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DOCKET NO. 51917

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| APPLICATION OF ROCKET WATER | § | PUBLIC UTILITY COMMISSION |
| COMPANY, INC. AND CSWR-TEXAS | § | |
| UTILITY OPERATING COMPANY, | § | OF TEXAS |
| LLC FOR SALE, TRANSFER, OR | § | |
| MERGER OF FACILITIES AND | § | |
| CERTIFICATE RIGHTS IN HAYS | § | |
| COUNTY | § | |

COMMISSION STAFF’S RECOMMENDATION ON APPROVAL OF THE TRANSACTION

On March 19, 2021, CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) and Rocket Water Company, Inc. (Rocket Water) (collectively, Applicants) filed an application for the sale, transfer, or merger (STM) of facilities and certificate rights in Hays County, Texas under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239. CSWR-Texas seeks approval to acquire facilities and transfer the entire water service area from Rocket Water under its certificate of convenience and necessity (CCN) No. 12776, to its respective CCN No. 13290.

On June 1, 2021, the administrative law judge (ALJ) filed Order No. 3 requiring the Staff of the Public Utility Commission of Texas (Staff) to file a recommendation on approval of the sale and on the CCN amendment or request a hearing on or before July 26, 2021. Therefore, this pleading is timely filed.

I. STAFF’S RECOMMENDATION

As described in the attached memoranda of Jolie Mathis of the Commission’s Infrastructure Division, and Fred Bednarski, Rate Regulation Division, Staff recommends that the transaction be approved to proceed, and that the procedural schedule in Order No. 3 be maintained for continued processing of this matter. Staff’s review indicates that the proposed transaction satisfies the relevant statutory and regulatory criteria, including those factors identified in TWC Chapter 13 and 16 TAC Chapter 24. Staff further recommends that CSWR-Texas has demonstrated that it possesses the financial, technical, and managerial capability to provide continuous and adequate service to the area subject to the proposed transaction.

II. CONCLUSION

Staff respectfully requests the entry of an order allowing the proposed transaction to proceed.

Dated: July 26, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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/s/ Kevin R. Bartz

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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on July 22, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Kevin R. Bartz
Kevin R. Bartz

Public Utility Commission of Texas

Memorandum

TO: Kevin Bartz, Attorney
Legal Division

FROM: Patricia Garcia, Senior Engineering Specialist
Infrastructure Division

DATE: July 26, 2021

RE: Docket No. 51917 – *Application of Rocket Water Company, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Hays County*

1. Application

On March 19, 2021, CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) and Rocket Water Company, Inc. (Rocket Water) (collectively Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Hays County, Texas, under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239.

Specifically, CSWR-Texas, certificate of convenience and necessity (CCN) No. 13290, seeks approval to acquire facilities and to transfer all of Rocket Water's service area held under water CCN No. 12776. The requested area includes 69 current customers and approximately 1,004 acres, comprised of 1,004 acres of transferred area from CCN No. 12776.

The application proposes subtraction of approximately 1,004 acres from CCN No. 12776 and the addition of approximately 1,004 acres to CCN No. 13290.

The application indicates that the total acreage being requested is approximately 994 acres. Based on the mapping review by Tracy Montes, Infrastructure Division, it was determined that the requested area is approximately 1,004 acres.

2. Notice

CSWR-Texas provided notice consistent with 16 TAC § 24.239(c). The deadline to intervene was June 25, 2021. One couple, who owns a home in the CCN area served by Rocket Water, submitted a protest but did not request a hearing. There were no motions to intervene or opt-out requests received.

3. Factors Considered

Under TWC §§ 13.241 and 13.246 and 16 TAC §§ 24.11(e), 24.227 and 24.239, the Commission must consider certain factors when granting or amending a water or sewer CCN. These factors are addressed below.

3.1. *Consideration of the adequacy of service currently provided to the requested area and system compliance (TWC § 13.246(c)(1), 13.301(e)(3)(A); 16 TAC §§ 24.227(a) and (e)(1), 24.239(h)(3)(A), (h)(5)(A), and (h)(5)(D)).*

Rocket Water has a Texas Commission on Environmental Quality (TCEQ) approved public water system (PWS) registered as The Woodlands Water System, PWS No. 1050139. The last TCEQ compliance investigation of this system was on September 22, 2017. No violations or concerns were noted as a result of that investigation. The Commission's complaint records show five complaints against Rocket Water since 2014.

3.2. *Consideration of the need for additional service in the requested area (TWC § 13.246(c)(2); 16 TAC §§ 24.227(e)(2) and 24.239(h)(5)(B)).*

The purpose of the transaction is to transfer The Woodlands Water System to CSWR-Texas. The customers are currently receiving water service from Rocket Water's PWS The Woodlands Water System.

There are currently 69 existing customers in the requested area; therefore, there is a need for service. No additional service is needed at this time.

3.3. *Consideration of the effect of granting an amendment on the recipient of the certificate or amendment, on the landowners in the area, and on any other retail public utility of the same kind already servicing the proximate area (TWC § 13.246(c)(3), 16 TAC §§ 24.227(e)(3), 24.239(h)(5)(c)).*

CSWR-Texas will be the certificated entity for the requested area and be required to provide adequate and continuous service to the requested area.

There will be no effect on landowners as the area is currently certificated.

There will be no effect on any retail public utility servicing the proximate area. All retail public utilities in the proximate area were provided notice of the transaction taking place in this application and did not request to intervene.

3.4. *Consideration of the managerial and technical ability of the applicant to provide adequate service (TWC §§ 13.241(a) and (b), 13.246(c)(4); and 13.301(b) and (e)(2); 16 TAC §§ 24.227(a) and (e)(4), and 24.239(f) and (h)(5)(D)).*

Rocket Water is currently providing service to the customers in the area through The Woodlands Water System, PWS No. 1050139. The last TCEQ compliance investigation of Rocket Water's system was on September 22, 2017. No violations or concerns were noted as a result of that investigation. The Commission's complaint records show five complaints against Rocket Water since 2014.

Rocket Water has been in receivership since 2003 stemming from violations issued by the TCEQ. Because the system was under receivership, the receiver has been unable to pay for upgrades needed to provide adequate capacity to the customers of The Woodlands

Water System as required under TCEQ rules. The receiver was not responsible for resolving the violations during the receivership and was simply required to keep the water on and locate a purchaser for the system. CSWR-Texas is requesting to transfer the facilities of Woodlands Water System and the CCN area currently held by Rocket Water to provide service to the customers in the requested area. CSWR-Texas has the ability to provide adequate service and needed upgrades to The Woodlands Water System. CSWR-Texas has acquired several TCEQ approved public water systems through STM applications. CSWR-Texas does not currently have any violations listed in the TCEQ database. The Commission's complaint records show five complaints against CSWR-Texas since March 2021.

TCEQ rule, 30 TAC § 290.46, Minimum Acceptable Operating Practices for Public Drinking Water Systems, requires the operation of a public water system by trained and licensed personnel. The production, treatment, and distribution facilities at the public water system must be operated at all times under the direct supervision of a water works operator who holds an applicable, valid license issued by the TCEQ executive director. The licensed operator of a public water system may be an employee, contractor, or volunteer. CSWR-Texas plans to use a contract operator for plant operations, which would include one or more appropriately qualified and licensed operator(s). The contract operator(s) would be responsible for day-to-day inspections, checks, sampling, reporting, meter reading, and any necessary system repairs.

Based on orders filed in previous CSWR-Texas dockets where the administrative law judge requested Staff take into consideration all prior CSWR-Texas STM dockets in which Staff recommended the transaction should be allowed to proceed, Staff is including the list of dockets reviewed below:

- Docket No. 50251 was finalized by the Commission on March 12, 2021. In this application, CSWR-Texas acquired the public water system Coletto Water, PWS No. 2350036, and associated facilities, approximately 438 acres of service area, and 211 connections in Victoria County from JRM Water, LLC.
- Docket No. 50276 was finalized by the Commission on March 11, 2021. In this application, CSWR-Texas acquired the public water system North Victoria Utilities, PWS No. 2350049, and associated facilities, approximately 307 acres of service area, and 77 connections in Victoria County from North Victoria Utilities, Inc.
- Docket No. 50311 was finalized by the Commission on March 17, 2021. In this application, CSWR-Texas acquired the public water system Copano Heights Water, PWS No. 0040017, and associated facilities, approximately 61 acres of service area, and 110 connections in Aransas County from Copano Heights Water Company.
- Docket No. 51065 was finalized by the Commission on March 9, 2021. In this application, CSWR-Texas acquired the public water system Treetop Estates, PWS No. 1840134, and associated facilities, approximately 93 acres of service area, and 35 connections in Parker County from Treetop Utilities, LLC.
- Docket No. 51118 was finalized by the Commission on March 18, 2021. In this application, CSWR-Texas acquired the public water systems Shady Oaks Water, PWS No. 2470017; Hickory Hill Water, PWS No. 2470018; Arrowhead Water, PWS No. 2470025; and C Willow Water, PWS No. 2470019, and associated facilities,

approximately 1,828 acres of service area, and 560 connections in Wilson County from Shady Oaks Water Supply Company, LLC.

- Docket No. 51026 was finalized by the Commission on April 23, 2021. In this application, CSWR-Texas acquired the public water system Tall Pines, PWS No. 1010220, and associated facilities, approximately 42 acres of service area, and 73 connections in Harris County from Tall Pines Utility, Inc.
- Docket No. 51031 was finalized by the Commission on April 14, 2021. In this application, CSWR-Texas acquired the public water systems Council Creek Village, PWS No. 0270014; South Council Creek 1, PWS No. 0270079; and South Council Creek 2, PWS No. 0270080, and associated facilities, approximately 275 acres of service area, and 176 connections in Burnet County from Council Creek Village, Inc. dba Council Creek Village dba South Council Creek 2.
- Docket No. 51047 was finalized by the Commission on April 19, 2021. In this application, CSWR-Texas acquired the public water system South Silver Creek I II & III, PWS No. 0270041, and associated facilities, approximately 169 acres of service area, and 103 connections in Burnet County from Jones-Owen dba South Silver Creek I II & III.
- Docket No. 50989 was finalized by the Commission on April 23, 2021. In this application, CSWR-Texas acquired the public water systems Hillside Estates Water System, PWS No. 0080049; Meadowview Estates, PWS No. 0080051; Settlers Meadows Water System, PWS No. 0080055; Settlers Estates Sec II, PWS No. 0080056; Settlers Crossing Water System, PWS No. 0080058; Meadowview Estates II, PWS No. 0080059; and Settlers Crossing Water System 2, PWS No. 0080060, and associated facilities, approximately 638 acres of service area, and 316 connections in Austin County from Ranch Country of Texas Water Systems, Inc.
- Docket No. 51130 was finalized by the Commission on April 20, 2021. In this application, CSWR-Texas acquired the public water system Laguna Tres Subdivision, PWS No. 1110019, and associated facilities from Laguna Tres, CSWR Also acquired the public water system Laguna Vista Subdivision, PWS No. 1110095 and associated facilities and unpermitted wastewater facilities from Laguna Vista. The total certificated area amended to CSWR-Texas' CCN was 362 acres of water service area, with 446 water connections and 6 acres of sewer service area with 5 connections in Hood County.
- Docket No. 51146 was finalized by the Commission on April 23, 2021. In this application, CSWR-Texas acquired the public water system Abraxas Utilities, PWS No. 1840034, Wastewater Discharge Permit No. WQ 00150-10001, and associated facilities, approximately 721 acres of service area, and 437 connections in Parker County from Abraxas Corporation.
- In Docket No. 51036, Woodlands West has a non-public water system registered with the TCEQ as Woodlands West, PWS No. 0260043. Woodlands West has one monitoring violation listed in the TCEQ database. CSWR-Texas indicated that it will address this deficiency to ensure that, after closing the sale, the full operation of the public water system can continue in accordance with Commission and TCEQ rules. For this docket, CSWR-Texas is seeking to transfer approximately 61 acres and 18 connections in Burleson County.
- In Docket No. 51003, the CCN for Oak Hills Ranch Estates Water Company (Oak Hills) is being transferred to CSWR-Texas. The water CCN has a TCEQ approved public water system registered as Oak Hills Ranch Water, PWS No. 0940085. Oak

Hills has several violations and additional issues that need to be addressed that include reworking water wells, replacing the ground storage tank, and installing additional pumps. CSWR-Texas stated it 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. The needed improvements will begin when the systems are officially transferred to CSWR-Texas. Once the water systems are compliant with TCEQ regulations, the service provided to the requested area will be adequate. For this docket, the area to be added to CSWR-Texas' CCN, including uncertificated area, is approximately 1,857 acres and 196 connections in Guadalupe and Wilson counties.

- In Docket No. 51089, there are two CCNs being transferred from Donald E. Wilson dba Quiet Village II dba QV Utility (QV Utility) to CSWR-Texas, one water CCN and one sewer CCN. The water CCN has a TCEQ approved public water system registered as Quiet Village II, PWS No. 1080221. QV Utility purchases wastewater treatment from the City of Donna. There are several violations listed in the TCEQ database for the water system. CSWR-Texas indicated that it will address these deficiencies to ensure that, after closing the sale, the full operation of the public water system can continue in accordance with Commission and TCEQ rules. For this docket, CSWR-Texas is seeking to transfer approximately 18.5 acres and 165 connections in Hidalgo County.
- In Docket No. 51222, Estate of Patetreen Petty McCoy dba Big Wood Springs Water Company (Big Wood Springs) has a public water system registered with the TCEQ as Big Wood Springs Water System, PWS No. 2500019. Big Wood Springs does not have any open violations in the TCEQ databases. For this docket, CSWR-Texas is seeking to transfer approximately 643 acres and 76 connections in Wood County.
- In Docket No. 51642, James L. Nelson dba Waterco (Waterco) has a has a public water system registered with the TCEQ as Waterco, PWS No. 1690028. The application states that there are several violations for this water system that will require immediate capital investment to remedy. CSWR-Texas indicates that it has worked with an engineer to identify the shortcomings in the system and will address the deficiencies to ensure that, after closing the sale, the full operation of this public water system can continue in accordance with Commission and TCEQ rules. For this docket, CSWR-Texas is seeking to transfer approximately 25 acres and 13 connections in Montague County.
- In Docket No. 51126, Aero Valley Water Service (Aero Valley) has a has a public water system registered with the TCEQ as Aero Valley Water Service, PWS No. 0610243. There are several violations listed in the TCEQ database. CSWR-Texas will address the violations and deficiencies to ensure that, after closing the sale, the full operation of this public water system can continue in accordance with Commission and TCEQ rules. For this docket, CSWR-Texas is seeking to transfer approximately 46.5 acres, which consists of 32.5 acres of single certification and 14 acres of dual certification with Town of Northlake's CCN No. 12915, with 42 connections in Denton County.
- In Docket No. 51928, Betty J. Dragoo (Dragoo) has a public water system registered with the TCEQ as Thousand Oaks Subdivision, PWS No. 0720054. The last TCEQ compliance investigation of this public water system was on April 10, 2018. The investigation identified one violation for failure to install flush valves on dead end mains. This violation remains unresolved. Staff notes that a violation related to flush

valves may not affect the adequacy of water service provided by Dragoo. For this docket, CSWR-Texas is seeking to transfer approximately 96 acres of uncertificated area with 15 connections in Erath County.

- In Docket No. 51544, Franklin Water Service Co. LLC (Franklin) has two public water systems registered with the TCEQ as Franklin Water Systems 1, PWS No. 1520224 and Franklin Water Systems 3, PWS No. 1520080. The last TCEQ compliance investigation of Franklin Water Systems 1 was conducted from February 13, 2019 through February 18, 2019. There were two alleged violations noted for Franklin Water System 1, which were resolved in March 22, 2019. The last TCEQ compliance investigation of Franklin Water Systems 3 was conducted on December 17, 2019. No violations were noted as a result of the investigation at the Franklin Water Systems 3 water plant. For this docket, CSWR-Texas is seeking to transfer approximately 186 acres and 219 connections in Lubbock County.
- In Docket No. 51940, Walnut Bend Water Supply aka Walnut Bend Water System (Walnut Bend) has a public water system registered with the TCEQ as Walnut Bend Water Supply, PWS No. 0030037. The last TCEQ compliance investigation of the Walnut Bend water system was on August 11, 2020. No violations or concerns were noted as a result of that investigation. For this docket, CSWR-Texas is seeking to transfer approximately 48 acres and 19 connections in Angelina County.

In each of the following applications, 50251, 50276, 50311, 51065, 51118, 51026, 51031, 51047, 50989, 51130, 51146, 51036, 51003, 51089, 51222, 51642, 51126, 51928, 51544, and 51940 CSWR-Texas has stated that it intends to contract with an operations company.

3.5. *The applicants' demonstration that regionalization or consolidation with another retail public utility is not economically feasible when construction of a physically separate water or sewer system is required to provide service to the requested area. (TWC § 13.241(d); 16 TAC § 24.227(b)).*

The construction of a physically separate water system is not necessary for CSWR-Texas to serve the requested area. Therefore, concerns of regionalization or consolidation do not apply.

3.6. *Consideration of the feasibility of obtaining service from an adjacent retail public utility (TWC § 13.246(c)(5); 16 TAC §§ 24.227(e)(5) and 24.239(h)(5)(E)).*

Rocket Water is currently serving customers in the requested area.

3.7. *Consideration of the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service (TWC §§ 13.246(c)(6) and 13.301(b); 16 TAC §§ 24.227(a) and (e)(6), 24.11(e), and 24.239(f) and (h)(5)(F)).*

The Rate Regulation Division will be addressing this criterion in a separate memo.

3.8. *Requirement of the applicant to provide a bond or other financial assurance in a form and amount specified by the Commission to ensure that continuous and adequate utility service is provided (TWC §§ 13.246(d), 13.301(c); 16 TAC §§ 24.227(f), 24.239(f)).*

The Rate Regulation Division will be addressing the above criterion in a separate memo.

3.9. *Consideration of the environmental integrity and the effect on the land to be included in the certificated area (TWC § 13.246(c)(7) and (9); and 16 TAC §§ 24.227(e)(7) and (9) and 24.239(h)(5)(G)).*

The environmental integrity of the land will be minimally affected as facilities in the area are upgraded to provide adequate service to the requested area.

3.10. *Consideration of the probable improvement in service or lowering of cost to consumers (TWC § 13.246(c)(8); 16 TAC §§ 24.227(e)(8), 24.239(h)(5)(H)).*

CSWR-Texas will continue to provide water service to the existing customers in the area. There will be no change in the cost of service to customers. CSWR-Texas will improve the quality of service provided to the area by upgrading the facilities of the water system as needed.

The Applicants meet all of the statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules and regulations. Approving this application to transfer water facilities and the service area under water CCN No. 12776 to CSWR-Texas and amending CSWR-Texas' water CCN No. 13290 is necessary for the service, accommodation, convenience and safety of the public.

4. Recommendation

Based on the above information, I recommend that the Commission find that the transaction will serve the public interest and that the Applicants be allowed to proceed with the proposed transaction. There are no deposits held by Rocket Water for the customers being served by The Woodlands Water System. I further recommend that a public hearing is not necessary.

Public Utility Commission of Texas

Memorandum

TO: Kevin Bartz, Attorney
Legal Division

FROM: Fred Bednarski III, Financial Analyst
Rate Regulation Division

DATE: July 26, 2021

RE: Docket No. 51917 - *Application of Rocket Water Company, Inc. and CSWR-Texas Utility Operating Company, LLC for Sale, Transfer, or Merger of Facilities and Certificate Rights in Hays County*

On March 19, 2021, CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) and Rocket Water Company, Inc. (Rocket Water) filed an application for approval of the sale and transfer of facilities and certificate of convenience and necessity rights in Hays County.

I recommend that CSWR-Texas demonstrates the financial and managerial capability needed to provide continuous and adequate service to the area subject to this application. My conclusions are based on information provided by CSWR-Texas before the date of this memorandum and may not reflect any changes in CSWR-Texas' status after this review.

Ability to serve: Financial ability and stability (Texas Water Code (TWC) §§ 13.241(a) and 13.246(c)(6))

An owner or operator of a retail public utility must have the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and requested utility service areas, as established by 16 Texas Administrative Code (TAC) § 24.11. CSWR-Texas must demonstrate that it meets one of the five leverage tests under 16 TAC § 24.11(e)(2), as well as the operations test under 16 TAC § 24.11(e)(3).

Leverage test

My analysis is based on CSWR-Texas' affiliate, CSWR, LLC and Subsidiaries' (CSWR), financial statements ending December 31, 2020. These financial statements contain an unqualified auditor's opinion from RSM US LLP stating that the financial statements present fairly, in all material respects, the financial position of CSWR as of December 31, 2020 and 2019.

CSWR's financial statement reports a debt-to-equity ratio of 0.16 as provided in confidential Attachment FB-1. Because the ratio is less than 1.0, CSWR meets the test specified in 16 TAC § 24.11(e)(2)(A). CSWR is also capable, available, and willing to cover temporary cash shortages. Therefore, CSWR-Texas meets the test specified in 16 TAC § 24.11(e)(2)(E).

Operations test

An owner or operator must demonstrate sufficient available cash to cover projected cash shortages for operations and maintenance expense during the first five years of operations, as required by 16 TAC § 24.11(e)(3).

CSWR-Texas' financial projections, as provided in confidential Attachment FB-1, show that there are projected shortages to cover. However, CSWR's financial statements and recent cash balance provided in confidential Attachment FB-1 indicate CSWR possesses sufficient cash and financial ability to pay for capital improvements and necessary equity investments for this application as well as in other recently approved or pending applications. Additionally, CSWR-Texas provided an affidavit indicating CWSR's commitment to providing funds necessary for cash required to purchase Rocket Water's system as well as the other water and wastewater systems included in CSWR-Texas' other recently approved and pending applications. Sufficient cash and net operating income available to cover possible future shortages provide an indication of financial stability and financial and managerial capability. Therefore, CSWR-Texas meets the operations test specified in 16 TAC § 24.11(e)(3).

Financial assurance (TWC § 13.246(d))

Because CSWR-Texas meets the financial tests, I do not recommend that the Commission require additional financial assurance.