. **Service Trip Fee.** The Corporation shall charge a trip fee of \$30.00 for any service call or trip to the Member's tap as a result of a request by the Member or resident (unless the service call is in response to damage of the Corporation's or another Member's facilities).
13. **Equipment Damage Fee.** If the Corporation's facilities or equipment have been damaged by tampering, by-passing, installing unauthorized taps, reconnecting service without authority, or other service diversion, a fee shall be charged equal to the actual costs for all labor, material, and equipment necessary for repair, replacement, and other Corporation actions. This fee shall be charged and paid before service is re-established. If the Corporation's equipment has not been damaged, a fee equal to the actual costs for all labor, material, equipment, and other actions necessary to correct service diversions, unauthorized taps, or reconnection of service without authority shall be charged. All components of this fee will be itemized, and a statement shall be provided to the Member. If the Corporation's facilities or equipment have been damaged due to negligence or unauthorized use of the Corporation's equipment, right-of-way, or meter shut-off valve, or due to other acts for which the Corporation incurs losses or damages, the Member shall be liable for all labor and material charges incurred as a result of said acts or negligence.
14. **Customer History Report Fee.** A fee of \$10.00 shall be charged to provide a copy of the Members record of past water purchases in response to a Member's request for such a record.
15. **Meter Test Fee.** The Corporation shall test a Member's meter upon written request of the Member. Under the terms of Section E of this Tariff, a charge of \$30.00 shall be imposed on the customer's account.
16. **Transfer Fee.** An Applicant for service who is a Transferee shall complete all required application forms for transfer of membership and establishment of service, and pay a Transfer Fee of \$25.00.

17. ***Non-Disclosure Fee.*** A fee of \$0.00 shall be assessed any customer requesting in writing that personal information under the terms of this tariff not be disclosed to the public.
18. ***Customer Service Inspection Fee.*** A fee of \$0.00 will be assessed each Applicant before permanent continuous service is provided to new construction.
19. ***Other Fees.*** All services outside the normal scope of utility operations that the Corporation may be compelled to provide at the request of a customer or Member shall be charged to the recipient based on the cost of providing such service.

**SECTION H.**  
**DROUGHT CONTINGENCY PLAN**



**Polonia Water Supply Corporation**

**Drought Contingency Plan**

**March 15, 2019**

## **DROUGHT CONTINGENCY PLAN FOR THE POLONIA WATER SUPPLY CORPORATION**

### **Section I: Declaration of Policy, Purpose, and Intent**

In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the Polonia Water Supply Corporation (Polonia WSC) hereby adopts the following regulations and restrictions on the delivery and consumption of water.

Water uses regulated or prohibited under this Drought Contingency Plan (the Plan) are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Section X of this Plan.

### **Section II: Public Involvement**

Opportunity for the public to provide input into the preparation of the Plan was provided by Polonia WSC in the Polonia News, an insert included in Polonia WSC utility bills and the Polonia WSC website, [www.polonia.com](http://www.polonia.com). The insert as well as the website describes the reasons and methodology for the development of the drought contingency plan, directions to obtain a copy of the draft plan, the period for public comment and input on plan development, and contact information to deliver comments and request additional information.

### **Section III: Public Education**

Polonia WSC will periodically provide the public with information about the Plan. This will be included in the Polonia News (the Polonia WSC utility bill insert) as well as the website, [www.polonia.com](http://www.polonia.com), which describes the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. Additional information concerning the Plan may be provided by press releases in the following newspapers:

- Lockhart Post Register
- Luling Newsboy & Signal
- Guardian

### **Section IV: Coordination with Regional Water Planning Groups**



The water service area for Polonia Water Supply Corporation is located within the Region L Water Planning area. A copy of this Plan has been provided to the Region L Planning Group.

#### **Section V: Authorization**

The general manager of Polonia WSC or his/her designee is hereby authorized and directed to implement the application provisions of the Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The general manager or his/her designee shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

#### **Section VI: Application**

The provisions of this Plan shall apply to all persons, customers, and property utilizing water provided by Polonia WSC. The terms "person" and "customer" as used in the Plan include individuals, corporations, partnerships, associations, and all other legal entities.

#### **Section VII: Definitions**

For the purposes of this Plan, the following definitions shall apply:

Aesthetic water use: water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

Commercial and institutional water use: water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.

Conservation: those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer: any person, company, or organization using water supplied by Polonia WSC.

Domestic water use: water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Industrial water use: the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

Landscape irrigation use: water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

Non-essential water use: water uses that are not essential or required for the protection of public, health, safety, and welfare, including:

- (a) Irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this Plan;
- (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (c) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (d) Use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (e) Flushing gutters or permitting water to run or accumulate in any gutter or street;
- (f) Use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
- (g) Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- (h) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- (i) Use of water from hydrants for construction purposes or any purpose other than firefighting.

#### **Section VIII: Triggering Criteria for Initiation and Termination of Drought Response Stages**

Polonia Water Supply Corporation shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of the Plan.

Reasonable notice, including, by way of example and without limitation, notice published in local newspaper, radio and television announcements, and by posting notice in public buildings, of the proposed implementation of a drought response stage shall be provided 24 hours before Polonia WSC officially initiates the response stage. Published notice may be followed by a mailed notice included in the next regular bill. Any notice shall contain the following information:

- The date implementation of the drought stage shall begin;
- An explanation of the measures to be implemented during the response stage; and
- An explanation of penalties for violations.

The drought contingency plan is oriented toward alleviating stress on water storage and distribution facilities during peak demand periods. Provision is also made for response to emergency conditions resulting from the failure of key water system facilities and water supply contamination. Triggering criteria will be revisited and possibly revised as historical operational information from the SCADA system becomes available.

#### **(a) Stage 1 – Mild Water Rationing Conditions**



Requirements for initiation – Customer shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses, defined in Section VII – Definitions, when any of the following triggering conditions are met.

Requirements for termination – Stage 1 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of seven (7) consecutive days.

Critical Tank	Stage 1 – Triggering Conditions	
Lytton EST	1. Declining tank level is observed for 2 consecutive days *	2. Tank water level is more than 5 feet less than the maximum level *
Barth SP	1. Declining tank level is observed for 2 consecutive days *	2. Tank water level is more than 15 feet less than the maximum level *
Dale Plant GST	1. Declining tank level is observed for 2 consecutive days *	2. Tank water level is more than 5 feet less than the maximum level *
SH 130 GST	1. Declining tank level is observed for 2 consecutive days *	2. Tank water level is more than 5 feet less than the maximum level *
Dale WTP GST	1. Declining tank level is observed for 2 consecutive days *	2. Tank water level is more than 7 feet less than the maximum level *
US 183 SP	1. Declining tank level is observed for 2 consecutive days *	2. Tank water level is more than 14 feet less than the maximum level *
Brownsboro GST	1. Declining tank level is observed for 2 consecutive days *	2. Tank water level is more than 6 feet less than the maximum level *
McNeil GST	2. Tank water level is more than 5 feet less than the maximum level *	2. Tank water level is more than 5 feet less than the maximum level *

\* Tank levels will be measured 2 hours after peak in order to represent tank recovery.

Or

#### Stage 1 Triggers -- MILD Water Shortage Conditions

##### Requirements for initiation

Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses, defined in Section VII – Definitions, when:

- For Polonia WSC North total daily water demand equals or exceeds 0.750 million gallons for 4 consecutive days or 0.900 million gallons on a single day. For Polonia WSC South, 0.400 million gallons for 4 consecutive days or 0.500 million gallons on a single day. For Polonia WSC, 0.100 million gallons for 4 consecutive days or 0.130 million gallons on a single day. (e.g., based on the “safe” operating capacity of water supply facilities).
- There is an extended period (at least eight weeks) of low rainfall and daily use has risen 20 percent above the use for the same period during the previous year.

##### Requirements for termination

Stage 1 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 7 consecutive days.

#### (b) Stage II – Moderate Water Shortage Conditions

Requirements for initiation – Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage II of this Plan when any of the following triggering conditions are met.

Requirements for termination – Stage II of the Plan may be rescinded when all of the conditions listed as triggered events have ceased to exist for a period of seven (7) consecutive days. Upon termination of Stage II, Stage I becomes operative.

Critical Tank	Stage 2 – Triggering Conditions	
Lytton EST	1. Declining tank level is observed for 3 consecutive days *	2. Tank water level is more than 7 feet less than the maximum level *
Barth SP	1. Declining tank level is observed for 3 consecutive days *	2. Tank water level is more than 18 feet less than the maximum level *
Dale Plant GST	1. Declining tank level is observed for 3 consecutive days *	2. Tank water level is more than 7 feet less than the maximum level *
SH 130 GST	1. Declining tank level is observed for 2 consecutive days *	2. Tank water level is more than 7 feet less than the maximum level *
Dale WTP GST	1. Declining tank level is observed for 3 consecutive days *	2. Tank water level is more than 8 feet less than the maximum level *
US 183 SP	1. Declining tank level is observed for 3 consecutive days *	2. Tank water level is more than 16 feet less than the maximum level *
Brownsboro GST	1. Declining tank level is observed for 3 consecutive days *	2. Tank water level is more than 8 feet less than the maximum level *
McNeil GST	1. Declining tank level is observed for 2 consecutive days *	2. Tank water level is more than 7 feet less than the maximum level *

\* Tank levels will be measured 2 hours after peak in order to represent tank recovery.

Or

#### **Stage 2 Triggers -- MODERATE Water Shortage Conditions**

##### Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses provided in Section IX of this Plan when:

- a. For Polonia WSC North total daily water demand equals or exceeds 0.850 million gallons for 4 consecutive days or 0.950 million gallons on a single day for. For Polonia WSC South, 0.450 million gallons for 4 consecutive days or 0.550 million gallons on a single day. For Polonia WSC, 0.120 million gallons for 4 consecutive days or 0.150 million gallons on a single day. (e.g., based on the “safe” operating capacity of water supply facilities).
- b. There is an extended period (at least eight weeks) of low rainfall and daily use has risen 20 percent above the use for the same period during the previous year.

##### Requirements for termination

Stage 2 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 7 consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.



### **(c) Stage III – Emergency Water Shortage Conditions**

#### **Stage 3 Triggers -- Emergency Water Shortage Conditions**

##### Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 3 of this Plan when:

- a. For Polonia WSC North total daily water demand equals or exceeds 0.900 million gallons for 4 consecutive days or 1.010 million gallons on a single day for. For Polonia WSC South, 0.500 million gallons for 4 consecutive days or 0.600 million gallons on a single day. For Polonia WSC, 0.150 million gallons for 4 consecutive days or 0.175 million gallons on a single day. (e.g., based on the “safe” operating capacity of water supply facilities).
- b. There is an extended period (at least eight weeks) of low rainfall and daily use has risen 20 percent above the use for the same period during the previous year.

##### Requirements for termination

Stage 3 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 7 consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.

Requirements for initiation – Customers shall be required to comply with the requirements and restrictions for Stage III of this Plan when the general manager, or his/her designee, determines that a water supply emergency exists based on:

1. Major water line breaks, or pump or system failures occur, which cause an unprecedented loss of capability to provide water service; or
2. Natural or man-made contamination of the water supply source(s).

Requirements for termination – Stage III of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of seven (7) consecutive days.

#### **Stage 4 Triggers -- EMERGENCY Water Shortage Conditions**

##### Requirements for initiation

Customers shall be required to comply with the requirements and restrictions for Stage 4 of this Plan when the President, or his/her designee, determines that a water supply emergency exists based on:

- a. Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or
- b. Other unforeseen events, which could cause imminent health or safety risk to the public.

##### Requirements for termination

Stage 4 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of 3 consecutive days.

## Section IX: Drought Response Stages

Polonia Water Supply Corporation shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in Section VIII of the Plan, shall determine that a mild, moderate, or emergency condition exists and shall implement the following actions upon the notice procedures described in Section VIII.

Because of large service area served by Polonia WSC and the large number of pressure zones within the water distribution system, Polonia Water Supply Corporation shall initiate drought response stages in designated sub-areas of the water service area. This is intended to allow for the targeted implementation of drought response measures in areas where such measures are necessary, thereby minimizing the number of Polonia WSC customers impacted.

### Stage I – Mild Shortage Conditions

**Goal:** Achieve a voluntary reduction of 10% in daily water demand sufficient to stabilize water levels in key water storage tanks at safe operating levels.

#### Supply Management Measures:

- (a) Polonia WSC will shut off all fire hydrant meters that are for non-essential use.
- (b) Polonia WSC will discontinue flushing of water mains.

#### Voluntary Water Use Restrictions:

- (a) Water customers are requested to voluntarily limit the irrigation of landscaped areas to the Polonia watering schedule (Table IX-1). The order will remain consecutive as each new month begins. For customers having rural delivery numbers, the last numerical digit of the rural delivery number, whether route or box, shall be used to determine the watering days.

Table IX-1 – Polonia WSC Landscape Watering Schedule

1) Monday and Thursday: Even last number of Address

Tuesday and Friday: Odd last number of Address

2) Restricted Outdoor Watering Hours: Outdoor watering should be done only before 10 a.m. and after 7 p.m. on your water day.

3) Restricted Outdoor Watering Volume: Water no more than 1 inch on your watering day.

### Stage II - Moderate Water Shortage Conditions

**Goal:** Achieve 15% reduction in daily water demand sufficient to stabilize water levels in key water storage tanks at safe operating levels.



Water Use Restrictions. Under threat of penalty for violation, the following water use restrictions shall apply to all persons:

(a) Irrigation of landscape areas shall be limited to designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, drip irrigation, or permanently installed automatic sprinkler system only. The use of hose-end sprinklers is prohibited at all times. The water usage is restricted to weekday use only. No outside watering allowed on Saturdays, Sundays, or official Federal holidays.

(b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated water days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and midnight. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shut-off nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public are contingent upon frequent cleansing, such as garbage trucks and vehicles used to transport food and perishables.

(c) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 midnight.

(d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or when such fountains or ponds are equipped with a recirculation system.

(e) Use of water from hydrants shall be limited to firefighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from Polonia WSC.

(f) The watering of golf course tees is prohibited unless the golf course utilizes a water source other than that provided by Polonia WSC.

(g) All restaurants are prohibited from serving water to its patrons except when requested.

(h) The following uses of water are defined as non-essential and are prohibited:

1. Wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
2. Use of water to wash down buildings or structures for purposes other than immediate fire protection;
3. Use of water for dust control;
4. Flushing gutters or permitting water to run or accumulate in any gutter or street; and

5. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

### **Stage III – Emergency Water Shortage Conditions**

Goal: Achieve a minimum of 20% reduction in daily water demand sufficient to meet basic water needs for public health and safety.

Water Use Restrictions. All requirements of Stage II shall remain in effect during Stage III except:

- (a) Irrigation of landscaped areas is absolutely prohibited.
- (b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle is absolutely prohibited.
- (c) The filling, refilling, or adding of water to swimming pools, wading pools, and Jacuzzi-type pools is absolutely prohibited.
- (d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is absolutely prohibited except where necessary to support aquatic life or where such fountains are equipped with a recirculation system.
- (e) No applications for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be allowed or approved.

### **Stage IV – Severe Rationing Conditions**

Goal: Achieve a minimum of 25% reduction in daily water demand sufficient to meet basic water needs for public health and safety.

All outdoor water usage is prohibited; usage for livestock is exempt. All consumption shall be limited to each member in one of the following ways:

- 1. A fixed percentage of each member's average use in the prior month, the percentage to be uniformly applied on a system wide basis, each member being notified of this percentage amount, OR
- 2. A maximum number of gallons per meter (member), per week, with notice to each member of this number.

All meters shall be read as often as necessary to insure compliance with this program for the benefit of all the members.

### **Section X: Enforcement**

No person shall knowingly or intentionally allow the use of water from the Polonia WSC for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any



provision of the Plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by the general manager, or his/her designee, in accordance with provision of this Plan. Violations to this plan will be treated as follows.

(a) First violation – Polonia WSC may install a flow restricter in the line to limit the amount of water which will pass through the meter in a 24-hour period. The cost to be charged to the member's account shall be the actual installation cost (\$100 for 5/8", 3/4", and 1" meters, larger meters will be determined on a case-by-case basis) to Polonia WSC.

(b) Subsequent violations – Polonia WSC may terminate service at the meter for a period of seven (7) days, or until the end of the calendar month, whichever is less. The normal reconnect fee (\$60.00), of Polonia WSC shall apply for restoration of service.

#### **Section XI: Adoption of Drought Contingency Plan**

All contracts with Polonia WSC for resale of water require the acceptance and implementation of Polonia's Drought Contingency Plan. In case of a shortage of water resulting from drought, the water to be distributed shall be divided in accordance with Texas Water Code, §11.039.

#### **Section XII: Variances**

The general manager, or his/her designee, may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

(a) Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.

(b) Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with the Polonia WSC within 5 days after the Plan or a particular drought response stage has been revoked. All petitions for variance shall be reviewed by the general manager, or his/her designee, and shall include the following:

(a) Name and address of the petitioner(s).

(b) Purpose of water use.

(c) Specific provisions(s) of the Plan which the petitioner is requesting relief.

(d) Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Ordinance.