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Received - 2022-07-22 08:16:54 AM
Control Number - 53696
ItemNumber - 9

DOCKET NO. 53696

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

COMMISSION STAFF’S RESPONSE TO ORDER NO. 3

On June 7, 2022, Aqua Texas, Inc. (Aqua Texas) filed a petition to decertify a portion of its Certificate of Convenience and Necessity (CCN) Nos. 13203 and 21065 in Montgomery County. Aqua Texas seeks to decertify approximately 45.7 acres of land owned by Chapel Run Land Investment Company, LLC (Chapel Run).

On July 12, 2022, the administrative law judge (ALJ) filed Order No. 3, establishing a deadline for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to comment on whether notice to the City of Conroe (Conroe) should be required or whether Aqua Texas should be required to provide further information indicating that Conroe has agreed to be the service provider for the tract of land by July 22, 2022. Therefore, this pleading is timely filed.

I. RESPONSE TO ORDER NO. 3

Order No. 3 directs Staff to comment on whether notice to Conroe should be required, and it is Staff’s position that notice to Conroe should not be required. The affidavit filed as Exhibit B to Aqua Texas’s application states that the Conroe has “agreed to provide service to the portion of CCN Nos. 13203 and 21065 for which Aqua Texas seeks decertification,”¹ so Conroe is already aware of the decertification and notice would be unnecessary. Furthermore, there is no statute in the Texas Water Code or rule in 16 TAC § 24.245 that requires a current CCN holder to provide notice to prospective retail public utilities. The only notice requirements included in 16 TAC § 24.245(d)² is to provide notice to each customer and landowner within the affected service area of the utility, and this requirement notably does not include prospective retail public utilities, such

¹ Application, Exhibit B at 1 (Jun. 7, 2022).

² As specified in its application, Aqua filed for this decertification under 16 TAC § 24.245(d). *See* Application at 1 (Jun. 7, 2022).

as Conroe.³ Therefore, Staff argues that notice to Conroe should not be required as neither statute nor rules requires such notice.

Order No. 3 also directs Staff to comment on whether Aqua should be required to provide further information indicating that Conroe has agreed to be the service provider for the tract of land. Staff contends that it also does not have the statutory or regulatory authority to require Aqua to provide this information. A retail public utility that is applying to decertify a portion of its CCN under 16 TAC § 24.245(d) must comply with the requirements of 16 TAC § 24.245(d)(2). None of these requirements address the prospective retail public utility that will or may provide service to the area seeking decertification. Accordingly, Staff also contends that it does not have the authority under its rules or statutes to compel Aqua to provide further information indicating that Conroe has agreed to be the service provider for the tract of land seeking decertification.

II. CONCLUSION

Staff respectfully requests the entry of an order consistent with the foregoing recommendations.

³ 16 TAC § 24.245(d)(2).

Dated: July 22, 2022

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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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 July 22, 2022 in accordance with the Order Suspending Rules filed in Project No. 50664.

/s/ Ian Groetsch
Ian Groetsch