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DOCKET NO. 54646

PETITION OF DEBLOCK, LTD. TO	§	PUBLIC UTILITY COMMISSION
AMEND AQUA TEXAS, INC.'S	§	
CERTIFICATE OF CONVENIENCE	§	OF TEXAS
AND NECESSITY IN DENTON	§	
COUNTY BY STREAMLINED	§	
EXPEDITED RELEASE	§	

COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSTION

I. BACKGROUND

On February 13, 2023, DEBLOCK, Ltd. (DEBLOCK) filed a petition for streamlined expedited release from Aqua Texas Inc.'s (Aqua) water Certificate of Convenience and Necessity (CCN) No. 13201, under Texas Water Code (TWC) § 13.2541 and 16 Texas Administrative Code (TAC) § 24.245(h). DEBLOCK asserts that the land to be released is at least 25 contiguous acres, is not receiving water service, and is located in Denton County, which is a qualifying county. DEBLOCK filed supplemental information on March 31, 2023.

On May 16, 2023, the administrative law judge (ALJ) filed Order No. 3, establishing a deadline of June 26, 2023, for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a recommendation on final disposition. Therefore, this pleading is timely filed.

II. RECOMMENDATION ON FINAL DISPOSITION

Staff has reviewed the petition and, as detailed in the attached memorandum of Jaspinder Singh, Infrastructure Division, recommends that the petition be approved. Staff recommends that DEBLOCK's petition satisfies the requirements of TWC § 13.2541(b) and 16 TAC § 24.245(h). Specifically, the petition demonstrates that the property for which DEBLOCK seeks streamlined expedited release (SER) is located in a qualifying county (Denton County), is at least 25 acres in size, is not receiving water service, and is located within Aqua's certificated area. In addition, DEBLOCK provided a warranty deed confirming its ownership of the property.

On June 5, 2023, Aqua filed a response to the petition and objects that the SER requested cannot lawfully be granted under TWC § 13.2541 and 16 TAC § 24.245. In its response, Aqua states that the Property is receiving service from Aqua according to the term "service" as the TWC

defines it, the Property cannot be released from Aqua's CCN under TWC § 13.2541, and thus the Property is not eligible for SER. Aqua also argues that a property can receive water or sewer service under the statute without a utility delivering "actual water" onto the property.¹ Aqua claims it has facilities adjacent to and near the Property, and that "these facilities and the acts of planning, creating, and maintaining them—are all plainly 'committed' or 'used' by Aqua in the performance of its duties to supply water service to the targeted CCN area and Property."² Aqua states that the Commission should deny DEBLOCK's request to release the property from Aqua's CCN No. 13201 because that would violate TWC § 13.2541. Staff disagrees.

Staff has concluded the Aqua has not raised valid objections to DEBLOCK's petition. Regarding Aqua's assertion that Aqua is *prepared* to provide water service in the future, the Texas Water Code specifies that "the owner of a tract of land... that is not receiving water... service" may file a petition for expedited release under TWC § 13.2541.³ Aqua admits that it is not providing actual water service to the Property and merely states it is prepared to do so at some indeterminate point in the future.⁴ Thus, under the plain language of the statute and rule, the Property is eligible for streamlined expedited release.

Staff accordingly recommends that the petition for streamlined expedited release be approved. The final water CCN map and certificate are attached. Staff recommends that the final map and certificate be provided to Aqua and for Aqua to file a certified copy of the CCN map and a boundary description of the CCN service area in the Denton County Clerk's office, as required under TWC § 13.257(r)-(s).

III. CONCLUSION

For the reasons detailed above, Staff respectfully recommends the petition be approved and respectfully requests the entry of an order consistent with the foregoing recommendation.

¹ Aqua's Motion to Intervene and Response to Petition at 3 (June 5, 2023) (Aqua Response).

² *Id.* at 4.

³ TWC § 13.2541(b). *See also* 16 TAC § 24.245(h)(1)(B).

⁴ Aqua Response at 3-4.

Dated: June 26, 2023

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 via electronic mail on June 26, 2023, in accordance with the Second Order Suspending Rules filed in Project No. 50664.

/s/ Bradley Reynolds
Bradley Reynolds

Public Utility Commission of Texas

Memorandum

TO: Bradley Reynolds, Attorney
Legal Division

FROM: Jaspinder Singh, Engineering Specialist
Infrastructure Division

DATE: June 26, 2023

RE: Docket No. 54646 – *Petition of DEBLOCK, Ltd. to Amend Aqua Texas, Inc.'s Certificate of Convenience and Necessity in Denton County by Streamlined Expedited Release*

On February 13, 2023, DEBLOCK, Ltd. (DEBLOCK) filed a petition for streamlined expedited release from Aqua Texas, Inc.'s (Aqua Texas) water Certificate of Convenience and Necessity (CCN) No. 13201 in Denton County, under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h). DEBLOCK asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Denton County, which is a qualifying county.

DEBLOCK provided a warranty deed confirming ownership of the tract of land within Aqua Texas's certificated service area. In addition, DEBLOCK submitted a sworn affidavit attesting that the tract of land was not receiving water service from the CCN holder. Aqua Texas requested to intervene.

Based on the mapping review by Dave Babicki, Infrastructure Division, it was determined that the landowner's total property is approximately 63 acres. The tract of land in the petition for streamlined expedited release is approximately 63 acres, of which approximately 59.2 acres overlap Aqua Texas, Inc. (CCN No. 13201) and would be decertified from CCN No. 13201.

Aqua Texas provided documentation stating that the water service facilities are immediately adjacent to the property. Additionally, Aqua Texas states that they have performed various acts and supplied funds in furtherance of service to the property. Aqua Texas mentioned that they conducted a thorough financial analysis that included evaluation of the line's potential to provide service to adjoining lots, including the property, and the line's extensive coverage along the entire western border of the property, which played a significant role in Aqua Texas's decision to allocate funds towards its construction.

In accordance with TWC § 13.2541 and 16 TAC § 24.245(h), DEBLOCK has met the Commission's requirements to allow for the release of the tract of land from Aqua Texas's


CCN No. 13201. Therefore, I recommend approval of the petition. Enclosed is a final map and certificate for Commission approval.

Additionally, I recommend that a final map and certificate be provided to the CCN holder.

Aqua Texas, Inc.
Portion of Water CCN No. 13201
PUC Docket No. 54646
Petition by DEBLOCK, Ltd. to Amend
Aqua Texas, Inc.'s CCN by Streamlined Expedited Release in Denton County



Water CCN

 13201 - Aqua Texas Inc

 Decertified Area

 Tract of Land

0 200 400
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. 13201

to provide continuous and adequate water utility service to that service area or those service areas in Anderson, Bosque, Camp, Cherokee, Collin, Cooke, Denton, Erath, Grayson, Gregg, Henderson, Hood, Hunt, Johnson, Kaufman, McLennan, Marion, Parker, Smith, Somervell, Tarrant, Wise, and Wood counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 54646 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 the 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.