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PETITION OF ROSENDO L. GARCIA, § PUBLIC UTILITY COMMISSION
ISABEL R. GARCIA AND NICHOLAS §
R. GARCIA TO AMEND AQUA § OF TEXAS
WATER SUPPLY CORPORATION'S §
CERTIFICATE OF CONVENIENCE §
AND NECESSITY IN TARRANT §
COUNTY BY EXPEDITED RELEASE §

COMMISSION STAFF'S MOTION TO DISMISS

On October 12, 2021, Rosendo L. Garcia, Isabel R. Garcia, and Nicholas R. Garcia (collectively, Petitioners) filed a petition for expedited release from Aqua Water Supply Corporation's (Aqua WSC) Certificate of Convenience and Necessity (CCN) No. 20962 under Texas Water Code (TWC) § 13.2541 and 16 Texas Administrative Code (TAC) § 24.245(h). Petitioners assert that the land to be released is at least 25 contiguous acres, is not receiving sewer service, and is located in Bastrop County, which is a qualifying county.¹

On January 19, 2022, the administrative law judge (ALJ) filed Order No. 3, establishing a deadline of March 16, 2022 for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a supplemental recommendation on the sufficiency of the supplemented petition and propose a procedural schedule. Therefore, this pleading is timely filed.

I. MOTION TO DISMISS WITHOUT PREJUDICE

On November 12, 2021, Staff recommended that the Petitioners' application was administratively incomplete, and recommended the Petitioners be ordered to file supplemental information to cure the deficiencies. In Order No. 2, dated November 15, 2021, the ALJ found the petition administratively incomplete and set a deadline of December 13, 2021 for Petitioners to cure the deficiencies. Petitioners did not cure the deficiencies or otherwise respond to Order No. 2. On January 13, 2022, Staff filed a supplemental recommendation stating that the petition was still administratively incomplete. In Order No. 3, dated January 19, 2022, the ALJ found the petition remained administratively incomplete and set a deadline of February 14, 2022 for

¹ TWC § 13.2541(b) and 16 TAC § 24.245(h)(2).

Petitioners to cure the deficiencies. Petitioners did not cure the deficiencies or otherwise respond to Order No. 3. To date, Staff has requested Petitioners cure the deficiencies in their petition twice, yet Petitioners have not cured the deficiencies, nor have they otherwise responded as requested. Staff cannot proceed with the petition without a cure of the petition's deficiencies. Petitioners have, to date, been given four months to cure or otherwise respond, which is more than sufficient. Therefore, Staff recommends that Petitioners' application be dismissed without prejudice for failure to amend an application such that it is sufficient after repeated determinations that the application is insufficient.²

II. CONCLUSION

Based on the foregoing discussion, Staff respectfully requests that an order be issued dismissing the application without prejudice.

Dated: March 16, 2022

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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² 16 TAC 22.181(d)(7).

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CERTIFICATE OF SERVICE

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

/s/ Bradley Reynolds
Bradley Reynolds