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PETITION OF PETRUS	§	PUBLIC UTILITY COMMISSION
INVESTMENT, LP TO AMEND AQUA	§	
TEXAS, INC.’S CERTIFICATE OF	§	OF TEXAS
CONVENIENCE AND NECESSITY IN	§	
DENTON COUNTY BY	§	
STREAMLINED EXPEDITED	§	
RELEASE	§	

AQUA TEXAS, INC.’S EXCEPTIONS TO PROPOSED ORDER

Aqua Texas, Inc. (Aqua or Intervenor) files these exceptions to the Proposed Order that would grant Petrus Investment, LP’s (Petitioner) requested streamlined expedited release (SER) from Aqua’s water CCN No. 13201 in this docket for Petitioner’s property (Property) and which the Honorable Commission Administrative Law Judge (ALJ) distributed to the Parties and Commissioners on April 5, 2022 (Proposed Order).¹ In support, Aqua shows as follows.

I. EXCEPTIONS

Aqua has clearly informed the Commission that the Property is receiving water service from Aqua in various ways, including via facilities *within* the Property tract as proposed Finding of Fact Nos. 21, 22, and 23 inexplicably disregard, describing Aqua’s facilities as “running parallel to, but outside of the norther[n]. . . boundar[y] of the tract of land,” only in “proximity” to the tract, and not “committed or dedicated” to the tract without mention of Aqua’s water line facility *within* the tract as demonstrated by Aqua’s evidence.² Yet, the Proposed Order would grant Petitioner’s requested SER over Aqua’s objections. Aqua excepts to the Proposed Order in its entirety and incorporates its prior arguments against the release here.

Aqua specifically excepts to several findings of fact as follows. Finding of Fact Nos. 21, 22, and 23 should reflect that Aqua’s evidence provided by Mr. Darryl Waldock shows facilities

¹ Memorandum from ALJ to Commission Counsel and Parties with Proposed Order (Apr. 5, 2022).

² Compare Memorandum from ALJ to Commission Counsel and Parties with Proposed Order (Apr. 5, 2022), with Aqua’s Response to Petition (Mar. 1, 2022) and Aqua’s Response to Order No. 4 (Apr. 1, 2022).

within the Property *and* in proximity to it, not just in proximity to the tract and, thus, committed and dedicated to the tract. Aqua's water line reflected on Mr. Waldock's map clearly shows its location within the Property tract sought for SER. Similarly, Aqua excepts to Findings of Fact Nos. 24 through 25 related to Aqua's service to the Property as they are not factually correct and conflict with the evidence presented to the Commission showing that the Property receives water service from Aqua via its line within the tract and other nearby facilities.

Aqua also excepts to proposed Conclusion of Law Nos. 12 and 13 because they misapply the law cited in proposed Conclusion of Law No. 12 in support of release; the cited provisions and court decision support denial as the Commission has discretion to decide those standards within the applicable law and the standards expressed should lead to denial. Finally, if the Proposed Order is adopted, Aqua would except to Conclusion of Law No. 16 because the Commission would be ignoring the broad definition of "service" found both in the Texas Water Code and its rules.³

Finally, Aqua excepts to proposed Ordering Paragraphs 1 and 3 through 8 as they would unlawfully approve the release of the Property from Aqua's water CCN service area. While Aqua does not except to Ordering Paragraph No. 2, this order to leave Aqua's facilities within the Property certificated confirms the Property receives service from Aqua and should lead to denial.

II. CONCLUSION AND PRAYER

The Commission should not remove CCN areas when the facts do not justify release. Yet, that is precisely what the proposed order would do if approved because this case presents facts that should preclude SER. Further, if the Commission is trying to exclude Aqua's facilities from decertification, the maps attached to the Proposed Order do not reflect that effort.⁴ Administering

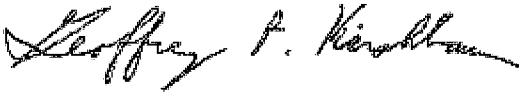
³ TWC § 13.002(21); *see also* 16 TAC § 24.3(33) (same definition).

⁴ *Id.*

the SER process in this manner makes it extremely difficult for retail public utilities to plan service for developing areas, undermines regionalization efforts, and is unjust.

Intervenor Aqua Texas, Inc. respectfully requests that the Commission modify the Proposed Order in line with the exceptions presented herein, find that the Petition does not meet the streamlined expedited release requirements under Texas Water Code § 13.2541 or 16 TAC § 24.245(l) and deny the Petition. In the alternative, if the Commission removes the Property from Intervenor's CCN, the Commission must find that Intervenor is entitled to just and adequate compensation in an amount to be determined by the Commission before any other retail public utility may in any way render retail water or sewer service directly or indirectly to the public in the decertified area.

Respectfully submitted,

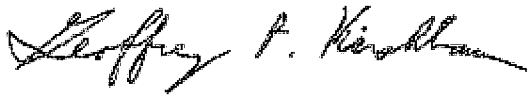
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ATTORNEY FOR AQUA TEXAS, INC.

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 April 19, 2022, in accordance with the Orders Suspending Rules filed in Project No. 50664.



Geoffrey P. Kirshbaum