



## **Filing Receipt**

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<b>PETITION OF DENTON OLIVER</b>	<b>§</b>	<b>BEFORE THE</b>
<b>CREEK, LP TO AMEND AQUA TEXAS,</b>	<b>§</b>	
<b>INC.'S CERTIFICATE OF</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>CONVENIENCE AND NECESSITY IN</b>	<b>§</b>	
<b>DENTON COUNTY BY STREAMLINED</b>	<b>§</b>	<b>OF TEXAS</b>
<b>EXPEDITED RELEASE</b>	<b>§</b>	

**PETITIONER'S REPLY TO AQUA TEXAS, INC.'S RESPONSE TO PETITION FOR  
STREAMLINED EXPEDITED RELEASE**

**TO THE PUBLIC UTILITY COMMISSION OF TEXAS:**

Denton Oliver Creek, LP ("Petitioner") files its Reply to Aqua Texas, Inc.'s ("Aqua") Response to its Petition for Streamlined Expedited Release and shows as follows:

**I. Procedural Background**

On April 5, 2024, Petitioner filed its Petition for streamlined expedited release of approximately 103.812 acres of land (the "Property") from Aqua's Certificate of Convenience and Necessity ("CCN") No. 13201. The Petition was found administratively complete on September 20, 2024. *See* Order No. 5. Aqua filed its Response to the Petition on October 11, 2024. Petitioner now files its Reply to Aqua's Response to the Petition. This Reply is timely filed pursuant to Order No. 5.

**II. Argument and Authority**

**A. The Petition should be approved because it satisfies the statutory requirements.**

The Petition should be approved because it satisfies the requirements of Texas Water Code section 13.2541(b) and 16 Texas Administrative Code section 24.245(h). TEX. WATER CODE § 13.2541(b); 16 TEX. ADMIN. CODE § 24.254(h). Specifically, the Petition shows that the Property is located in a qualifying county, is not receiving water service, and is at least 25 acres. *Id.* Aqua argues that the Property is receiving "service." However, Aqua's interpretation of "service" is not

the legal definition. “Service” is defined as “any act performed, anything furnished or supplied, and any facilities or lines committed or used by the retail public utility in the performance of its duties.” TEX. WATER CODE § 13.2541. In *Crystal Clear*, the court further explained the factual inquiry that is necessary to determine if a tract is receiving “service.” *See id.* at 140.

The mere existence of water lines or facilities *on or near* a tract would not necessarily mean that tract was “receiving water service.” Rather ... such a determination is a fact-based inquiry requiring the Commission to consider whether the retail public utility has facilities or lines committed to providing water *to the particular tract* or has performed acts or supplied anything *to the particular tract* in furtherance of its obligation to provide water to that tract pursuant to its CCN. *Id.* (emphasis added).

Petitioner has presented affidavit testimony as evidence that the requested area is not receiving water service. This is sufficient proof to grant Petitioner’s request for SER. *See Petition of Sterling Deason O'Donnell and Darwin Deason, Co-Trustees of the Sterling Deason O'Donnell DD 2012 Trust Agreement of the DD 2014-B Grantor Retained Annuity Trust to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release*, Docket No. 50404; Petition Exhibit A (Jan. 2, 2020)(Deason Petition); *Id.*, Order (Oct. 12, 2021). Accordingly, the instant Petition should, likewise, be granted.

**B. Compensation shall be determined in accordance with Texas Water Code section 13.2541.**

Petitioner does not dispute that compensation shall be determined in accordance with the requirements provided by Texas Water Code section 13.2541. Specifically, the amount of compensation shall be determined subsequent to the approval of the Petition by an agreed upon appraiser—or by two appraisers hired by the parties and a third appointed by the Commission. TEX. WATER CODE § 13.2541.

### **III. Conclusion and Prayer**

WHEREFORE, Petitioner respectfully requests that the Commission grant the Petition and remove the Property from water CCN number 13201.

Respectfully submitted,

COATS | ROSE

By: 

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**ATTORNEY FOR PETITIONER**

**CERTIFICATE OF SERVICE**

I hereby certify notice of the filing of this document was provided to all parties of record on the 16<sup>th</sup> day of October, 2024, in accordance with the Order Suspending Rules filed in Project No. 50664.

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A handwritten signature in black ink, reading "Natalie B. Scott". The signature is fluid and cursive, with a horizontal line drawn underneath it.

Natalie B. Scott