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TARIFF CONTROL NO. 54680

APPLICATION OF AQUA TEXAS, INC.	§	PUBLIC UTILITY COMMISSION
FOR 2022 TRUE-UP REPORT AND PASS-	§	
THROUGH GALLONAGE CHARGE FOR	§	OF TEXAS
ITS SOUTHWEST REGION	§	

JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED NOTICE OF APPROVAL

On February 23, 2023, Aqua Texas, Inc. (Aqua Texas) filed an application regarding the 2022 true-up report filed in compliance with its Southwest Region tariff and requested a change to \$1.3932 per 1,000 gallons in the regional pass-through gallonage charge regions, with an effective date of March 1, 2023. Aqua Texas filed supplemental information on February 27 and March 21, 2023.

On March 28, 2023, the administrative law judge (ALJ) filed Order No. 2, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) and Aqua Texas (collectively, the parties) to file a proposed order that includes findings of fact, conclusions of law, and ordering paragraphs by June 27, 2023. Therefore, this pleading is timely filed.

I. MOTION TO ADMIT EVIDENCE

The parties move to admit the following items into the record of this proceeding:

- 1) Aqua Texas's application for a true-up report and pass-through gallonage charge for its Southwest Region and all attachments (Interchange Item No. 1);
- 2) Aqua Texas's first supplement to the application filed on February 27, 2023 (Interchange Item No. 3);
- 3) Aqua Texas's second supplement to the application filed on March 21, 2023 (Interchange Item No. 4);
- 4) Commission Staff's recommendation on the administrative completeness of the application and notice filed on March 27, 2023 (Interchange Item No. 5);
- 5) Order No. 2 Finding Application, as Supplemented, Administratively Complete, Notice Sufficient, and Establishing Procedural Schedule filed on March 28, 2023 (Interchange Item No. 6); and

Commission Staff's final recommendation filed on May 30, 2023 (Interchange Item No. 7).

II. PROPOSED NOTICE OF APPROVAL

The parties request that the attached Proposed Notice of Approval be adopted.

III. CONCLUSION

The parties respectfully request that an order be issued granting the above Motion to Admit Evidence and adopting the attached Proposed Notice of Approval.

Dated: June 27, 2023.

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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ATTORNEYS FOR AQUA TEXAS, INC.

TARIFF CONTROL NO. 54680

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 27, 2023, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Margaux Fox

Margaux Fox

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FOR 2022 TRUE-UP REPORT AND PASS-	§	
THROUGH GALLONAGE CHARGE FOR	§	OF TEXAS
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JOINT PROPOSED NOTICE OF APPROVAL

This Notice of Approval addresses the application of Aqua Texas, Inc. (Aqua Texas) providing its 2022 true-up report in compliance with its Southwest Region tariff and requesting approval for a regional pass-through gallonage rate decrease affecting its Southwest Region and one public water system within its Southeast Region under 16 Texas Administrative Code (TAC) § 24.25(b)(2). The Commission approves Aqua Texas's annual true-up report for calendar year 2022. Additionally, the Commission approves a regional pass-through rate of \$1.3932 per 1,000 gallons for its Southwest Region and its Brentwood subdivision water system, effective March 1, 2023.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. Aqua Texas is a Texas corporation registered with the Texas secretary of state under filing number 800304878.
2. Aqua Texas provides retail water service under certificate of convenience and necessity (CCN) number 13254 in its Southwest Region, which comprises Bandera, Bexar, Blanco, Burnet, Comal, Gillespie, Hays, Kendall, Kerr, Kimble, Live Oak, Llano, Medina, Nueces, Travis, Williamson, and Wilson counties.
3. Aqua Texas provides retail water service under CCN number 13203 in its Southwest Region, which comprises Brazoria, Chambers, Fort Bend, Grimes, Harris, Jefferson, Liberty, Matagorda, Montgomery, Polk, San Jacinto, Trinity, Victoria, and Wharton counties.

Application

4. On February 23, 2023, Aqua Texas filed an application providing its 2022 true-up report in compliance with its Southwest Region tariff and requesting approval of a regional pass-through gallonage rate decrease.

5. Aqua Texas's regional pass-through gallonage rate decrease affects its Southwest Region and one public water system in Aqua Texas's Southeast Region that remains subject to rates equivalent to Aqua Texas's Southwest Region, the Brentwood subdivision water system.
6. Aqua Texas's tariff for the Brentwood subdivision water system includes a regional pass-through gallonage charge that is subject to the adjustment provisions in Aqua Texas's Southwest Region tariff.
7. In its application, Aqua Texas requested a decrease based on the overall fees it pays to the 15 entities listed in its application.¹ Specifically, Aqua Texas requested a regional pass-through gallonage rate decrease for customers subject to its Southwest Region regional pass-through gallonage charge, including customers served by the Brentwood subdivision water system, from \$1.4977 to \$1.3932 per 1,000 gallons, effective March 1, 2023.
8. The application contained the affected CCN numbers, the affected subdivisions, the affected public water systems' names and corresponding numbers issued by the Texas Commission on Environmental Quality, a copy of the notice to the customers, documentation supporting the stated amounts of any new or modified pass-through costs, all calculations and assumptions for any true-up of pass-through costs, and the calculations and assumptions used to determine the new rates, and a copy of the pages of the utility's tariff that contain the rates that will change if the utility's application is approved.
9. In Order No. 2 filed on March 28, 2023, the administrative law judge (ALJ) found the application, as supplemented, administratively complete.

Notice

10. On February 27, 2023, Aqua Texas mailed notice to all affected customers, detailing the proposed regional pass-through gallonage rate decrease, effective March 1, 2023.
11. The notice contained the proposed effective date of the change, the present calculation of customer billings, the new calculation of customer billings, the change in charges to Aqua Texas for purchased water, and the following language: "This tariff change is being implemented in accordance with the minor tariff changes allowed by 16 Texas

¹ Application at 2 (Feb. 23, 2023).

Administrative Code § 24.25. The cost to you as a result of this change will not exceed the costs charged to your utility.”

12. In Order No. 2 filed on March 28, 2023, the ALJ found the notice sufficient.

Evidentiary Record

13. In Order No. ___ filed on _____, ___, 2023, the ALJ admitted the following evidence into the record of this proceeding: (a) Aqua Texas’s application for a true-up report and pass-through gallonage charge for its Southwest Region and all attachments filed on February 23, 2023; (b) Aqua Texas’s first supplement to the application filed on February 27, 2023; (c) Aqua Texas’s second supplement to the application filed on March 21, 2023; (d) Commission Staff’s recommendation on the administrative completeness of the application and noticed filed on March 27, 2023; (e) Order No. 2 Finding Application, as Supplemented, Administratively Complete, Notice Sufficient, and Establishing Procedural Schedule filed on March 28, 2023; and (f) Commission Staff’s final recommendation filed on May 30, 2023.

Jurisdiction

14. Aqua Texas is a utility that purchases water.
15. Aqua Texas is under the original jurisdiction of the Commission.

Eligibility for Pass-Through Rate Change

16. The proposed rate will pass through only the actual costs charged to Aqua Texas by its suppliers and does not duplicate costs otherwise charged to customers under the current tariff.
17. Aqua Texas provided a true-up report reflecting the amounts billed to Aqua Texas’s customers in 2022 compared with amounts paid to suppliers, as required under the current tariff. The true-up report was filed within the time contemplated by Appendix C to Aqua Texas’s Southwest Region tariff.

Tariffs and Corrections to the Pass-Through Formula

18. The tariff for Aqua Texas’s Southwest Region in effect when the application was filed was approved by the Commission on November 2, 2022, in Tariff Control No. 53263.² A new Southwest Region water utility tariff with this same formula was subsequently approved

² *Application of Aqua Texas, Inc. for 2021 True-Up Report and Pass-Through Gallonage Charge for its Southwest Region*, Tariff Control No. 53263, Corrected Notice of Approval (Nov. 2, 2022).

to reflect interim system improvement charge rates in Docket No. 53428.³ Aqua Texas applied the approved formula in determining the new regional pass-through gallonage rate for its Southwest Region.

19. The tariff for Aqua Texas's Southeast Region in effect when the application was filed, which includes the Brentwood subdivision water system, was approved by the Commission on November 2, 2022, in Tariff Control No. 53263. A new Southeast Region water utility tariff with this same formula was subsequently approved to reflect interim system improvement charge rates in Docket No. 53428.⁴ Aqua Texas applied the approved formula from appendix C from Docket No. 53428 to Aqua's Southwest Region tariff in determining the new regional pass-through gallonage rate for the Brentwood subdivision water system.
20. Aqua Texas provided a true-up report reflecting the amounts billed in the previous year compared with amounts paid to water districts having jurisdiction over Aqua Texas.
21. Aqua Texas's Southwest Region tariff prescribes the formula by which the regional pass-through gallonage rate is to be calculated and applied to customers of applicable public water systems, including the Brentwood subdivision water system. The formula takes into account the projected sum for the upcoming 12 months for purchased water and district costs, the actual collections by Aqua Texas in the previous 12 months from the previously-approved regional pass-through gallonage rate, the year-end meter equivalents, and the average annual usage per meter equivalent, in 1,000 gallon units, from Aqua Texas's most recent rate case.
22. On May 30, 2023, Staff filed proposed tariffs for Aqua Texas's Southwest and Southeast Regions in response to Order No. 2. The proposed tariff for Aqua Texas's Southwest Region contains Aqua Texas's requested regional pass-through gallonage rate and the formula change as agreed to by Aqua Texas and Staff, effective for Aqua Texas's 2023 true-up report. The proposed tariff for Aqua Texas's Southeast Region contains Aqua

³ *Application of Aqua Texas, Inc. for System Improvement Charges*, SOAH Docket No. 473-23-04521; Docket No. 53428, SOAH Order No. 8 Setting Interim Rates (Mar. 28, 2023), Joint Notice of Stipulation and Agreed Motion to Set Interim Rates (Mar. 28, 2023), and Unanimous Stipulation and Settlement Agreement (Mar. 28, 2023).

⁴ *Application of Aqua Texas, Inc. for System Improvement Charges*, SOAH Docket No. 473-23-04521; Docket No. 53428, SOAH Order No. 8 Setting Interim Rates (Mar. 28, 2023), Joint Notice of Stipulation and Agreed Motion to Set Interim Rates (Mar. 28, 2023), and Unanimous Stipulation and Settlement Agreement (Mar. 28, 2023).

Texas's regional pass-through gallonage rate and incorporates appendix C from Aqua Texas's Southwest Region tariff as revised.

Informal Disposition

23. More than 15 days have passed since the completion of notice provided in this docket.
24. No person filed a protest or motion to intervene.
25. Aqua Texas and Staff are the only parties to this proceeding.
26. No party requested a hearing, and no hearing is needed.
27. Staff recommended approval of the application.
28. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over the application under TWC § 13.041.
2. Aqua Texas is a retail public utility as defined in TWC § 13.002(19) and 16 TAC § 24.3(31), and a water utility as defined in TWC § 13.002(23) and 16 TAC § 24.3(38).
3. The Commission may approve the minor changes to Aqua Texas's tariffs under 16 TAC § 24.25(b)(2)(A)(vii).
4. The application meets the requirements set forth in 16 TAC § 24.25.
5. Notice of the application was provided in compliance with 16 TAC § 24.25(b)(2)(F).
6. The Commission processed the application as required by the TWC, the Administrative Procedure Act,⁵ and Commission rules.
7. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission approves Aqua Texas's annual true-up report for calendar year 2022.
2. The Commission approves, effective March 1, 2023, a regional pass-through rate of \$1.3932 per 1,000 gallons for its Southwest Region water systems and for its Southeast Region Brentwood subdivision water system.

⁵ Tex. Gov't Code Ann. §§ 200.001-903.

3. The Commission approves the Southeast Region tariff attached to Staff's final recommendation filed on May 30, 2023.
4. Within ten days of the date of this Notice of Approval, Staff must provide the Commission with clean copies of the Southwest Region and Southeast Region tariffs to be stamped *Approved* and retained by Central Records.
5. If Aqua Texas collects an amount as a result of this pass-through rate decrease that is higher than the purchased water costs incurred, Aqua Texas must refund any amounts collected in excess of the purchased water costs.
6. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the ____ day of ____ 2023.

ADMINISTRATIVE LAW JUDGE