



## **Filing Receipt**

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**Item Number - 17**

**Thomas J. Gleeson**  
Chairman

**Lori Cobos**  
Commissioner

**Jimmy Glotfelty**  
Commissioner

**Kathleen Jackson**  
Commissioner

**Courtney K. Hjaltman**  
Commissioner



**Greg Abbott**  
Governor

**Connie Corona**  
Executive Director

## ***Public Utility Commission of Texas***

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**TO:** Chairman Thomas J. Gleeson  
Commissioner Lori Cobos  
Commissioner Jimmy Glotfelty  
Commissioner Kathleen Jackson  
Commissioner Courtney K. Hjaltman

All Parties of Record

**FROM:** Krishna de la Cruz  
Commission Advising

**RE:** *Complaint of Daniel Deweber and Prairie Branch Properties LLC Against Amon Carter Lake Water Supply Corporation*, Docket No. 56520, Draft Preliminary Order, October 3, 2024 Open Meeting, Item No. 12.

**DATE:** September 26, 2024

Please find enclosed the draft preliminary order filed by Commission Advising in the above-referenced docket. The Commission will consider this draft preliminary order at the October 3, 2024 open meeting. Parties shall not file responses or comments addressing this draft preliminary order.

Any modifications to the draft preliminary order that are proposed by one or more Commissioners will be filed simultaneously prior to the consideration of the matter at the October 3, 2024 open meeting.

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**DOCKET NO. 56520**

<b>COMPLAINT OF DANIEL DEWEBER</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>AND PRAIRIE BRANCH PROPERTIES</b>	<b>§</b>	
<b>LLC AGAINST AMON CARTER LAKE</b>	<b>§</b>	<b>OF TEXAS</b>
<b>WATER SUPPLY CORPORATION</b>		

**DRAFT PRELIMINARY ORDER**

Daniel Deweber and Prairie Branch Properties LLC filed a complaint against Amon Carter Lake Water Supply Corporation (WSC) on April 22, 2024 for refusal to provide water service. This preliminary order identifies the issues that must be addressed.

Amon Carter Lake WSC provides retail water service in Montague County under certificate of convenience and necessity (CCN) number 12793. Daniel Deweber and Prairie Branch Properties allege that Amon Carter Lake WSC has refused to provide water service to a new 60-acre, 28-house development that is located within Amon Carter Lake WSC's CCN.<sup>1</sup> The complainants seek an order requiring Amon Carter Lake WSC to provide water service.<sup>2</sup>

On April 22, 2024, Daniel Deweber and Prairie Branch Properties filed a formal complaint.<sup>3</sup> Amon Carter Lake WSC filed responses on May 11 and June 13, 2024.<sup>4</sup> On July 10, 2024, Commission Staff and Daniel Deweber and Prairie Branch Properties requested that the Commission refer this docket to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.<sup>5</sup>

Daniel Deweber and Prairie Branch Properties and Amon Carter Lake WSC were directed, and Commission Staff and any other interested persons were allowed, to file by September 17, 2024, a list of issues to be addressed in the docket, identify any issues not to be addressed, and

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<sup>1</sup> Complaint of Daniel Deweber and Prairie Branch Properties LLC Against Amon Carter Lake Water Supply Corporation (April 22, 2024).

<sup>2</sup> *Id.* at 2.

<sup>3</sup> *Id.* at 1.

<sup>4</sup> Order No.1 Required Response from Amon Carter Water Supply Corp. (May 11, 2024); Order No.3 Required Response from Amon Carter Water Supply Corp. ( June 13, 2024).

<sup>5</sup> Commission Staff's Supplemental Statement of Position (July 10, 2024); Complainant Request for Hearing (July 10, 2024).

identify any threshold legal or policy issues that should be addressed. Daniel Deweber and Prairie Branch Properties, Amon Carter Lake WSC, and Commission Staff each timely filed a list of issues.

### **I. Issues to be Addressed**

The Commission must provide to the administrative law judge (ALJ) a list of issues or areas to be addressed in any proceeding referred to SOAH.<sup>6</sup> After reviewing the pleadings submitted by the parties, the Commission identifies the following issues that must be addressed in this docket:

1. Please identify the complainants in this proceeding. (The original complaint lists Daniel Deweber and Prairie Branch Properties, LLC, but other filings list Daniel Deweber and Trinity Branch Properties, LLC.)
2. Does the Commission have jurisdiction over this complaint?
3. Does the complaint state a claim for which the Commission may grant relief?

#### **Issues Pertaining to the Response to Request for Service**

4. Is Amon Carter Lake WSC a *water and sewer utility, utility, or public utility*?<sup>7</sup>
5. Is Amon Carter Lake WSC a *water supply or sewer service corporation*?<sup>8</sup>
6. Is the complainants' property located within the boundaries of Amon Carter Lake WSC's CCN number 12793?
  - a. In what county is the complainants' property located?
  - b. Is the complainants' property located within the boundaries or extraterritorial jurisdiction of a municipality?
7. Is Amon Carter Lake WSC prohibited from serving the complainants' property?

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<sup>6</sup> Tex. Gov't Code § 2003.049(c).

<sup>7</sup> Tex. Water Code § 13.002(23) (TWC); 16 Tex. Admin. Code § 24.3(38) (TAC).

<sup>8</sup> TWC § 13.002(24); 16 TAC § 24.3(39).

8. Does Amon Carter Lake WSC have an approved tariff that includes a schedule of rates, service rules and policies, and extension policies? If so, when was the tariff approved?<sup>9</sup>
  - a. If there are multiple versions of the tariff or different tariffs with different effective dates, which version or versions of the tariff apply to this complaint?
9. If Amon Carter Lake WSC has an approved tariff, did Amon Carter Lake WSC file the tariff with the Commission?
  - a. Has Amon Carter Lake WSC provided a copy of the approved tariff to the complainants?
10. If Amon Carter Lake WSC has an approved tariff, what provisions of the tariff, if any, govern the extension of service?
  - a. If there are requirements for the extension of service contained within Amon Carter Lake WSC's approved tariff, have the complainants satisfied those requirements?
11. Does Amon Carter Lake WSC's approved tariff contain provisions that prohibits Amon Carter Lake WSC from serving the complainants' property? If so, which provisions?
12. Do Amon Carter Lake WSC's current facilities used and useful in providing water service have sufficient capacity to serve the complainants' property?
13. Does the complainants' request require a tap as well as line extensions, construction, or new facilities to connect to the available water supply? If so, has Amon Carter Lake WSC complied with Commission rules in response to the complainants' request?<sup>10</sup>
14. Are the complainants *qualified service applicants* of Amon Carter Lake WSC?<sup>11</sup> If not, what specific tariff provisions, service policies, or regulations have not been met, and what rates or fees (if any) have not been paid, for the complainants to become qualified service applicants?
15. If the complainants are qualified service applicants of Amon Carter Lake WSC, has Amon Carter Lake WSC complied with all requirements in addressing the complainants' request for water service?<sup>12</sup>

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<sup>9</sup> 16 TAC § 24.25.

<sup>10</sup> 16 TAC § 24.161(a)(4)–(5).

<sup>11</sup> 16 TAC § 24.161.

<sup>12</sup> *Id.*

- a. Has Amon Carter Lake WSC made a service application available to the complainants upon their request? If so, when?
  - b. Has Amon Carter Lake WSC accepted a completed application for water service from the complainants for the property?
    - i. Is the complainants' service application and agreement complete and executed? If not, in what manner have the complainants failed to provide a completed application to Amon Carter Lake WSC?<sup>13</sup>
16. Are the complainants *developers*?<sup>14</sup>
- a. If so, did the complainants fail to comply with Amon Carter Lake WSC's extension policy as set forth in the WSC's applicable tariff?<sup>15</sup>
17. Are the complainants *service applicants*?<sup>16</sup>
- a. If so, did the complainants purchase the property in dispute after Amon Carter WSC gave notice of its rules applicable to service to subdivisions?<sup>17</sup>
18. Are the complainants *customers*?<sup>18</sup>
19. Is Amon Carter Lake WSC allowed to refuse service to the complainants under TWC § 13.2502?
20. If applicable, did Amon Carter Lake WSC provide publication of notice in a newspaper of general circulation in each county in which Amon Carter Lake WSC is certificated for utility service of the requirement to comply with the subdivision service extension policy?<sup>19</sup>
- a. If so, was the notice published once a week for two consecutive weeks on a biennial basis and contain information describing Amon Carter Lake WSC's service extension policy?

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<sup>13</sup> 16 TAC § 24.161(a).

<sup>14</sup> 16 TAC § 24.161(e)(4)(A).

<sup>15</sup> TWC § 13.2502; 16 TAC § 24.161(c)(1)(A).

<sup>16</sup> TWC § 13.2502; 16 TAC § 24.161(c)(4)(B).

<sup>17</sup> TWC § 13.2502(a)(2); 16 TAC § 24.161(c)(1)(B).

<sup>18</sup> 16 TAC § 24.3(11).

<sup>19</sup> TWC § 13.2502; 16 TAC § 24.161(e).

- b. If not and if the complainants are developers, has Amon Carter Lake WSC demonstrated by any reasonable means that it notified the complainants of the requirement to comply with the subdivision service extension policy?<sup>20</sup>
21. Did Amon Carter Lake WSC fail to provide service within 30 days of an expected date or within 180 days of the date a completed application was accepted from the complainants?<sup>21</sup>
22. Did Amon Carter Lake WSC fail to provide the complainants with construction cost options such as the possibility of sharing construction costs between Amon Carter Lake WSC and the complainants?<sup>22</sup>
23. Has Amon Carter Lake WSC failed to serve the complainants or failed to provide continuous and adequate service to the complainants?<sup>23</sup>
24. If the Commission determines that Amon Carter Lake WSC has violated an applicable statute or rule in this case, what is the appropriate remedy?

## **II. Effect of Preliminary Order**

This Order is preliminary in nature and is entered without prejudice to any party expressing views contrary to this Order before the SOAH ALJ at hearing. The SOAH ALJ, upon his or her own motion or upon the motion of any party, may deviate from this Order when circumstances dictate that it is reasonable to do so. Any ruling by the SOAH ALJ that deviates from this Order may be appealed to the Commission. The Commission will not address whether this Order should be modified except upon its own motion or the appeal of a SOAH ALJ's order. Furthermore, this Order is not subject to motions for rehearing or reconsideration.

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<sup>20</sup> 16 TAC § 24.161(c)(3).

<sup>21</sup> 16 TAC § 24.161(b).

<sup>22</sup> 16 TAC § 24.161(c).

<sup>23</sup> TWC § 13.250; 16 TAC § 24.247.

Signed at Austin, Texas the \_\_\_\_\_ day of \_\_\_\_\_ 2024.

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**THOMAS J. GLEESON, CHAIRMAN**

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**LORI COBOS, COMMISSIONER**

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**JIMMY GLOTFELTY, COMMISSIONER**

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**KATHLEEN JACKSON, COMMISSIONER**

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**COURTNEY K. HJALTMAN, COMMISSIONER**