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DOCKET NO. 51642

APPLICATION OF JAMES L. NELSON	§	PUBLIC UTILITY COMMISSION
DBA WATERCO AND CSWR-TEXAS	§	
UTILITY OPERATING COMPANY,	§	OF TEXAS
LLC FOR SALE, TRANSFER, OR	§	
MERGER OF FACILITIES AND	§	
CERTIFICATE RIGHTS IN	§	
MONTAGUE COUNTY	§	

**ORDER NO. 8
APPROVING SALE AND TRANSFER TO PROCEED**

This Order addresses the application of James L. Nelson dba Waterco and CSWR-Texas Utility Operating Company, LLC for the sale, transfer, or merger of facilities and certificate rights in Montague County. The applicants seek to transfer the facilities, customers, and water service area held by Waterco under cancelled certificate of convenience and necessity (CCN) number 10130 to CSWR-Texas, and the amendment of CSWR-Texas' CCN number 13290 to include the facilities and area previously included in Waterco's cancelled CCN number 10130. The administrative law judge (ALJ) grants that the sale is approved and the transaction between Waterco and CSWR-Texas may proceed and be consummated.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicants

1. James L. Nelson is an individual doing business as Waterco.
2. Waterco controls facilities for providing water service to a currently uncertificated area in Montague County.
3. Waterco owns and operates a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under public water system identification number 1690028.
4. CSWR-Texas is a Texas limited liability company registered with the Texas secretary of state under file number 0803367893.

5. CSWR-Texas operates, maintains, and controls facilities for providing water service in Aransas, Austin, Harris, Hood, Parker, Travis, Victoria, and Wilson counties under CCN number 13290.

Application

6. On December 18, 2020, Waterco and CSWR-Texas filed the application at issue in this proceeding.
7. Waterco and CSWR-Texas filed an errata to the application on January 5 and 19, 2021.
8. Waterco and CSWR-Texas supplemented the application on February 19, 2021.
9. Waterco and CSWR-Texas amended the application on May 5 and 6, 2021.
10. The applicants seek approval: (1) for Waterco to sell and transfer all of its facilities and water service area under cancelled CCN number 10130 to CSWR-Texas, and (2) to amend CSWR-Texas' CCN number 13290 to include the water facilities and service area previously included in Waterco's cancelled CCN number 10130.
11. The requested area is located approximately five miles northeast of downtown Nocona and is generally bounded on the north and on the east by Lake Nocona; on the south by Keck Road; and on the west by Farm-to-Market Road 1106.
12. The total area affected subject to this transaction is comprised of 25 acres and 13 current customers.
13. In Order No. 3 filed on March 3, 2021, the administrative law judge (ALJ) found the application administratively complete.

Notice

14. On April 13, 2021, CSWR-Texas filed the affidavit of Josiah Cox, president of CSWR-Texas, attesting that notice was provided to all current customers of Waterco, neighboring utilities, and affected parties on March 24, 2021.
15. On May 3, 2021, CSWR-Texas filed the publisher's affidavit attesting to the publication of notice in the *Bowie News, Inc.*, a newspaper of general circulation in Montague County, on April 14 and 21, 2021.
16. In Order No. 4 filed on May 19, 2021, the ALJ found the notice sufficient.

Evidentiary Record

17. On July 12, 2021, the parties jointly moved to admit evidence.
18. In Order No. 7 filed on July 13, 2021, the ALJ admitted the following evidence into the record: (a) the application and all attachments filed on December 18, 2020; (b) confidential attachments to the application filed on December 22, 2020; (c) CSWR Texas' errata to the application filed on January 5, 2021; (d) CSWR Texas' second errata to the application filed on January 19, 2021; (e) CSWR-Texas' supplement to the application filed on February 19, 2021; (f) CSWR-Texas' amended attachment G to the application filed on May 5, 2021; (g) CSWR-Texas' confidential highly sensitive attachment G filed on May 6, 2021; (h) CSWR Texas' affidavit of notice to current customers, neighboring utilities, and affected parties filed on April 13, 2021; (i) CSWR-Texas confidential exhibit B to proof of notice filed on April 14, 2021; (j) CSWR-Texas' supplemental proof of notice filed on May 3, 2021; (k) Commission Staff's recommendation on sufficiency of notice filed on May 18, 2021; and (l) Commission Staff's recommendation on the transaction including confidential attachments filed on June 22, 2021.

System Compliance

19. Waterco's public water system number 1690028 is not currently in compliance with the drinking water rules of the TCEQ.
20. CSWR-Texas intends to invest the capital required to make the upgrades, renovations, and repairs necessary to bring the water system into compliance with TCEQ regulations and to ensure customers receive safe and reliable service within a reasonable time upon consummation of the transaction.
21. CSWR-Texas has agreed to work with the TCEQ to address any outstanding compliance issues upon consummation of the transaction.
22. CSWR-Texas demonstrated a compliance history that is adequate for approval of the sale to proceed.

Adequacy of Existing Service

23. There are currently 13 connections in the requested area that are being served by Waterco's and such service has been continuous.

24. Waterco has several violations listed in the TCEQ database, which means the service currently provided to the requested area is inadequate. CSWR-Texas stated that it intends to invest the capital required to make the upgrades, renovations, and repairs necessary to bring the water systems into compliance with TCEQ regulations and to ensure customers receive safe and reliable service.

Need for Additional Service

25. There is a continuing need for service because Waterco is currently providing service to 13 existing customer connections in the requested area.
26. There is no evidence in the record indicating a need for additional service.
27. Waterco's existing customers in the requested service area have a need for improved service.

Effect of Approving the Transaction and Granting the Amendments

28. Existing and future customers will be better served through CSWR-Texas's ownership and operation of water system number 1690028 due to improvements in the utility service, operations, maintenance, and customer service.
29. Approving the sale and transfer to proceed and granting the CCN amendment will obligate CSWR-Texas to provide service to current and future customers in the requested area.
30. There will be no effect on landowners in the requested area because they are currently being served by the Waterco system.
31. CSWR-Texas will adopt Waterco's current rates upon the consummation of the transaction.

Ability to Serve: Managerial and Technical

32. Waterco's public water system number 1690028 is currently providing service to 13 connections in the requested area, but the current wells are unapproved, and the pumping capacity is unknown. CSWR-Texas has agreed to work with the TCEQ to resolve this capacity issue once the transfer is complete.
33. CSWR-Texas employs or contracts with TCEQ-licensed water operators who will operate the public water system.

34. CSWR-Texas has access to an adequate supply of water and is capable of providing water that meets the requirements of chapter 341 of the Texas Health and Safety Code, Chapter 13 of the Texas Water Code (TWC), and TCEQ rules.
35. CSWR Texas has the technical and managerial capability to provide adequate and continuous service to the requested area.
36. No additional construction is necessary for CSWR-Texas to serve the requested area.

Ability to Serve: Financial Ability and Stability

37. CSWR, LLC, the immediate parent company of CSWR-Texas, is capable, available, and willing to cover temporary cash shortages, and has a debt-to-equity ratio of less than one, satisfying the leverage test.
38. CSWR, LLC provided a written guarantee of coverage of temporary cash shortages and demonstrated that it has sufficient cash available to cover any projected operations and maintenance shortages in the first year five years of operations after completion of the transaction and possesses the cash and leverage ability to pay for capital improvements and necessary equity investments—satisfying the operations test.
39. CSWR-Texas demonstrated that it has the financial ability and stability to provide continuous and adequate service to the requested area.

Financial Assurance

40. There is no need to require CSWR-Texas to provide a bond or other financial assurance to ensure continuous and adequate service to the requested area.

Feasibility of Obtaining Service from Adjacent Retail Public Utility

41. The requested area is currently being served by Waterco. Therefore, it is not feasible to obtain service from another utility.

Environmental Integrity and Effect on the Land

42. The requested area will continue to be served with existing infrastructure.
43. There will be minimal effects on environmental integrity and on the land as a result of CSWR-Texas's planned upgrades, renovations, and repairs to the public water system.

Improvement in Service or Lowering Cost to Consumers

44. Water service to the requested area will improve because CSWR-Texas intends to address and resolve regulatory compliance issues and improve the safety and reliability of service.
45. The rates charged to customers in the requested area will not change as a result of the proposed transaction because CSWR-Texas will adopt Waterco's currently tariffed rates upon consummation of the transaction.

Regionalization or Consolidation

46. The construction of a physically separate water system is not necessary for CSWR-Texas to provide service to the requested area; therefore, concerns of regionalization or consolidation do not apply.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. Notice of the application was provided in compliance with TWC §§ 13.246 and 13.301(a)(2), and 16 Texas Administrative Code (TAC) § 24.239.
2. After consideration of the factors in TWC § 13.246(c), CSWR-Texas demonstrated adequate financial, managerial, and technical capability to provide adequate and continuous service to the requested area as required by TWC § 13.301(b) and 16 TAC § 24.239.
3. Waterco and CSWR-Texas demonstrated that the sale and transfer of the facilities and service under cancelled CCN number 10130 from Waterco to CSWR-Texas will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.301(d) and (e).

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The sale is approved and the transaction between Waterco and CSWR-Texas may proceed and be consummated.

2. As soon as possible after the effective date of the transaction, but not later than 30 days after the effective date, the applicants must file proof that the transaction has been consummated and customer deposits, if any, have been addressed.
3. Waterco and CSWR-Texas have 180 days to complete the transaction.
4. Under 16 TAC § 29.239(m), if the transaction is not consummated within this period, or an extension has not been granted, this approval is void and Waterco and CSWR-Texas will have to reapply for approval.
5. Waterco and CSWR-Texas are advised that the requested area will be held by Waterco until the sale and transfer transaction is completed in accordance with the Commission's rules.
6. In an effort to finalize this case as soon as possible, the applicants must continue to file monthly updates regarding the status of the closing and submit documents evidencing that the transaction was consummated.
7. Within 15 days following the filing of the applicants' proof that the transaction has been consummated and customer deposits, if any, have been addressed, Commission Staff must file a recommendation regarding the sufficiency of the documents and propose a schedule for continued processing of this docket.

Signed at Austin, Texas the 11th day of August, 2021.

PUBLIC UTILITY COMMISSION OF TEXAS



**GREGORY R. SIEMANKOWSKI
ADMINISTRATIVE LAW JUDGE**