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DOCKET NO. 54913

APPLICATION OF EMERALD BAY	§	PUBLIC UTILITY COMMISSION
MUNICIPAL UTILITY DISTRICT AND	§	
AQUA TEXAS, INC. FOR APPROVAL	§	
OF A SERVICE AREA CONTRACT	§	OF TEXAS
UNDER TEXAS WATER CODE § 13.248	§	
AND TO AMEND CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY IN	§	
SMITH COUNTY	§	

**COMMISSION STAFF'S RECOMMENDATION ON ADMINISTRATIVE
COMPLETENESS AND NOTICE AND PROPOSED PROCEDURAL SCHEDULE**

On April 20, 2023, Emerald Bay Municipal Utility District (Emerald Bay MUD) filed an application for approval of a service-area contract with Aqua Texas, Inc. (Aqua) under Texas Water Code (TWC) § 13.248 and to amend certificate of convenience and necessity (CCN) numbers 13047 and 13201 in Smith County.

On April 21, 2022, the administrative law judge (ALJ) filed Order No. 1, requiring the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file comments on the administrative completeness of the application and notice and propose a procedural schedule by May 22, 2023. Therefore, this pleading is timely filed.

I. ADMINISTRATIVE COMPLETENESS

Staff has reviewed the application and as detailed in the attached memorandum from Patricia Garcia, Infrastructure Division, recommends that the application satisfies the requirements of TWC § 13.248 and 16 Texas Administrative Code (TAC) § 24.253. Therefore, Staff recommends that the application be deemed administratively complete. Staff's recommendation on administrative completeness is not a comment on the merits of the application.

II. NOTICE

Notice in this matter is governed by 16 TAC § 24.253(c). Under this section, two forms of notice may potentially be required. First, if the decision to enter into a contract was discussed at a meeting of a city council, a water supply or sewer service corporation's board, district board, county commissioner's court, or other regulatory authority, a copy of the meeting agenda and minutes for the meeting during which the item was discussed may be considered sufficient notice under 16 TAC § 24.253(c)(2). In this docket, the meeting agenda and minutes for the applicable

Emerald Bay MUD meeting was filed as notice of the application. The Applicants also filed an affidavit with the application, signed by William F. Harris, Emerald Bay MUD's President of the Board of Directors, attesting to the provision of notice. Therefore, Staff recommends that the Applicants have satisfied the notice requirements of 16 TAC § 24.253(c)(2).

Additionally, if affected customers will be transferred as part of the contract, then notice must be provided to those customers under 16 TAC § 24.253(c)(1). There are no customer connections located in the requested area. Therefore, Staff recommends that the Applicants have satisfied the notice requirements of 16 TAC § 24.253(c)(1).

III. PROCEDURAL SCHEDULE

Staff recommends the application be found administratively complete. Staff therefore proposes the following procedural schedule:

Event	Date
Deadline for intervention	June 5, 2023
Deadline for Commission Staff to provide final maps, certificates, and tariffs (if applicable) to Applicants	June 21, 2023
Deadline for Applicants to file signed consent forms with the Commission	June 30, 2023
If no hearing is requested, deadline for Staff to file a final recommendation on the application	July 14, 2023
If no hearing is requested, deadline for the parties to file joint proposed findings of fact and conclusions of law	July 28, 2023

IV. CONCLUSION

Staff respectfully requests the issuance of an order consistent with the foregoing recommendation.

Dated: May 22, 2023

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Marisa Lopez Wagley
Interim Division Director

John Harrison
Managing Attorney

/s/ Arnett D. Caviel
Arnett D. Caviel
State Bar No. 24121533
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7245
(512) 936-7268 (facsimile)
Arnett.Caviel@puc.texas.gov

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CERTIFICATE OF SERVICE

I certify that unless otherwise ordered by the presiding officer, notice of the filing of this document will be provided to all parties of record via electronic mail on May 22, 2023 in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ Arnett D. Caviel
Arnett D. Caviel

Public Utility Commission of Texas

Memorandum

TO: Arnett Caviel, Attorney
Legal Division

FROM: Patricia Garcia, Infrastructure Analysis Section Director
Infrastructure Division

DATE: May 22, 2023

RE: Docket No. 54913 – *Application of Emerald Bay Municipal Utility District and Aqua Texas, Inc. for Approval of a Service Area Contract Under Texas Water Code § 13.248 and to Amend Certificates of Convenience and Necessity in Smith County*

On April 20, 2023, Emerald Bay Municipal Utility District (Emerald Bay MUD) and Aqua Texas, Inc. (Aqua Texas) (collectively, Applicants) filed application for approval of a service area contract under Texas Water Code (TWC) § 13.248 and to amend Emerald Bay MUD's water Certificate of Convenience and Necessity (CCN) No. 13047 and Aqua Texas's water CCN No. 13201 in Smith County, Texas. The Applicants' TWC § 13.248 service area contract is being reviewed in accordance with 16 Texas Administrative Code (TAC) § 24.253.

Specifically, Emerald Bay MUD and Aqua Texas entered into a contractual agreement which permits Aqua Texas to provide water services within the agreed upon water certificated service area. The Applicants will not transfer assets or facilities under the terms of the agreement.

Based on the mapping review by Dave Babicki, Infrastructure Division, the maps and digital mapping data submitted with Item 1 on April 20, 2023 are sufficient.

- The requested area to transfer (4.5 acres) from Emerald Bay MUD (CCN No. 13047) to Aqua Texas (CCN No. 13201) is currently dually certified with Southern Utilities Company (CCN No. 10762).
- The requested area includes 0 customer connections and approximately 4.5 acres, comprised of transferred area from Emerald Bay MUD (CCN No. 13047) to Aqua Texas (CCN No. 13201).
- The petition proposes the subtraction of approximately 4.5 acres from CCN No. 13047 and the addition of approximately 4.5 acres to CCN No. 13201. 4.5 acres will be dually certificated with Aqua Texas (CCN No. 13201) and Southern Utilities Company (CCN

No. 10762).

Emerald Bay MUD submitted documentation to satisfy the notice requirements under 16 TAC § 24.253(c). Specifically, Emerald Bay MUD submitted a copy of their meeting minutes approving the agreement and the agenda that was posted prior to the meeting. Emerald Bay MUD also provided an affidavit attesting to the date meeting notice was posted and the date the meeting approving the agreement transpired. Aqua Texas is an investor-owned utility, and therefore, 16 TAC § 24.253 is not applicable in regards to public board meetings.

For this application, notice to customers is not required because there are no customers in the requested area.

Based on my technical review of the information filed by the Applicants, I recommend that the application be deemed administratively complete.