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DOCKET NO. 53253

PETITION OF KB HOME LONE STAR,	§	PUBLIC UTILITY COMMISSION
INC. TO AMEND AQUA WATER	§	
SUPPLY CORPORATION'S	§	
CERTIFICATE OF CONVENIENCE	§	OF TEXAS
AND NECESSITY IN TRAVIS COUNTY	§	
BY STREAMLINED EXPEDITED	§	
RELEASE	§	

**COMMISSION STAFF'S SECOND SUPPLEMENTAL RECOMMENDATION ON
ADMINISTRATIVE COMPLETENESS AND NOTICE**

On February 22, 2022, KB Home Lone Star, Inc. (KB Home) filed a petition for streamlined expedited release from Aqua Water Supply Corporation's (Aqua WSC) water Certificate of Convenience and Necessity (CCN) No. 10294 under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h). KB Home asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Travis County, which is a qualifying county. On April 25, 2022, May 25, 2022, May 26, 2022, and July 15, 2022, KB Home filed supplemental information.

On July 12, 2022, the administrative law judge (ALJ) filed Order No. 5, establishing a deadline of August 18, 2022 for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a supplemental recommendation on the administrative completeness of the petition and the sufficiency of notice and propose a procedural schedule. Therefore, this pleading is timely filed.

I. ADMINISTRATIVE COMPLETENESS

Staff has reviewed the petition and, as detailed in the attached memorandum from Chase Lipscomb, Infrastructure Division, recommends that the petition is administratively complete. Staff's recommendation on administrative completeness is not a comment on the merits of the petition.

II. NOTICE SUFFICIENCY

Under 16 TAC § 24.245(h)(3)(f), a landowner seeking streamlined expedited release must provide proof that a copy of the petition has been mailed to the current CCN holder via certified

mail on the day that the landowner submits the petition to the Commission. KB Home stated, in the petition's certificate of service, that it mailed a copy of the petition to the CCN holder, Aqua WSC, by certified mail on the day the petition was filed with the Commission. Accordingly, Staff recommends that the notice is sufficient.

III. PROPOSED PROCEDURAL SCHEDULE

Under 16 TAC § 24.245(h)(7), there is an expedited deadline of 60 days for approval of the requested release that begins once the ALJ issues an order finding a petition administratively complete. Staff recommends that the petition be found administratively complete. Therefore, Staff proposes the following procedural schedule and requests that the ALJ populate the deadlines accordingly when the ALJ issues that order.

Event	Date
Deadline for Aqua WSC and intervenors to file a response to the administratively complete petition	20 days from the date of the order finding the petition administratively complete
Deadline for petitioner to file a reply to Aqua WSC's response	27 days from the date of the order finding the petition administratively complete
Deadline for Staff's recommendation on final disposition	41 days from the date of the order finding the petition administratively complete
Sixty-day administrative approval of streamlined expedited release	60 days from the date of the order finding the petition administratively complete
<i>In the event streamlined expedited release is granted and petitioner and Aqua WSC can select an agreed-upon appraiser</i>	
Deadline for petitioner and Aqua WSC to make a filing stating that they have selected an agreed-upon appraiser	Within 10 days after the Commission approves streamlined expedited release
Deadline for appraiser's report	Within 70 days after the Commission approves streamlined expedited release
Deadline for Commission's final order determining the amount of monetary compensation, if any, owed by petitioner to Aqua WSC	Within 60 days after appraiser's report
Deadline for petitioner to pay any compensation due to Aqua WSC	Within 90 days of the Commission's final order on compensation

In the event streamlined expedited release is granted and petitioner and Aqua WSC are unable to select an agreed-upon appraiser

Deadline for petitioner and Aqua WSC to make a filing stating that they have been unable to select an agreed-upon appraiser and affirming that they will pay half of the cost of Commission Staff's appraiser ¹	Within 10 days after the Commission approves streamlined expedited release ²
Deadline for reports from petitioner's appraiser and Aqua WSC's appraiser	Within 70 days after the Commission approves streamlined expedited release
Deadline for Staff's appraiser's report	Within 100 days after the Commission approves streamlined expedited release
Deadline for Commission's final order determining the amount of monetary compensation, if any, owed by petitioner to Aqua WSC	Within 60 days after the Commission receives the final appraisal
Deadline for petitioner to pay any compensation due to Aqua WSC	Within 90 days of the Commission's final order on compensation

IV. CONCLUSION

For the reasons detailed above, Staff recommends that the petition be found administratively complete, that the notice be found sufficient, and that the proposed procedural schedule be adopted. Staff respectfully requests the entry of an order consistent with these recommendations.

¹ TWC § 13.2541(i).

² It is critical for Staff to know as soon as possible after the Commission grants the petition whether Staff needs to secure the services of a third appraiser. If the petitioner and CCN holder are unable to agree and fail to make this filing, Staff may need additional time to file its appraiser's report.

Dated: August 18, 2022

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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DOCKET NO. 53253

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 August 18, 2022, in accordance with the Order Suspending Rules issued in Project No. 50664.

/s/ Scott Miles
Scott Miles

Public Utility Commission of Texas

Memorandum

TO: Scott Miles and Arnett Caviel, Attorneys
Legal Division

FROM: Chase Lipscomb, Infrastructure Analyst
Infrastructure Division

DATE: August 18, 2022

RE: Docket No. 53253 – *Petition of KB Home Lone Star, Inc. to Amend Aqua Water Supply Corporation's Certificate of Convenience and Necessity in Travis County by Streamlined Expedited Release*

On February 22, 2022, KB Home Lone Star (KB Home) filed a petition for streamlined expedited release from Aqua Water Supply Corporation's (Aqua WSC) water Certificate of Convenience and Necessity (CCN) No. 10294 in Travis County, under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h). KB Home asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Travis County, which is a qualifying county.

KB Home submitted a sworn affidavit attesting that the tract of land was not receiving water service from Aqua WSC and a warranty deed confirming ownership of the landowner's total property. KB Home included a statement indicating a copy of the petition was sent via certified mail to Aqua WSC on the date the petition was filed with the Commission.

Based on the mapping review by Dave Babicki, Infrastructure Division, the maps submitted with Item 8 on May 26, 2022 and the digital mapping data submitted with Item 14 on July 15, 2022 are sufficient for determining the location of the tract of land considered for streamlined expedited release is located within Aqua WSC's water CCN.

The landowner's total property is approximately 136.9 acres. The tract of land in the petition for streamlined expedited release is approximately 136.9 acres, of which approximately 136.9 acres overlap Aqua WSC (CCN No. 10294) and would be decertified from CCN No. 10294.

Based on my technical and managerial review and the mapping review by Dave Babicki of the additional information provided by KB Home on July 15, 2022, I recommend the petition be deemed administratively complete and accepted for filing.