Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

2008 JUL -9 PM 4: 24

CHIEF CLERKS OFFICE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 8, 2008

The Honorable Craig R. Bennet
The Honorable Travis Vickery
Administrative Law Judges
State Office of Administrative Hearings
300 W. 15th Street, Suite 502
Austin, Texas 78711

Re: SOAH Docket Nos. 582-05-2770, 582-05-2771;
TCEQ Docket Nos. 2004-1120-UCR, 2004-1671-UCR;
Application by Aqua Utilities Inc. d/b/a Aqua Texas, Inc. to Change its Water and Sewer Tariffs and Rates in Various Counties

Dear Judge Bennet and Judge Vickery:

Enclosed please find for filing in the above-referenced matter the Executive Director's Reply to Aqua Texas' Response to Order No. 51.

Thank you for your attention to this matter.

Sincerely,

Todd Galiga

Todd Galiga,
Environmental Law Division

enclosures

cc: Mailing List

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 JUL -9 PM 4: 24

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SOAH DOCKET NOS. 582-05-2770 and 582-05-2771
TCEQ DOCKET NOS. 2004-1120-UCR and 2004-1671-UCR

APPLICATION BY AQUA UTILITIES, INC. d/b/a AQUA TEXAS, INC. TO CHANGE ITS WATER AND SEWER TARIFFS AND RATES IN VARIOUS COUNTIES, AND APPEAL OF RATE-MAKING ACTIONS OF VARIOUS CITIES DENYING REQUESTED CHANGES TO WATER AND SEWER TARIFFS AND RATES	§ § § § § § § § § §	**BEFORE THE TEXAS** **COMMISSION ON** **ENVIRONMENTAL QUALITY**

THE EXECUTIVE DIRECTOR'S REPLY TO AQUA TEXAS' RESPONSE TO ORDER NO. 51

The Executive Director has reviewed Aqua Texas' Response to Order No. 51 and provides the following comments:

Rate calculations

The rate calculations provided by Aqua Texas are identical to the rate calculations based on actual connections provided by the Executive Director. The Executive Director agrees with Aqua Texas that the rates calculated based on total connections will not generate the revenue requirements approved by the Commissioners on June 18, 2008. The Executive Director will defer to the ALJs and the Commissioners with respect to which connection number to use.

Deferred Expense

Aqua Texas has revised its deferred expense recovery plan to reflect the revenue requirement approved by the Commission on June 8, 2008. As a result of this revision, the amount of expenses deferred each year by Aqua Texas has increased from the amount submitted in Aqua Texas' original recovery plan. The total amount of the deferred expense sought to be recovered by Aqua Texas has also increased. *See* AT-81. The Executive Director does not support Aqua Texas' proposal to increase the amount of the deferral. The Executive Director does not object to a deferred expense recovery which is based on the amount previously represented by Aqua Texas as sufficient to recover 100% of its deferred expenses. This amount was provided in Aqua Texas' Exceptions to the PFD, Attachment C. [1] According to this Attachment, the balance of the amount of deferred expense according to Aqua Texas' books was $11,921,000 as of July 2007.

As reflected on Aqua Texas' most recent recovery plan, the phased rates began recovering a portion of the earlier deferred amounts in the third year of the rate increase. The recovery plan indicates that this recovery, which began in June 2007, is approximately $68,174 per month. As a result, the Executive Director recommends reducing the total amount of deferred expense to be recovered by a surcharge by the amount that will have been recovered by the end of 2008 to

[1] Attachment C also included interest on the deferred amount. In light of the Commission's directive on June 8, 2008, the Executive Director has not used the interest calculation from this Attachment.

coincide with Aqua Texas' proposal to begin the deferred expense surcharge in January 2009. After including the revenue recovery effect of $68,174 per month through the end of 2008, the final amount of deferred expense to be recovered through a surcharge is $10,762,042. *See* Attachment A.

This amount results in a monthly surcharge of either $9.45 or $8.69 per month for 24 months, depending on whether it is calculated using active or total connections. As with the rate calculations, the Executive Director defers to the ALJs and the Commissioners regarding which one to use.

Rate Case Expenses

The Executive Director has reviewed the additional invoices provided by Aqua Texas. Of the additional $433,247.90 requested by Aqua Texas, the Executive Director recommends that $175,712.85 be disallowed. The Executive Director recommends disallowance of specific invoices from Hazen and Terrill and from GDS which indicate that they are related to an enforcement matter which is not part of this rate case. The Executive Director recommends disallowance of the charges for Mr. Hugus because his salary, as an executive of Aqua America, is included in the cost of service and is recovered through rates. The specific amounts recommended for disallowance are listed on Attachment B. With these disallowances, total rate case expenses equal $2,739,996.41.

Respectfully submitted,

Robert Martinez, Director
Environmental Law Division

By _____
Todd Galiga, Senior Attorney
Environmental Law Division
State Bar of Texas No. 00793767
P.O. Box 13087; MC-173
Austin, Texas 78711-3087

Ross W. Henderson,Staff Attorney
Environmental Law Division
State Bar of Texas No. 24046055
P.O. Box 13087; MC-173
Austin, Texas 78711

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of July 2008 a true and correct copy of the foregoing document was delivered via facsimile, hand delivery, interagency mail, or by deposit in the U.S. Mail to all persons on the attached mailing list.

_____
Todd Galiga
Environmental Law Division

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2008 JUL -9 PM 4: 24
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Service List
Aqua Utilities, Inc. dba Aqua Texas, Inc.
SOAH Docket No. 582-05-2770, 582-05-2771
TCEQ Docket No. 2004-1120-UCR, 2004-1671-UCR

Craig R. Bennet
Travis Vickery
Administrative Law Judges
State Office of Administrative Hearings
William P. Clements Bldg., Jr.
300 West Fifteenth Street
Austin Texas 78701
512/475-4993 (Ph)
512/475-4994 (Fax)

Scott Humphrey
Texas Commission on Environmental Quality
Office of Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711-3087
512/239-6363 (Ph)
512/239-6377 (Fax)

Docket Clerk
Texas Commission on Environmental Quality
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
512/239-3300 (Ph)
512/239-3311 (Fax)

Paul Terrill, Attorney
Hazen & Terrill
810 W. 10th Street
Austin, Texas 78701
512/474-9100 (Ph)
512/474-9888 (Fax)

Ed McCarthy
Jackson, Sjoberg, McCarthy & Wilson, L.L.P.
711 West 7th St.
Austin, Texas 78701
512/472-7600 (Ph)
512/225-5565 (Fax)

Linda Lamberth
President, OCROA
912 Eagle Creek Dr.
Floresville, Texas 78114
210/977-2611 (Ph)
210/524-5801 (Fax)

Byron Zinn
120 Hidden Springs Ct.
Spicewood, Texas 78669
830/798-2380

Attachment A

Aqua Texas Deferred Expense Surcharge Calculation

Date	Balance Per AT's Books*	AT's July 1 , 2008 Recovery Plan**
August-04	(745,000)	
September-04	(1,490,000)	
October-04	(2,235,000)	
November-04	(2,980,000)	
December-04	(3,725,000)	
January-05	(4,470,000)	
February-05	(5,215,000)	
March-05	(5,960,000)	
April-05	(6,705,000)	
May-05	(7,450,000)	
June-05	(8,195,000)	
July-05	(8,942,000)	
August-05	(9,252,000)	
September-05	(9,562,000)	
October-05	(9,872,000)	
November-05	(10,182,000)	
December-05	(10,492,000)	
January-06	(10,802,000)	
February-06	(11,112,000)	
March-06	(11,422,000)	
April-06	(11,732,000)	
May-06	(12,042,000)	
June-06	(12,352,000)	
July-06	(12,667,000)	
August-06	(12,605,000)	
September-06	(12,543,000)	
October-06	(12,481,000)	
November-06	(12,419,000)	
December-06	(12,357,000)	
January-07	(12,295,000)	
February-07	(12,233,000)	
March-07	(12,171,000)	
April-07	(12,109,000)	
May-07	(12,047,000)	
June-07	(11,985,000)	
July-07	(11,921,000)	
August-07	(11,852,826)	68,174
September-07	(11,784,652)	68,174
October-07	(11,716,478)	68,174
November-07	(11,648,304)	68,174
December-07	(11,580,130)	68,174
January-08	(11,511,956)	68,174
February-08	(11,443,782)	68,174
March-08	(11,375,608)	68,174
April-08	(11,307,434)	68,174
May-08	(11,239,260)	68,174
June-08	(11,171,086)	68,174
July-08	(11,102,912)	68,174
August-08	(11,034,738)	68,174
September-08	(10,966,564)	68,174
October-08	(10,898,390)	68,174
November-08	(10,830,216)	68,174
December-08	(10,762,042)	68,174

Total Deferred Amount	$10,762,045
Total Active Connections	47,437
Total Connections	51,624

Surcharge w/Active Connection for 24 months		$9.45
Surcharge w/Total Connection for 24 months		$8.69

*** AT Exceptions to PFD filed on July 25 2007 - Attachment C**
**** AT Response to Order No. 51 - Attachment C (Monthly Recoveries starting month 36 July 07)**

Attachment B

Aqua Texas Rate Case Expenses

Agenda 8-6-08

Total Rate Case Expenses AT Requested	$	2,723,092.46
ALJs Recommended Disallowance	$	(230,688.97)
Total Rate Case Expenses	**$**	**2,492,403.49**
Add: Additional Rate Case Expenses		$423,305.77
Aqua Texas Rate Case Expenses	**$**	**2,915,709.26**
Staff Disallowed Rate Case Expenses:		
a) Hazen & Terrill		($9,471.50)
b) GDS Associates		($1,232.00)
c) Rick Hugus' Salaries & Wages	$	(165,009.35)
Staff allowable Rate Case Expenses:	**$**	**2,739,996.41**

Surcharge per connection for 51,624 connections for 24 months	**$**	**2.21**

Surcharge per connection for 47,437 connections for 24 months	**$**	**2.41**

	Total Number of Connections		**Total Active Connections**	
	water	Sewer	water	Sewer
North	15,197	730	13,757	716
SE	14,927	7,654	13,597	6,956
SW	9,627	1,851	9,095	1,750
INGRAM	1,638		1,566	
Total	**41,389**	**10,235**	**38,015**	**9422**
GRAND TOTAL WATER & SEWER		**51,624**		**47,437**

AT Additional R/C Exp	Amount AquaTexas Requested	Amount Staff Disallowed	Total Recoverable	
Hazen & Terrill:				
3/30/2007	$34,210.00	$0.00	$34,210.00	
5/1/2007	$31,644.66	$0.00	$31,644.66	
5/25/2007	$28,215.80	$0.00	$28,215.80	
6/21/2007	$25,371.75	$0.00	$25,371.75	
7/31/2007	$2,972.00	$0.00	$2,972.00	
8/29/2007	$17,067.91	$0.00	$17,067.91	
9/25/2007	$15,763.25	$0.00	$15,763.25	
10/18/2007	$7,094.10	$0.00	$7,094.10	
11/20/2007	$1,742.25	$0.00	$1,742.25	
12/4/2007	$829.50	$0.00	$829.50	
1/17/2008	$1,470.75	$0.00	$1,470.75	
2/19/2008	$2,844.25	-$2,475.50	$368.75	Enforcement surcharge for previous rate case
3/25/2008	$6,945.00	-$5,557.50	$1,387.50	Enforcement surcharge for previous rate case
4/22/2008	$18,015.45	-$243.75	$17,771.70	Enforcement surcharge for previous rate case
5/16/2008	$8,533.75	-$1,194.75	$7,339.00	Enforcement surcharge for previous rate case
6/18/2008	$9,980.00	$0.00	$9,980.00	No Invoice
Total	**$212,700.42**	**-$9,471.50**	**$203,228.92**	
RLS				
2/14/2007	$ 46.80	0.00	$46.80	
2/14/2007	70.00	0.00	$70.00	
3/7/2007	1,448.40	0.00	$1,448.40	
3/16/2007	223.21	0.00	$223.21	
4/25/2007	214.68	0.00	$214.68	

Grand Total	$ 2,003.09	0.00	$ 2,003.09	

GDS				
1/25/07-4/24/08	$ 43,592.91	$ (1,232.00)	$ 43,592.91	Enforcement surcharge for previous rate case

Rick Hugus:

2/27/07-5/31/08	$165,009.35	($165,009.35)	$0.00	**Salaried Officer. Salaries were included in the Cost of Service during the Test Year and therefore are recovered through rates.**

Other Rate Case Expenses:				
2/21/07-4/18/08	9,942.13	$ (905.39)	$9,036.74	**Amount disallowed for movie rental, no invoices, duplicate billing .**
Net Allowable Rate Case Expenses-Additional	$433,247.90	-$176,618.24	$257,861.66	