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DOCKET NO. 52644

**PETITION OF AQUA TEXAS, INC. FOR § PUBLIC UTILITY COMMISSION
PARTIAL DECERTIFICATION OF ITS §
CERTIFICATES OF CONVENIENCE § OF TEXAS
AND NECESSITY IN HARRIS COUNTY §**

COMMISSION STAFF’S AMENDED RECOMMENDATION ON FINAL DISPOSITION

On September 27, 2021, Aqua Texas, Inc. (Aqua Texas) filed an application to amend its certificate of convenience and necessity (CCN) in Harris County, Texas. Aqua Texas seeks approval to decertify a portion of its water CCN No. 13203 and sewer CCN No. 21065. Aqua Texas filed supplemental information on October 11, 2021 and November 9, 2021, proof of notice on November 9, 2021, and a signed consent form for the map and certificate on January 28, 2022.

On November 29, 2021, the administrative law judge (ALJ) filed Order No. 3, establishing a deadline of February 3, 2022 for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a final recommendation on the application. On February 3, 2022, Staff filed its recommendation and supporting memorandum recommending that the application and supplemental information filed by Aqua Texas be approved. Staff was subsequently notified of an error in the memorandum submitted with the final recommendation. That issue has been corrected in this pleading and the necessary attachment is included.

I. STAFF’S AMENDED RECOMMENDATION

Staff has reviewed the application and supplemental information filed by Aqua Texas and Staff’s recommendation has not changed from its original filing, dated February 3, 2022. However, Staff inadvertently stated that Aqua Texas consented to revisions in its tariff. Staff makes the clarification that Aqua Texas consented to the maps and certificates filed, but *Aqua Texas did not consent to any revisions to its tariffs*, as stated in the updated memorandum filed with this pleading. Additionally, Staff requests that the parties file a joint notice of approval with proposed findings of fact, conclusions of law, and ordering paragraphs on or before February 28, 2022.

II. CONCLUSION

For the reasons detailed above, Staff respectfully recommends that Aqua Texas's application be approved. Staff respectfully requests the issuance of an order consistent with the foregoing recommendation.

Dated: February 16, 2022

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Rachelle Nicolette Robles
Division Director

Sneha Patel
Managing Attorney

/s/ Forrest Smith
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DOCKET NO. 52644

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on February 16, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Forrest Smith
Forrest Smith

Public Utility Commission of Texas

Memorandum

TO: Forrest Smith, Attorney
Legal Division

FROM: Patricia Garcia, Senior Engineering Specialist
Infrastructure Division

DATE: February 16, 2022

RE: Docket No. 52644 – *Petition of Aqua Texas, Inc. for Partial Decertification of its Certificates of Convenience and Necessity in Harris County*

1. Application

On September 27, 2021, Aqua Texas, Inc. (Aqua Texas) filed a petition to decertify a portion of its water Certificate of Convenience and Necessity (CCN) No. 13203 and sewer CCN No. 21065 in Harris County, Texas under Texas Water Code (TWC) § 13.254(a) and 16 Texas Administrative Code (TAC) § 24.245.

The requested area includes 0 customer connections being served by Aqua Texas and approximately 57 acres, comprised of 57 acres of decertified area from CCN Nos. 13203 & 21065.

The petition proposes the subtraction of approximately 57 acres from CCN Nos. 13203 & 21065.

2. Notice

The deadline to intervene was December 9, 2021; there were no motions to intervene, protests, or opt-out requests received.

3. Factors Considered

Under TWC § 13.250 and 16 TAC § 24.245, the Commission must consider certain factors when decertifying a portion of a water and sewer CCN. Therefore, the following factors were considered.

- 3.1. *Consideration of whether the Applicant qualifies for decertifying a portion of its water and sewer CCN (16 TAC § 24.245(d)(1)).*

Aqua Texas has never provided water service to any customers in the requested area. Aqua Texas has not received any requests for water and sewer service in the requested area. Aqua Texas indicated that the area being requested for decertification is “located inside (or will be located inside) the boundaries of Harris County Municipal Utility District No. 370.”¹

3.2. *Consideration of the effect of granting the decertification on the current CCN holder, any existing customers, and the landowners in the area (16 TAC § 24.245(d)(2)(C)).*

Aqua Texas will not be required to provide adequate and continuous service to the requested area. Aqua Texas does not own any facilities in the requested area. Aqua Texas does not serve customers in the requested area.

Harris County Municipal District No. 370 currently serves and will be the service provider for future customers in the requested area. As a district, Harris County Municipal District No. 370 is not required to have a CCN.

3.3. *Consideration of the Applicant’s ability to serve continuous and adequate service to all remaining customers within its certificated area (TWC § 13.250(a)).*

Decertification of the requested area will not impact Aqua Texas’s ability to serve the remaining customers in its certificated area. The remaining customers are served by public water systems outside of the requested area.

3.4. *Consideration of whether the requested area will be adversely impacted in the present or future (TWC § 13.250(b)).*

Aqua Texas has no customers and owns no facilities in the requested area so the service to the requested area will not be discontinued, reduced, or impaired. Harris County Municipal District No. 370 provides service to the area.

3.5. *Compensation from a prospective retail public utility (16 TAC § 24.245(d)(2)(F)).*

The provisions of 16 TAC § 24.245(d)(2)(F) makes clear that Aqua Texas is not entitled to compensation from a prospective retail public utility if the request to decertify the requested area is granted.

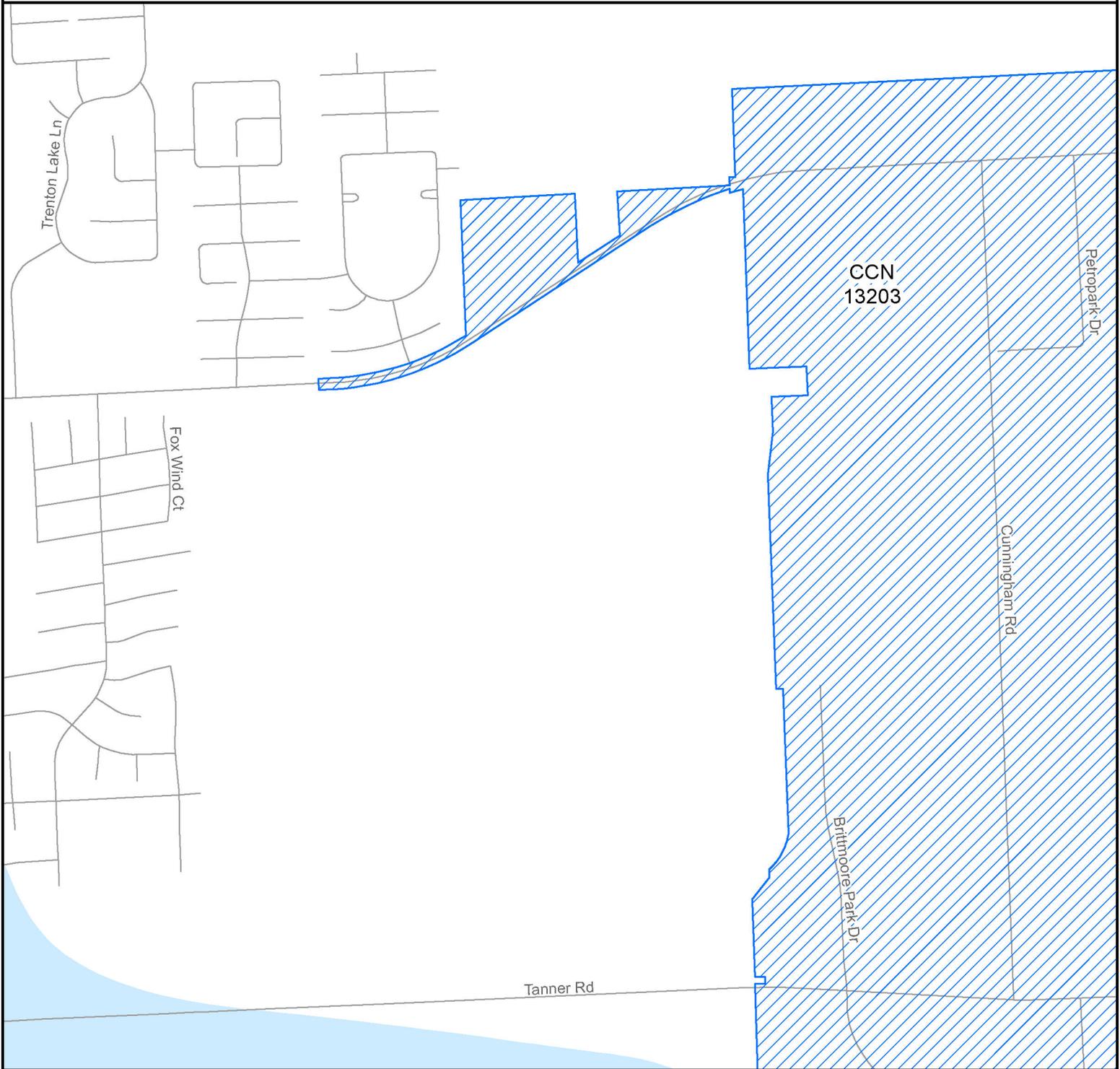
4. Recommendation

Based on the mapping review by Gary Horton, Infrastructure Division, and my technical and managerial review, I recommend that Aqua Texas meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations, is capable of providing continuous and adequate service to its remaining customers and approving this application to decertify a portion of its water CCN No. 13203 and sewer CCN No. 21065 is necessary for the accommodation, convenience, and safety of the public.

Aqua Texas consented to the attached map and certificate on January 28, 2022.

¹ Aqua Texas, Inc.’s Amended Petition for Partial Water and Sewer CCN Decertification at 1 (Nov. 9, 2021).

Aqua Texas, Inc.
Portion of Water CCN No. 13203
PUC Docket No. 52644
Amended CCN No. 13203 in Harris County



Water CCN

 13203 - Aqua Texas Inc



Aqua Texas, Inc.
Portion of Sewer CCN No. 21065
PUC Docket No. 52644
Amended CCN No. 21065 in Harris County



Sewer CCN

 21065 - Aqua Texas Inc

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Feet





Public Utility Commission of Texas

By These Presents Be It Known To All That

Aqua Texas, Inc.

having obtained 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, Aqua Texas, Inc. is entitled to this

Certificate of Convenience and Necessity No. 13203

to provide continuous and adequate water utility service to that service area or those service areas in Brazoria, Chambers, Fort Bend, Grimes, Harris, Jefferson, Liberty, Montgomery, Polk, San Jacinto, Trinity, Victoria, and Wharton Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 52644 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 Aqua Texas, Inc. to provide such utility service in accordance with the laws of this State and 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.



Public Utility Commission of Texas

By These Presents Be It Known To All That

Aqua Texas, Inc.

having obtained certification to provide sewer 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, Aqua Texas, Inc. is entitled to this

Certificate of Convenience and Necessity No. 21065

to provide continuous and adequate sewer utility service to that service area or those service areas in Brazoria, Chambers, Fort Bend, Harris, Jefferson, Montgomery, Polk, Trinity, and Victoria Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 52644 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 Aqua Texas, Inc. to provide such utility service in accordance with the laws of this State and 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.