

**Executive Summary – Enforcement Matter – Case No. 64598**

**Aqua Texas, Inc.**

**RN101233534**

**Docket No. 2023-1180-PWS-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PWS

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Gray Utility Service, 5601 Farm-to-Market Road 565 East near Baytown, Chambers County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** April 12, 2024

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$13,466

**Amount Deferred for Expedited Settlement:** \$2,693

**Total Paid to General Revenue:** \$10,773

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - N/A

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** May 18, 2023

**Date(s) of NOE(s):** August 4, 2023

**Executive Summary – Enforcement Matter – Case No. 64598**

**Aqua Texas, Inc.**

**RN101233534**

**Docket No. 2023-1180-PWS-E**

***Violation Information***

1. Failed to maintain a disinfectant residual of at least 0.5 milligrams per liter ("mg/L") of chloramine (measured as total chlorine) throughout the distribution system at all times. Specifically, on May 19, 2023, the total chlorine residual collected in the distribution system had a concentration of 0.32 mg/L [30 TEX. ADMIN. CODE §§ 290.46(d)(2)(B) and 290.110(b)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

2. Failed to operate the Facility under the direct supervision of at least two water works operators who hold a Class "C" or higher groundwater license who work at least 16 hours per month. Specifically, the Respondent only has one operator with a Class "C" or higher groundwater license [30 TEX. ADMIN. CODE § 290.46(e)(4)(c) and TEX. HEALTH & SAFETY CODE § 341.033(a)].

3. Failed to provide an elevated storage capacity of 100 gallons per connection. Specifically, the Facility had a total of 2,630 connections, requiring an elevated storage capacity of 263,000 gallons. However, no elevated storage was provided, indicating 100% deficiency [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

By May 19, 2023, the Respondent began maintaining a disinfectant residual of at least 0.5 mg/L of total chlorine throughout the distribution system at all times.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, begin operating the Facility under the direct supervision of at least two water works operators who hold a Class "C" or higher groundwater license who work at least 16 hours per month;
- b. Within 45 days, submit written certification to demonstrate compliance with a.;
- c. Within 180 days, provide an elevated storage capacity of 100 gallons per connection; and
- d. Within 195 days, submit written certification to demonstrate compliance with c.

**Executive Summary – Enforcement Matter – Case No. 64598**

**Aqua Texas, Inc.**

**RN101233534**

**Docket No. 2023-1180-PWS-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Christiana McCrimmon, Enforcement Division, Enforcement Team 4, MC 219, (512) 239-2811; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Craig L. Blanchette, President, Aqua Texas, Inc., 1106 Clayton Lane, Suite 400W, Austin, Texas 78723

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	14-Aug-2023			
	<b>PCW</b>	30-Aug-2023	<b>Screening</b>	24-Aug-2023	<b>EPA Due</b>

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Aqua Texas, Inc.				
<b>Reg. Ent. Ref. No.</b>	RN101233534				
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	64598	<b>No. of Violations</b>	3
<b>Docket No.</b>	2023-1180-PWS-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Christiana McCrimmon
		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$5,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$8,250
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	<b>2.0%</b>	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$165
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<b>Notes</b>	Enhancement for one NOV with dissimilar violations.			
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<b>Culpability</b>	No	<b>0.0%</b>	Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.			
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$187
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<b>Economic Benefit</b>	<b>50.0%</b>	Enhancement*	<b>Subtotal 6</b>	\$4,125
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Total EB Amounts	\$72,041	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$566,858	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$12,353
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>9.0%</b>	Adjustment	\$1,113
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Enhancement to capture the avoided costs for Violation No. 2.			
<b>Final Penalty Amount</b>				\$13,466

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$13,466
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<b>DEFERRAL</b>	<b>20.0%</b>	Reduction	Adjustment	-\$2,693
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	Deferral offered for expedited settlement.			
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<b>PAYABLE PENALTY</b>	\$10,773
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Screening Date24-Aug-2023

RespondentAqua Texas, Inc.

Case ID No.64598

Reg. Ent. Reference No.RN101233534

MediaPublic Water Supply

Enf. CoordinatorChristiana McCrimmon

Docket No.2023-1180-PWS-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)2%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3)0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7)0%

>> Compliance History Summary

Compliance History Notes	Enhancement for one NOV with dissimilar violations.
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Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)2%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100%2%

Screening Date24-Aug-2023

Docket No.2023-1180-PWS-E

PCW

RespondentAqua Texas, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No.64598

PCW Revision February 11, 2021

Reg. Ent. Reference No.RN101233534

MediaPublic Water Supply

Enf. CoordinatorChristiana McCrimmon

Violation Number1

Rule Cite(s)30 Tex. Admin. Code §§ 290.46(d)(2)(B) and 290.110(b)(4) and Tex. Health & Safety Code § 341.0315(c)

Violation DescriptionFailed to maintain a disinfectant residual of at least 0.5 milligrams per liter ("mg/L") of chloramine (measured as total chlorine) throughout the distribution system at all times. Specifically, on May 19, 2023, the total chlorine residual collected in the distribution system had a concentration of 0.32 mg/L.

Base Penalty\$5,000

>> Environmental, Property and Human Health Matrix

OR

Release

Major

Moderate

Minor

Actual

Potential

x

Percent15.0%

>>Programmatic Matrix

Falsification

Major

Moderate

Minor

Percent0.0%

Matrix Notes

Failure to maintain proper levels of disinfection could expose persons served by the Facility to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment\$4,250

\$750

Violation Events

Number of Violation Events1

1

Number of violation days

daily

weekly

monthly

quarterly

x

semiannual

annual

single event

Violation Base Penalty\$750

One quarterly event is recommended, calculated from the May 18, 2023 investigation date to the May 19, 2023 compliance date.

Good Faith Efforts to Comply

25.0%

Reduction\$187

Before NOE/NOV

NOE/NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

x

N/A

Notes

The Respondent achieved compliance on May 19, 2023

Violation Subtotal\$563

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount\$0

Violation Final Penalty Total\$1,039

This violation Final Assessed Penalty (adjusted for limits)\$1,039

# Economic Benefit Worksheet

**Respondent** Aqua Texas, Inc.  
**Case ID No.** 64598  
**Reg. Ent. Reference No.** RN101233534  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$200	18-May-2023	19-May-2023	0.00	\$0	n/a	\$0
Notes for DELAYED costs	The delayed cost includes the estimated amount to determine the cause of noncompliance, make any necessary changes or adjustments to the Facility, and maintain a disinfectant residual of at least 0.5 mg/L total chlorine throughout the distribution system, calculated from the investigation date to the date of compliance.						

## Avoided Costs

### ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs							

Approx. Cost of Compliance	\$200	TOTAL	\$0
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<b>Screening Date</b> 24-Aug-2023		<b>Docket No.</b> 2023-1180-PWS-E		<b>PCW</b>	
<b>Respondent</b> Aqua Texas, Inc.		<i>Policy Revision 5 (January 28, 2021)</i>			
<b>Case ID No.</b> 64598		<i>PCW Revision February 11, 2021</i>			
<b>Reg. Ent. Reference No.</b> RN101233534					
<b>Media</b> Public Water Supply					
<b>Enf. Coordinator</b> Christiana McCrimmon					
<b>Violation Number</b> 2					
<b>Rule Cite(s)</b>		30 Tex. Admin. Code § 290.46(e)(4)(c) and Tex. Health & Safety Code § 341.033(a)			
<b>Violation Description</b>		Failed to operate the Facility under the direct supervision of at least two water works operators who hold a Class "C" or higher groundwater license who work at least 16 hours per month. Specifically, the Respondent has only one operator with a Class "C" or higher groundwater license.			
		<b>Base Penalty</b>		\$5,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	Major	Moderate	Minor	
	Actual				
	Potential		x		
		<b>Percent</b>		15.0%	
<b>&gt;&gt; Programmatic Matrix</b>					
	<b>Falsification</b>		Major	Moderate	Minor
<b>Matrix Notes</b>		Failure to operate the system under the direct supervision of an appropriately licensed water works operator may result in poor plant operation which could expose persons served by the Facility to a significant amount of contaminants which would not exceed levels protective of human health.			
		<b>Adjustment</b>		\$4,250	
				\$750	
<b>Violation Events</b>					
Number of Violation Events		2		98 Number of violation days	
	daily				
	weekly				
	monthly				
	quarterly	x			
	semiannual				
	annual				
	single event				
		<b>Violation Base Penalty</b> \$1,500			
		Two quarterly events are recommended, calculated from the date of the investigation, May 18, 2023, to the date of screening, August 24, 2023.			
<b>Good Faith Efforts to Comply</b>		0.0%		Reduction \$0	
		Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer			
	Extraordinary				
	Ordinary				
	N/A	x			
	<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
		<b>Violation Subtotal</b>		\$1,500	
<b>Economic Benefit (EB) for this violation</b>					
<b>Statutory Limit Test</b>					
<b>Estimated EB Amount</b>		\$1,120		<b>Violation Final Penalty Total</b> \$2,485	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$2,485	



# Economic Benefit Worksheet

**Respondent** Aqua Texas, Inc.  
**Case ID No.** 64598  
**Reg. Ent. Reference No.** RN101233534  
**Media** Public Water Supply  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	18-May-2023	5-Oct-2024	1.39	\$7	n/a	\$7

Notes for DELAYED costs

The delayed cost includes the estimated amount to ensure the Facility is operated under the direct supervision of an additional water works operator who holds a Class "C" or higher groundwater license, who work at least 16 hours per month, calculated from the investigation date to the estimated date of compliance.

## Avoided Costs

### ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel	\$4,126	18-May-2023	24-Aug-2023	0.27	\$5	\$1,108	\$1,113
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to employ an additional water works operator who holds a minimum of a Class "C" or higher groundwater license, who work at least 16 hours per month ((\$21.49 hourly x 16 hours required) x one operator), calculated from the date of the investigation to the date of screening.

Approx. Cost of Compliance \$1,208

**TOTAL** \$1,120

Screening Date24-Aug-2023

Docket No.2023-1180-PWS-E

PCW

RespondentAqua Texas, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No.64598

PCW Revision February 11, 2021

Reg. Ent. Reference No.RN101233534

MediaPublic Water Supply

Enf. CoordinatorChristiana McCrimmon

Violation Number3

Rule Cite(s)30 Tex. Admin. Code § 290.45(b)(1)(D)(iv) and Tex. Health & Safety Code § 341.0315(c)

Violation DescriptionFailed to provide an elevated storage capacity of 100 gallons per connection. Specifically, the Facility had a total of 2,630 connections, requiring an elevated storage capacity of 263,000 gallons. However, no elevated storage was provided, indicating 100% deficiency.

Base Penalty\$5,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential	x		

Percent30.0%

>>Programmatic Matrix

	Falsification	Major	Moderate	Minor

Percent0.0%

Matrix NotesFailure to provide adequate elevated storage tank capacity could result in low pressure throughout the distribution system exposing persons served by the Facility to contaminants which would exceed levels protective of human health.

Adjustment\$3,500

\$1,500

Violation Events

Number of Violation Events4

98

Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty\$6,000

Four monthly events are recommended, calculated from the date of the investigation May 18, 2023, to the date of screening, August 24, 2023.

Good Faith Efforts to Comply

0.0%

Reduction\$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

NotesThe Respondent does not meet the good faith criteria for this violation.

Violation Subtotal\$6,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount\$70,921

Violation Final Penalty Total\$9,942

This violation Final Assessed Penalty (adjusted for limits)\$9,942

# Economic Benefit Worksheet

**Respondent** Aqua Texas, Inc.  
**Case ID No.** 64598  
**Reg. Ent. Reference No.** RN101233534  
**Media** Public Water Supply  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$565,450	18-May-2023	2-Mar-2025	1.79	\$3,377	\$67,544	\$70,921
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	The delayed cost includes the estimated amount to to provide an elevated storage capacity of 100 gallons per connection (\$2.15 x 263,000 gallons) at the Facility, calculated from the investigation date to the estimated date of compliance.						

## Avoided Costs

### ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs							

Approx. Cost of Compliance	\$565,450	TOTAL	\$70,921
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# Compliance History Report

Compliance History Report for CN604062463, RN101233534, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

<b>Customer, Respondent, or Owner/Operator:</b>	CN604062463, Aqua Texas, Inc.	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	3.56
<b>Regulated Entity:</b>	RN101233534, GRAY UTILITY SERVICE	<b>Classification:</b>	NOT APPLICABLE	<b>Rating:</b>	N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A		
<b>CH Group:</b>	14 - Other				
<b>Location:</b>	5601 FARM-TO-MARKET ROAD 565 EAST NEAR BAYTOWN, CHAMBERS COUNTY, TEXAS				
<b>TCEQ Region:</b>	REGION 12 - HOUSTON				
<b>ID Number(s):</b>	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0360005				
<b>Compliance History Period:</b>	September 01, 2018 to August 31, 2023	<b>Rating Year:</b>	2023	<b>Rating Date:</b>	09/01/2023
<b>Date Compliance History Report Prepared:</b>	February 07, 2024				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	February 07, 2019 to February 07, 2024				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	Christiana McCrimmon		<b>Phone:</b>	(512) 239-2811	

## Site and Owner/Operator History:

- |                                                                                                    |     |
|----------------------------------------------------------------------------------------------------|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period?       | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO  |

## Components (Multimedia) for the Site Are Listed in Sections A - J

**A. Final Orders, court judgments, and consent decrees:**  
N/A

**B. Criminal convictions:**  
N/A

**C. Chronic excessive emissions events:**  
N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	10/19/2023	(1930309)	
	Self Report?	NO		Classification: Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.42(e)(4)(C)		
	Description:	Failure to provide the chlorination room with both high level and floor level screened vents. If the room contains more than one operating 150-pound cylinder of chlorine, a fan which is located at and draws air in through the top vent and discharges to the outside atmosphere through the floor level vent must be provided, with the fan switch located outside the enclosure.		

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)		
Description:	Failure to properly maintain the good working condition and general appearance of the system's facilities and equipment.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)		
Description:	Failure to properly maintain the good working condition and general appearance of the system's facilities and equipment.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(i)		
Description:	Failure to provide a minimum total well capacity of 0.6 gallons per minute per connection. Systems with 250 connections or more must provide two or more wells or an approved emergency interconnection which can supply at least 0.35 gallons per minute per connection in the combined system under emergency conditions.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iii)		
Description:	Failure to provide a minimum service pump capacity such that each pump station or pressure plane must have two or more pumps with a total capacity of 2.0 gallons per minute per connection, or a total capacity of 1,000 gallons per minute and be able to meet peak hourly demands with the largest pump out of service, whichever is less at each pump station or pressure plane.		

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
AQUA TEXAS, INC.  
RN101233534

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2023-1180-PWS-E

### I. JURISDICTION AND STIPULATIONS

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Aqua Texas, Inc. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a public water supply located at 5601 Farm-to-Market Road 565 East near Baytown, Chambers County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 2,630 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(73).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE § 7.002 and TEX. HEALTH & SAFETY CODE § 341.049, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 and TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$13,466 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$10,773 of the penalty and \$2,693 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or

required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that by May 19, 2023, the Respondent began maintaining a disinfectant residual of at least 0.5 milligrams per liter ("mg/L") of total chlorine throughout the distribution system at all times at the Facility.

## **II. ALLEGATIONS**

During an investigation at the Facility conducted on May 18, 2023, an investigator documented that the Respondent:

1. Failed to maintain a disinfectant residual of at least 0.5 mg/L of chloramine (measured as total chlorine) throughout the distribution system at all times, in violation of 30 TEX. ADMIN. CODE §§ 290.46(d)(2)(B) and 290.110(b)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c). Specifically, on May 19, 2023, the total chlorine residual collected in the distribution system had a concentration of 0.32 mg/L.
2. Failed to operate the Facility under the direct supervision of at least two water works operators who hold a Class "C" or higher groundwater license who work at least 16 hours per month, in violation of 30 TEX. ADMIN. CODE § 290.46(e)(4)(c) and TEX. HEALTH & SAFETY CODE § 341.033(a). Specifically, the Respondent only has one operator with a Class "C" or higher groundwater license.
3. Failed to provide an elevated storage capacity of 100 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c). Specifically, the Facility had a total of 2,630 connections, requiring an elevated storage capacity of 263,000 gallons. However, no elevated storage was provided, indicating 100% deficiency.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

## **IV. ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Aqua Texas, Inc., Docket No. 2023-1180-PWS-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, begin operating the Facility under the direct supervision of at least two water works operators who hold a Class "C" or higher groundwater license, who work at least 16 hours per month, in accordance with 30 TEX. ADMIN. CODE § 290.46.
  - b. Within 45 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.d below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
  - c. Within 180 days after the effective date of this Order, provide an elevated storage capacity of 100 gallons per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45.
  - d. Within 195 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087



with a copy to:

Water Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Street, Suite H  
Houston, Texas 77023-1452

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
6. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

-----  
Date

-----  
For the Executive Director

5/3/2024

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Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the OAG for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

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Signature

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Date

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Craig Blanchette

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President

-----  
Name (Printed or typed)  
Authorized Representative of  
Aqua Texas, Inc.

-----  
Title

☐ *If mailing address has changed, please check this box and provide the new address below:*

**Instructions:** Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.